

BIRMINGHAM CITY COUNCIL
CABINET COMMITTEE – PROPERTY

THURSDAY, 08 AUGUST 2024 AT 14:30 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 APOLOGIES

To receive any apologies.

3 DECLARATIONS OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

4 **EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC**

a) To highlight reports or appendices which officers have identified as containing exempt information within the meaning of Section 100I of the Local Government Act 1972, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.

b) To formally pass the following resolution:-

RESOLVED – That, in accordance with Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

3 - 20

5 **DISPOSAL OF 10 GOUGH STREET LEASE & FREEHOLD SALE**

Report of Strategic Director Place, Prosperity and Sustainability

21 - 42

6 **SALE OF PLOTS 6, 7 AND 8 PERRY BARR RESIDENTIAL SCHEME**

Report of Strategic Director Place, Prosperity, Sustainability

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7 **APPROPRIATION OF PLOT 9 PERRY BARR RESIDENTIAL SCHEME TO THE HRA**

Report of Strategic Director, Place Prosperity & Sustainability

8 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

Birmingham City Council

Report to Cabinet Committee - Property

8th August 2024



Title:	Disposal of 10 Gough Street Lease & Freehold Sale
Lead Cabinet Portfolio:	Councillor Sharon Thompson the Deputy Leader and Cabinet Member for Economy & Skills
Relevant Overview and Scrutiny Committee:	Councillor Katherine Iroh - Economy, Skills and Culture
Report Author:	Andrew Cox - Principal Surveyor Development Team Investment & Valuation Division Place Prosperity & Sustainability Directorate Contact: andrew.cox@birmingham.gov.uk
Authorised by:	Philip Nell, Strategic Director Place Prosperity & Sustainability Directorate
Is this a Key Decision?	Yes
If this is a Key Decision, is this decision listed on the Forward Plan?	Yes – 013255/2024
Reason(s) why not included on the Forward Plan:	Not Applicable.
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable.
Is this decision eligible for 'call in?'	Yes
If not eligible, please provide reason(s):	Not Applicable.
Wards:	Ladywood

Does this report contain exempt or confidential information?

Yes

Exempt Information

Appendices 2, 3 & 4 are exempt from disclosure by virtue of the following paragraphs of schedule 12A to the Local Government Act, 1972 as amended: Information relating to the financial or business affairs of a particular person (including the authority holding that information).

Has this decision been included on the Notification of Intention to consider Matters in Private?

Yes

Reasons why not included on the Notification:

Not Applicable.

1 EXECUTIVE SUMMARY

- 1.1 This report seeks authority for the disposal of its property interests by firstly the regearing (renegotiating and amending the terms) of the Council's leasehold interest in 10 Gough Street, Birmingham B1 1HN to the developer tenant.
- 1.2 Then secondly to seek authority to make a subsequent sale of the Council's freehold interest upon the practical completion of a student housing scheme.
- 1.3 The property has a site area of approximately 1,113 square meters and is shown edged bold black on the attached site plan at Appendix 1.
- 1.4 The recommendations contained in this report and the Exempt Appendix 2 are fully in line with the Council's Financial Recovery Plan.
- 1.5 Other options for this property interest have been considered and the recommended sale route provides the best outcomes for the City as detailed in this report.

2 COMMISSIONERS' REVIEW

- 2.1 Commissioners support the recommendations.

3 RECOMMENDATIONS

That Cabinet Committee Property

- 3.1 Authorise the Assistant Director of Investment and Valuation to firstly; conclude the terms for a lease regearing for an initial premium, to the current developer as tenant of the Council owned land at 10 Gough Street, Birmingham. B1 1HN ("the Property") as shown edged bold black on the attached site plan at Appendix 1 and extending to 1,113 sqm by the grant of a new 250-year lease to the Developer Tenant as detailed in Exempt Appendix 2,3 & 4.
- 3.2 Then secondly, authorise the Assistant Director of Investment and Valuation to conclude the conditional sale of the Council's freehold interest for an additional premium upon the practical completion of a student housing scheme, also detailed in Exempt Appendix 2,3 & 4.
- 3.3 Note that the purchaser will pay a contribution towards the Council's surveyor and legal costs, as detailed in Exempt Appendix 2.
- 3.4 Authorises the City Solicitor to prepare, negotiate, execute, and complete all relevant legal documentation to give effect to the above.

4 KEY INFORMATION

Context

- 4.1 The property 10 Gough Street Birmingham B1 1HN was previously the former Birmingham United Services Club and a Car Park. In 2017, the leasehold interest was acquired by the current tenant under a tightly constrained permitted planning use for a modest residential development scheme, which was attained under a planning approval in 2015 for 73 residential apartments.
- 4.2 The leasehold interest created in 2017 generated a premium, against the modest development planning approval described in 4.1 above.
- 4.3 In March 2023, a planning approval was subsequently granted to the tenant developer for a larger development project for 540 student apartment units on the same subject site of 10 Gough Street, in conjunction with an adjoining site also co-owned by the same developer at 126 Suffolk Street Queensway.
- 4.4 The site is shown edged bold black on the site plan at Appendix 1 of this report.
- 4.5 The property is owned freehold by the City Council and currently held under a Lease agreement from 2017 for a term of 125 years. The current permitted use is in accordance with the planning approval obtained in 2015 for a private residential apartment scheme not exceeding 73 units and the current lease is subject to an annual ground rent.
- 4.6 The developer tenant secured the revised planning consent for a student scheme in March 2023 and is currently onsite and has commenced construction of the development. Given the current ground lease restricts the site for use as a residential apartment scheme, on completion, the development will not be fully compliant with the lease terms in the current ground lease.
- 4.7 In order to address this non – compliance, negotiations with the tenant developer were commenced on a proposed lease regear and the agreed terms are set out in Exempt Appendix 2, 3 & 4.
- 4.8 This also includes the deferred sale of the Council's freehold interest for a further premium which is detailed in the Exempt Appendix 2, 3 & 4.
- 4.9 The proposed sale represents best consideration and has been validated as such by the Assistant Director of Investment & Valuation and the Council's external agent Avison Young based upon an analysis of the financial terms of the recommended sale. The lease regear terms and the proposed deferred sale of the Council's freehold interest are in line with the Council's Property Strategy, and the proposed transaction and generation of a capital receipt supports the Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.
- 4.10 Avison Young, the Council's external advisor have recommended that the Council proceeds with the transaction and their recommendation report is in Exempt Appendix 3

4.11 **Proposal and Reasons for Recommendations**

- 4.12 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, to deliver an additional and unplanned capital receipt to fund the Council's Financial Recovery Plan.

4.13 **Other Options Considered**

- 4.14 **Option 1 - Do Nothing.** The Council is under no obligation to proceed with this proposal and would suffer no reputational consequences if it did not proceed. The developer, however, is in breach of its current lease arrangements and are keen to remedy the position. It would, however, be in line with the aims of the Council's Financial Recovery Plan or the Council's investment strategy to reduce the number of small investment assets held. The property is not allocated for inclusion in any existing strategic planning proposals. The developer tenant has planning consent for both the previously approved use (now expired) as a private residential scheme and an alternative student accommodation scheme use but do not have an obvious alternative use which would benefit the Council.

- 4.15 **Option 2 – Property Retained for Reuse and / or Development by the Council.** The property is subject to an existing long lease to the developer tenant. The property therefore cannot be used for an alternative use unless this was agreed with the developer tenant. Given the significant level of investment already made by the developer tenant to secure planning, is in contract with a third party and given the current development scheme is also under construction and on site it is unlikely that the developer tenant would entertain any alternative options.

- 4.16 **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, to deliver an unplanned capital receipt to fund the Council's transformation programme and assist in removing the Council current management obligation.

5 RISK MANAGEMENT

- 5.1 There are no immediate risks to the Council's holding if the transaction does not complete since its interests are well protected under the terms of the existing lease.
- 5.2 The risk is entirely in the hands of the developer tenant who have a highly valuable commercial scheme presently at risk, due to making external funding

and contractual commitments with limited permitted uses under present lease structure.

- 5.3 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 regearing and sale of the Council's interest.

6 CONSULTATION

- 6.1 The Ladywood ward members have been notified of the proposed sale of this property.

7 MEMBER ENGAGEMENT

Ward Councillor(s)

- 7.1 The Ladywood ward members have been notified of the proposed sale of this property and their responses are recorded in Appendix 6.

Overview and Scrutiny

- 7.2 The report has been notified to the chair of the Overview and Scrutiny Committee.

8 IMPACT AND IMPLICATIONS

Finance

- 8.1 The Assistant Director of Investment & Valuations and external advisors consider this proposed sale represents best consideration based upon analysis of the bidders' proposals as per exempt appendix 2, 3 and 4.
- 8.2 The purchaser will pay a contribution towards the Council's professional costs related to the disposal as detailed in exempt appendix 2.
- 8.3 Upon exchange of contracts the purchaser will pay a premium as set out in exempt appendix 2 and a further premium on practical completion of the project.
- 8.4 The purchase price, including any contribution to the Council's costs, is exclusive of VAT.

Legal

- 8.5 Sections 120-123 of the Local Government Act 1972 authorises 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 Investment & Valuations has confirmed that the recommended sale, as detailed in Exempt Appendix 2, 3 & 4 represents best consideration and satisfies the Council's obligations under Section 123 of the Local Government Act 1972.
- 8.6 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 and the expenditure of money.

- 8.7 The Local Government Act 2003 and guidance issued under it authorises the Council's investment management functions.
- 8.8 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 4 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.
- 8.9 The Council's in-house legal team will complete all legal matters associated with the transaction.

Equalities

- 8.10 An Equality Assessment has been carried out. EQUA EIA000371 dated 19/02/2024 and is attached at Appendix 5. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

Procurement

- 8.10 N/A

People Services

- 8.11 N/A

Climate Change, Nature and Net Zero

- 8.12 N/A as confirmed by the net zero team.

Corporate Parenting

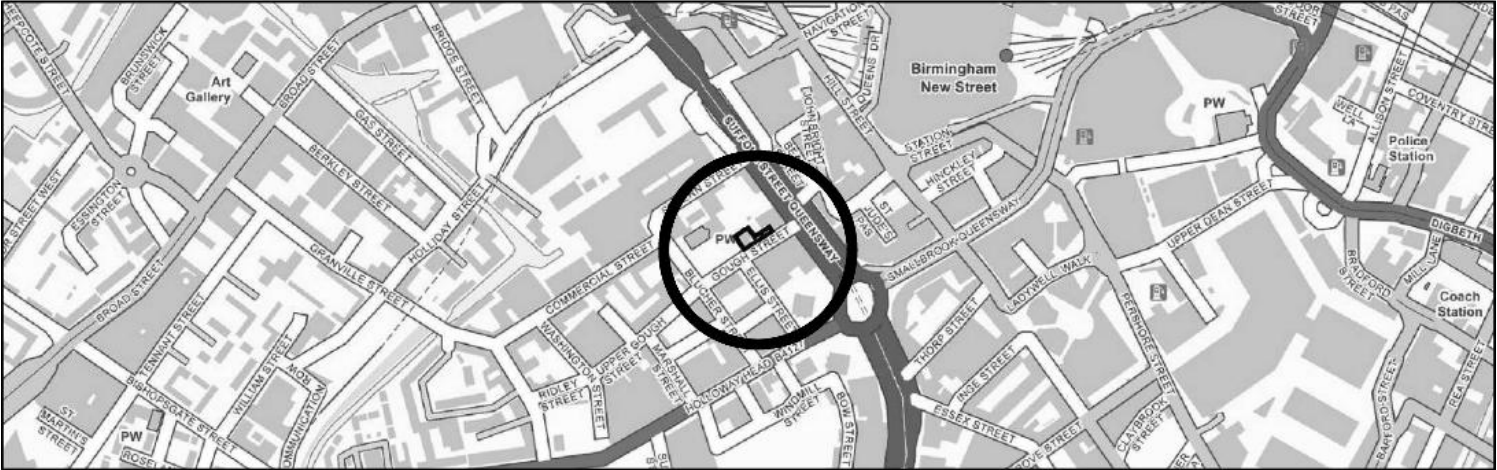
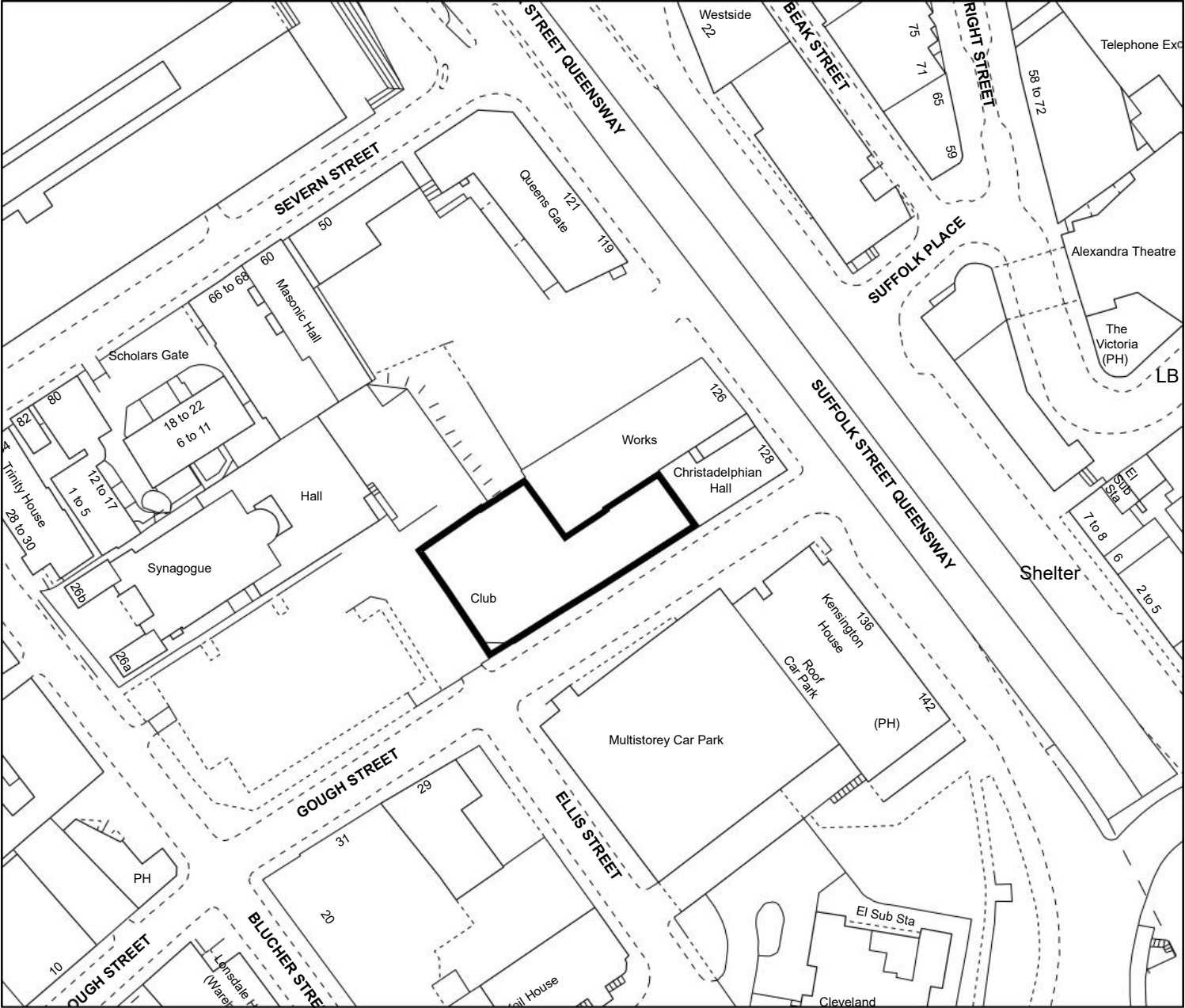
- 8.13 N/A
Other
- 8.14 N/A

9 APPENDICES



- 9.1 Appendix 1 – Gough St – Site Plan
- 9.2 Exempt Appendix 2 – Gough St Report
- 9.3 Exempt Appendix 3 – Gough St Recommendation Report by Avison Young
- 9.4 Exempt Appendix 4 – Gough St Heads of Terms
- 9.5 Appendix 5 – Equality Impact Assessment EQUA000764
- 9.6 Appendix 6 – Ward Councillor Consultations

10 BACKGROUND PAPERS

10.1 Sale of Land at 10 Gough Street (approved by Cabinet Members July 2021)



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 Birmingham City Council		Kathryn James Assistant Director of Investment and Valuation Place, Prosperity & Sustainability Directorate 10 Woodcock Street Birmingham, B7 4BG		
Site At 10 Gough Street Ladywood		Scale (Main Map)	Drawn	Date
		1:1,250	Bharat Patel	18/06/2024
		Page 11 of 56 O.S. Ref No. SP0686SE		

EQUALITY IMPACT ASSESSMENT

Re-gearing of Lease & Terms for Property at 10 Gough Street Birmingham B1 1HN (Student Housing Scheme)

Reference: EIA000371

Date: 19/02/2024

Submitted by: andrew.cox@birmingham.gov.uk



EIA Form – About your EIA

Reference number	EIA000371
Date Submitted	19/02/2024
Subject of the EIA	Re-gearing of Lease & Terms for Property at 10 Gough Street Birmingham B1 1HN (Student Housing Scheme)
Brief description of the policy, service or function covered by the EIA	Property Lease Re-gearing
Equality Assessment is in support of...	["New function","Amended function"]
How frequently will you review impact and mitigation measures identified in this EIA?	Annually
Due date of the first review	2025-03-28

Directorate, Division & Service Area

Which directorate(s) are responsible for this EIA?	["Places, Prosperity and Sustainability"]
Division	Investment & Valuation
Service area	Investment Property Management
Budget Saving	No

Officers

What is the responsible officer's email address?	andrew.cox@birmingham.gov.uk
What is the accountable officer's email address?	Eden Ottley

Data Sources

Data sources	["Consultation results","Relevant reports/strategies","Relevant research"]
Data source details	External Agency Advice included in Report Appendix

Protected Characteristics

Protected Characteristic – Age

Does this proposal impact people due to their age as per the Equality Act 2010?	Yes
What age groups are impacted by your proposal?	["10-19 years","20-29 years","30-39 years"]
Please describe the impact to the age characteristic	The project supports a student housing scheme, notwithstanding the entitlements to FE from all age groups





	there is a presumption this project supports certain age groups.
How will you mitigate against any negative impact to the age characteristic?	By encouraging wider age educational entitlements

Protected Characteristic – Disability

Does this proposal impact those people with a disability as per the Equality Act 2010?	No
Please describe the impact to the disability characteristic	
How will you mitigate against any negative impact to the disability characteristic?	

Protected Characteristic – Sex

Does this proposal impact citizens based on their sex as per the Equality Act 2010?	No
What sexes will be impacted by this proposal?	
Please describe the impact to the sex characteristic	
How will you mitigate against any negative impact to the sex characteristic?	

Protected Characteristic - Gender Reassignment

Does this proposal impact people who are proposing to undergo, undergoing or have undergone a process to reassign one's sex as per the Equality Act 2010?	No
Please describe the impact to the gender reassignment characteristic	
How will you mitigate against any negative impact to the gender reassignment characteristic?	

Protected Characteristic - Marriage and Civil Partnership

Does this proposal impact people who are married or in	No
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a civil partnership as per the Equality Act 2010?	
What legal marital or registered civil partnership status will be impacted by this proposal?	
Please describe the impact to the marriage and civil partnership characteristic	
How will you mitigate against any negative impact to the marriage and civil partnership characteristic?	

Protected Characteristic - Pregnancy and Maternity

Does this proposal impact people covered by the Equality Act 2010 under the protected characteristic of pregnancy and maternity?	No
Please describe the impact to the pregnancy and maternity characteristic	
How will you mitigate against any negative impact to the pregnancy and maternity characteristic?	

Protected Characteristic - Ethnicity and Race

Does this proposal impact people due to their race as per the Equality Act 2010?	No
What ethnic groups would be impacted by this proposal?	
Please describe the impact to the ethnicity and race characteristic	
How will you mitigate against any negative impact to the ethnicity and race characteristic?	

Protected Characteristic - Religion or Beliefs

Does this proposal impact people's religion or beliefs as per the Equality Act 2010?	No
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What religions could be impacted by this proposal?	
Please describe the impact to the religion or beliefs characteristic	
How will you mitigate against any negative impact to the religion or beliefs characteristic?	

Protected Characteristic - Sexual Orientation

Does this proposal impact people's sexual orientation as per the Equality Act 2010?	No
What sexual orientations may be impacted by this proposal?	
Please describe the impact to the sexual orientation characteristic	
How will you mitigate against any negative impact to the sexual orientation characteristic?	

Monitoring

How will you ensure any adverse impact and mitigation measures are monitored?	By periodically reviewing the occupational restriction conditions attached to the proposed lease and the proposed end operator reputations.
Please enter the email address for the officer responsible for monitoring impact and mitigation	eden.ottley@birmingham.gov.uk



Appendix 6

Ward Councillor Consultations for:
Lease Regear and Sale of 10 Gough Street Birmingham.
June 2024

Andrew Cox - Principal Surveyor, Development Team, I & V Division of PPS Directorate
 andrew.cox@birmingham.gov.uk

Cllr. Identification	Date Requested	Comments Received
Cllr . Sir Albert Bore	26/02/2024	26/02/24 "I have no issues with what is proposed."
Cllr. Kath Hartley	26/02/2024	No comments received
	21/06/24	"Have we taken into account the impact on the Singers Hill Synagogue?"

Birmingham City Council

Report to Cabinet Committee - Property

8 August 2024



Title:	SALE OF PLOTS 6, 7 AND 8 PERRY BARR RESIDENTIAL SCHEME
Lead Cabinet Portfolio:	Cllr Sharon Thompson – Deputy Leader of the Council
Relevant Overview and Scrutiny Committee:	Cllr Katherine Iroh - Economy, Skills and Culture Overview and Scrutiny
Report Author:	Mumtaz Mohammed, Programme Manager Place, Prosperity and Sustainability Directorate Phone Number (07823534979) Mumtaz.mohammed@birmingham.gov.uk
Authorised by:	Philip Nell, Strategic Director for Place, Prosperity, and Sustainability
Is this a Key Decision?	Yes
If this is a Key Decision, is this decision listed on the Forward Plan?	Yes – Forward Plan Reference 012966/2024
Reason(s) why not included on the Forward Plan:	Not Applicable
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable
Is this decision eligible for ‘call in?’	Yes
If not eligible, please provide reason(s):	Not Applicable
Wards:	Perry Barr

Does this report contain exempt or confidential information?

Yes

Exempt Information

Appendix 2, 3 and 6 are exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act, 1972 as amended: : Paragraph 3

1. Information relating to the financial or business affairs of a particular person (including the authority holding that information).

Has this decision been included on the Notification of Intention to consider Matters in Private? Yes

Reasons why not included on the Notification:

If yes, list reason(s). If no, insert 'Not Applicable'.

Not Applicable

1 EXECUTIVE SUMMARY

- 1.1 This report seeks authority for the disposal of 5.958 acres of Council owned land (including the buildings constructed on said land) described as “Plots 6, 7, and 8 Perry Barr Residential Scheme Phase 1”.
- 1.2 The report seeks to grant a long lease with conditional deferment sale specific to Plot 6 and also seeks to grant of a separate long lease by way of unconditional sale specific to Plots 7 and 8, for terms of 990 years at the premiums set out in Appendix 2 – Exempt Report.

2 COMMISSIONERS’ REVIEW

- 2.1 Commissioners support the observations of Overview and Scrutiny set out in paragraph 8.2.5. It is essential that a full lessons learned analysis is undertaken and reported to both Cabinet and Audit and Governance Committee. This report sets out the significant loss to the public purse that has arisen as a consequence of the decisions taken and the advice provided in the development of the proposals to this position. Whilst Commissioners fully support the recommendations as delivering the best outcome for the Council and the wider area in the position the Council now is in, a rigorous analysis might well highlight areas of optimism bias and lack of awareness of risk which can guide a better understanding of both current and future proposals. This will also go some way to addressing the other concerns of Overview and Scrutiny.

In addition, the review should address the evidence behind the forecast valuations and the evidence for the scale of Extra care provision, which has not been borne out when properly tested. Finally, it is essential for the review to look at the timescales involved. These blocks, which provide much needed new homes, have stood empty for far too long, during which time the Council has incurred costs of heating and securing them without using a scarce asset. The scale of the loss means that this will be subject to significant external scrutiny and it will be important to have documented a full honest appraisal which demonstrates how the necessary changes have been incorporated into practice going forward.

3 RECOMMENDATIONS

That Cabinet Committee Property

- 3.1 Authorises the Assistant Director of Investment & Valuation to conclude a land sale of the Council owned property, “Plots 6, 7 and 8 Perry Barr Residential Scheme Phase 1” (“the Property”) as shown edged red and bold on attached plan at Appendix 1 – site plan, and extending to approximately 5.958 acres, to the Purchaser as detailed in Exempt Report Appendix 2 by way of the grant of a long lease for terms of 990 years for Plot 6 by conditional deferment consideration and a long lease for terms of 990 years of Plots 7 and 8 by unconditional sale consideration at the premiums set out in Appendix 2 – Exempt Report.
- 3.2 Authorises the City Solicitor (or their delegate) to prepare, negotiate, execute, and complete all relevant legal documentation to give effect to the above.

- 3.3 Notes the pre-decision scrutiny undertaken by the Economy, Skills and Culture Overview and Scrutiny Committee and considers their recommendations and the response to them.

4 HISTORICAL BACKGROUND AND CONTEXT

Context

- 4.1 Perry Barr, situated three miles north of Birmingham City Centre, is a vibrant and evolving area, home to a young and diverse community. It is an area with high housing demand and was earmarked for regeneration investment in the Big City Plan 2030.
- 4.2 Below is a brief history to the Council's development at Perry Barr and a fuller update may be provided to Cabinet in October 2024.
- 4.3 In 2015 Durban was identified as the host city for the 2022 Commonwealth Games. In 2017 Durban formally withdrew. The UK government was keen to support the Commonwealth Games Federation and in 2017 Birmingham secured the contract to host.
- 4.4 The hosting contract required the provision of an 'Athletes Village' to accommodate c6,500 competitors and officials.
- 4.5 Birmingham's strategy for providing the Athletes Village was to deliver the accommodation in Perry Barr. "Games Mode" would meet the contractual obligations, and the accommodation would then be retrofitted to "Legacy Mode", making the newly constructed homes ready for occupation by the general public.
- 4.6 The Perry Barr Regeneration Scheme is a comprehensive initiative aimed at revitalising the area and has been backed by significant amounts of public sector investment. This investment has focussed on enhancing public transport infrastructure, new schools, providing new homes, and creating community spaces. Birmingham securing the right to host the 2022 Commonwealth Games in December 2017 also served as a catalyst for regeneration in this part of the city.
- 4.7 The Perry Barr Residential Scheme is a large, multi-phase residential development with Phase 1 originally planned to operate as the Games-time athletes' village to accommodate c. 6,500 athletes and officials within a series of apartment buildings and townhouses delivered to "games-specification" on the former Birmingham City University (BCU) Teaching Campus at Aldridge Road.
- 4.8 The regeneration scheme consists of 3 phases of development in the vicinity of the Perry Barr railway station and the Council acted as developer for Phase 1. The land for phases 2 and 3 was acquired for future development.
- 4.9 The Perry Barr Regeneration Scheme was first approved by Cabinet in June 2018 with the Outline Business Case put forward including an estimated total cost of delivery in the sum of £523.3m. The approval covered the Commonwealth Games Village and the wider regeneration of Perry Barr including the highways works, new station and the necessary CPOs to acquire the land for all phases.
- 4.10 Phase 1 received detailed planning consent in 2018 for a total of 1,414 homes across 11 development plots which included 1,146 residential homes (use class C3) and 268 Extra Care homes (use class C2) allocated to Plot 6. The planning

consent required 312 of the 1,414 to be affordable homes. These affordable homes were subsequently allocated to plots 7-9. Outline planning consent was also obtained for phase 2, identifying the potential for the provision of a further 400 homes with a greater focus on family housing than was the case for phase 1.

- 4.11 Demolition works commenced in 2018 and initial authority was granted to develop eight of these plots (Plots 1, 3, 4, 5, 6, 7, 8, and 9) providing 1,151 residential units, with Plots 2, 10 and 11 planned for development or disposal post-Games.
- 4.12 In June 2019 approval under delegated authority was granted for the Full Business Case including the development of 1,177 residential units (Phase 1 Plots 1-9 and 11) and provision of services to Plot 10 in readiness for construction post Games, provision of infrastructure to support temporary Games Time uses (Phase 2 land) and facilitate post Games development, and the refurbishment of Oscott Gardens
- 4.13 The Council was in contract via a Construction Development Agreement (CDA) with Lendlease Construction Europe Ltd (Lendlease) in June 2019 for the development of the eight plots. Lendlease had awarded contracts to Tier 1 contractors for the development to Games-specification of Plots 6, 7, 8, and 9. The contract for the delivery of Plot 1 was in negotiation and the delivery approach for Plots 3, 4 and 5 was being reviewed to ensure those plots could be delivered as part of the programme and within budget.
- 4.14 In March 2020, the World Health Organisation declared COVID-19 as a global pandemic. In response to the emerging working environment the Council, in consultation with the Commonwealth Games Federation, Birmingham 2022 Organising Committee and Government undertook a review into the deliverability of the PBRs for Games-time accommodation for the athletes from a programme, risk and value for money perspective.
- 4.15 An early outcome of this review was to cease design works (RIBA Stage 4 design partially complete) on Plot 1 and to omit it from the scope of the Games-time development. This decision was taken following a review into the development timescales, commercial viability and affordability of Plot 1.
- 4.16 An update was submitted to Cabinet in March 2020 to approve a Revised Full Business Case identifying cost pressures that had emerged in the order of £91.8m. These were mainly driven by additional cost for relocating the National Express Bus Depot (Phase 2 land), temporary games uses land cost and an increase in the cost of delivering the housing elements of the scheme as a result of significant cost inflation in the construction market at the time.
- 4.17 Following further review into the deliverability and affordability to the Council of the remaining plots under construction, and when considering the additional costs required to accelerate and de-risk the programme for Games-time, and in response to COVID-19, a decision was confirmed by the Commonwealth Games Federation (CGF) to omit the PBRs from Games-time usage in August 2020. This created an opportunity for the Council to omit certain previously planned elements of Games-time specification and to refocus the programme on the delivery of homes ready for occupation.

- 4.18 In July 2021 an update was submitted and approved by Cabinet and the strategy for the scheme pivoted to immediate retrofit for residential on Plots 7, 8 & 9. The Cabinet report referenced the fact that delivery of Plots 3,4 & 5 were removed from the Lendlease scope via change control approved by Programme Board, and that Plot 1 had already been removed prior. The paper noted that the Revised Full Business Case required an anticipated capital investment of £539.9m as opposed to the previous £541.5m (approved on 17 March 2020) as there was an adverse impact on the overall net costs of the scheme largely due to the exclusion of Plot 1 (resulting in reduced capital receipts), the impact of Covid 19 and the inclusion of the previously excluded residential fit out costs. As a result, the Revised Full Business Case showed an overall funding deficit of £45.795m.
- 4.19 Plot 6 was completed to shell and core in September 2022, with Plots 7, 8 and 9 completed to turnkey standard by February 2024. The public realm was substantially completed in February 2023, with the exception of the Aldridge Road element which was scheduled to be completed after the Games and it is expected these works will cost up to £0.5m based on pre-tender estimate prepared by the Council's advisor. The Council will incur the costs of this work and seek approval through its normal Governance process at a later date.
- 4.20 The original disposal strategy for post-Games disposal of the accommodation involved retrofitting to a "legacy specification", and then the wholesale disposal to an institutional purchaser. The homes would be made ready for occupation for a variety of tenures including, owner occupation, private rented and affordable housing, with the houses proposed for plots 3, 4 and 5 earmarked for appropriation to the HRA. This would bring forward the regeneration of Perry Barr and act as a catalyst to generate further development opportunities and deliver future growth in the area.
- 4.21 Following appointment of the Council's property sales agent in June 2020 the strategy for post-Games disposal for Phase 1 was subject to a soft-market exercise. This confirmed there was no appetite in the market due to the peerless nature of the development (there were no other large, multi-storey residential apartment buildings in Perry Barr) in an untested and long-under-invested area of the city (the area suffered from negative perceptions). In addition, the narrow product offering (the scheme consists of just 1- and 2-bedroom apartments) caused concern that absorption rates (how quickly new homes could be let or sold) would be low once the market saturation for 1- and 2-bedroom new homes had been met. The strategic mitigation was to reconstitute the disposal strategy to focus on plot-by-plot disposals and to broaden the tenures for sale and rent in order to appeal to the widest possible market seeking to live in the new place. This would seek to underpin values and optimise the receipt for the Council serving as developer.
- 4.22 To mitigate the risk of oversupply, the revised plan included:
- Plot 6 - mixed tenure. Disposal to a specialist extra care operator (without finishing the building to "legacy-specification" as this would not coordinate with acquiring party's branding).
 - Plot 7 - rental tenure. Refinance/disposal via income strip (lease-and-leaseback) to institutional investor.
 - Plot 8 - sale tenure. Disposal via sale to institutional investor.

Plot 9 - sale tenure. Direct sales of long-leasehold apartments via DLUHC First Homes programme, with the balance of remaining homes unsold and the long-leasehold of the block to be sold to an institutional investor.

- 4.23 The Council received interest from third parties for the wholesale acquisition of Plot 8 and Plot 9, however, the advice of the sales agent was these were uncompetitive and unrealistic and could not be recommended as representing best consideration.
- 4.24 Plot 6 was marketed formally in November 2022, and while this garnered a response from the market, no offers were deemed commercially beneficial to the Council to proceed - many required significant further investment and continued commercial risk to be borne by the Council.
- 4.25 Market conditions have been challenging and volatile since the beginning of 2020, and while the direct impacts of the pandemic on the project have fallen away, the impact of macroeconomic challenges has directly impacted the disposal of plots and homes across the project.
- 4.26 The Council engaged a residential sales agency to administer the sales and marketing process for First Homes to qualifying members of the general public and was successful in attracting interest in the programme. However, it was impossible to complete sales due to the impact that the mini budget in September 2022 had on the mortgage and lending markets, and the subsequent challenges for sales valuations. Therefore, the strategy was again refocused on business-to-business institutional disposals and in October 2023 First Homes buyers were informed that sales under the scheme would not be proceeding.
- 4.27 it became evident that the direct sales strategy was unfavourable owing to the combination of mortgage down valuations, market sales rates for new build homes locally (less than 1 sale per week) and significant holding costs for the scheme relating to security, utilities and Council Tax
- 4.28 While interest was established in Plots 7, 8 and 9 the option of appropriating Plot 9 into the HRA was explored, and a proposal to follow this approach was presented and approved by Cabinet on 23rd July 2024.
- 4.29 Plots 6, 7 and 8 were remarketed. Plot 6 was included in this exercise due to limited interest from the specialist extra care market. Interest was established from institutional investors for all three plots with the proposal to change the planning Use Class from C2 (extra care) to C3 (residential).
- 4.30 The Council then reverted back to marketing the development plots to institutional investors for all the plots and the bulk purchase approach for plots 6, 7 & 8 was agreed as the appropriate route to maximise capital receipts on a timely basis from the sales of the plots.
- 4.31 After market engagement and assessment, a list of potential bidders was drawn up by the property advisors and submitted for evaluation and were weighted against the cost benefits and best value for money and long term social and environmental sustainability of Perry Barr.
- 4.32 The list of bidders and offers and recommendation Sales Agent Report are included in the Appendix 2, and Appendix 3 – Exempt Reports.
- 4.33 In response to the Building Safety Act 2022 and works relating to High-Risk Buildings (HRB) the purchaser has requested that External Wall System Survey

(EWS1) are produced in preparation for the transaction and will be procured separately to this approval and it is expected that these surveys may cost up to £0.15m (to be procured and managed by the purchaser and deducted from the sale price). The surveys will confirm the apartments are legally permissible for occupation and meet the new fire regulations stipulated under the Act. The purchaser has also requested a change of planning permission, as a condition of the sale of Plot 6, amending its use from Extra Care provision to use as residential apartments and also removing the 55 year and over age restriction for occupation. The costs of this change in planning will be borne by the purchaser.

5 PROPOSAL AND REASONS FOR RECOMMENDATIONS

- 5.1 Proceed with the proposed transaction. It is recommended to proceed with the transaction outlined in this report, in line with the external advice obtained to support the Disposal Strategy, to bring the process to its most beneficial conclusion by enabling prompt availability of housing for occupation via a third party, whilst securing a capital receipt that will support the Council's budget obligations and remove ongoing Council liabilities and associated costs. The Council is obliged to seek the most financially advantageous offer for the properties taking account of both the price offered and the timing of the receipt. The continued holding costs to the Council are significant.

Other Options Considered

- 5.2 Do Nothing. The consequences of this would be to retain the vacant properties and continue to maintain the buildings at expense to the Council. Do Nothing has been discounted as we need to remove the liability and ongoing costs to the Council including reputational damage of vacant properties and bring properties into use to address housing need across the city.
- 5.3 Commence individual apartment sales. The consequences of this would be to retain the vacant properties and continue to maintain the buildings at significant expense to the Council. Whilst this may result in an increase in the gross disposal proceeds generated, the holding costs would be incurred until all the apartments are sold which could take 5 years+ and will be dependent on market conditions (thus exposing the Council to continued commercial risk).

6 RISK MANAGEMENT

- 6.1 The Council has reviewed the potential buyers rigorously and considers the proposed buyer to be highly credible and well-funded. Whilst an element of the transaction is conditional, extensive work has been done to derisk this, and the conditionality is not considered to be materially risky in the first place.
- 6.2 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. A further risk log is provided in Appendix 5.

7 CONSULTATION

- 7.1 No external consultation has taken place regarding the contents of this report due to the commercial nature of the disposal.

8 MEMBER ENGAGEMENT

Ward Councillor(s)

- 8.1 There is ongoing dialogue with Ward Councillors for Perry Barr, to keep them informed of the Disposal Strategy, the associated transport and place making activity, and the regeneration of the wider area. All consultations to date have been well received.

Overview and Scrutiny

- 8.2 The Economy, Skills and Culture Overview and Scrutiny Committee undertook pre decision scrutiny on 22 July 2024; the Committee also considered the Appropriation of Plot 9 to the Housing Revenue Account (HRA). Appendix 6 sets out their recommendations, the key points arising from their discussions and the response in more detail.

8.2.1 In summary, the Committee made three recommendations:

8.2.2 The Committee is concerned that it is undertaking pre decision scrutiny while information relating to that decision is in the public domain, and as a result, this undermines the potential for the committee to influence and inform the proposed decision. The Committee requests that the pathway for all related decisions is considered more carefully in future to prevent a similar situation arising again.

8.2.3 The Committee is satisfied that the Council had achieved best value for both proposed decisions, although it should be noted that Appendix 3 was not available to the committee. However, it acknowledges that this falls short of the projected capital receipts with further implications for the Council.

8.2.4 The Committee seeks assurances that there will be clear and effective strategic oversight of the whole site including its public realm to maximise the visible and tangible benefits for the community.

8.2.5 The Committee is pleased that a 'lessons learnt' exercise is being undertaken and requests key issues of poor governance and limited connected regeneration are included.

8.2.6 The Committee requests the Council uses Perry Barr Residential as a challenge to do regeneration better and ensures the developing Place Based Plan focuses on how these benefits are realised for all communities in regeneration schemes through harnessing investment and delivering connectivity, both spatially and functionally, to neighbouring areas.

8.2.7 The Committee requests the Council provides its management plan for Plot 9 including how it will approach allocations. Specifically, the Committee would like to be assured how the Council will mitigate any future risks of overcrowding, support for older adults moving to, and living in, these new properties and how it will work with other public services to highlight any potential impact on their services.

- 8.2.8 The Committee requests the Council commits to more effective engagement with key stakeholders including ward members in the development of Phase 2 of this site.
- 8.2.9 The Committee is concerned that the capacity of local public services, and specifically primary schools and the NHS, will not be able to accommodate the population growth from this development, and may, in fact, deter potential buyers and renters.
- 8.2.10 The Committee is concerned that there is no information on the potential social value from the proposed buyers' offers included in the report. The Committee considers this information important in decisions such as this and would request that this is included in future similar reports.
- 8.3 In response to this Officers would consider how the recommendations and lessons from the development of Perry Barr can be learned and applied to future regeneration schemes, ensuring a wholistic approach to place making is applied from the outset and continues throughout the life of the scheme.

Other

- 8.4 The report has been presented to the Deputy Leader to ensure they were comfortable with the approach taken to ensure best value for the city and residents as well as any risks to the Councils financial recovery plan.

9 IMPACT AND IMPLICATIONS

Finance

- 9.1 The proposed disposal of plots 6, 7 and 8 will generate a capital receipt for the Council which may be used to either partially repay the borrowing undertaken in the delivery of the PBRS, or to contribute to the overall level of capital receipts available to meet costs associated with the Council's Exceptional Financial Support package.
- 9.2 Spend on the Perry Barr Residential Scheme to end of the Financial Year 2023/24 is £496.9m of which Council funding is £325.7m (including borrowing of £291.8m). The remainder £171m is funded by Central and local Grants. The Outturn numbers are being finalised and may change slightly.
- 9.3 The revised business case approved by Cabinet in July 2021 expected disposal proceeds of £279.3m. Some of the expenditure was either expected to be retained by the Council (as Infrastructure assets) on the Balance Sheet or third parties (as Revenue Expenditure funded Under Statute) and written out from the Balance Sheet.
- 9.4 The remaining spend, approximately £420m will be capitalised to the Balance Sheet. However, the Balance Sheet needs to show recoverable values and as the expected disposal receipts are expected to be less than the cost a valuation loss will be shown in the Statement of Accounts. This loss will not be an immediate charge to the General Fund due to statutory overrides. The impact on

the General Fund will be based on the Council's financing and disposal proceeds (estimated at the current time).

- 9.5 Based on current expected disposal receipts (although not all plots and phases are being marketed) a minimum of £140-150m could be achieved. Initially, it was expected that disposal proceeds were intended to pay off the borrowing leaving no financial implications for the Council. However, based on the low end of disposal proceeds borrowing of c£142-152m is expected to remain unpaid. The cost of repaying and servicing this debt over a 40-year period is expected to c£8-9m per annum (interest and repayment). This will be an additional pressure to the already strained financial position of the Council and compensating savings will need to be made elsewhere in the Council's budgets.
- 9.6 At this stage there is no expectation that any of the grants will be repaid. Officers in the project have carried out an analysis of the conditions of these grants.

Legal

- 9.7 Sections 120-123 of the Local Government Act 1972 authorises 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 Investment & Valuations 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.
- 9.8 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 powers in relation to the discharge of its functions, including the disposal and acquisition of property.

Equalities

- 9.9 An update to the Equalities Appraisal for the Perry Barr Regeneration Scheme (PBRs) was undertaken as part of this report and this determined there was no detrimental impact.

Procurement

- 9.10 There are no procurement implications with the recommendations of this report. However, it should be noted there are survey works as noted in 4.33 and outstanding works to be completed to the public realm as noted in 4.19. The procurement of these works will be undertaken in accordance with the Council's Constitution and Procurement and Contract Governance Rules.

People Services

- 9.11 There are no additional staffing implications for this report.

Climate Change, Nature and Net Zero

- 9.12 An Environment and Sustainability Assessment is not included in this report as the existing buildings in the plots will be disposed of, but it should be noted that the disposal of the buildings will redistribute their resulting carbon emissions from scope 3 council emissions to city wide emissions.

Corporate Parenting

- 9.13 There are no corporate parenting implications for this report.

Other

- 9.14 All report authors should consider if there are any additional implications arising from this report and provide information here. Examples of other implications could include (but is not exclusively) community safety; digital and technology, health and wellbeing or social value.

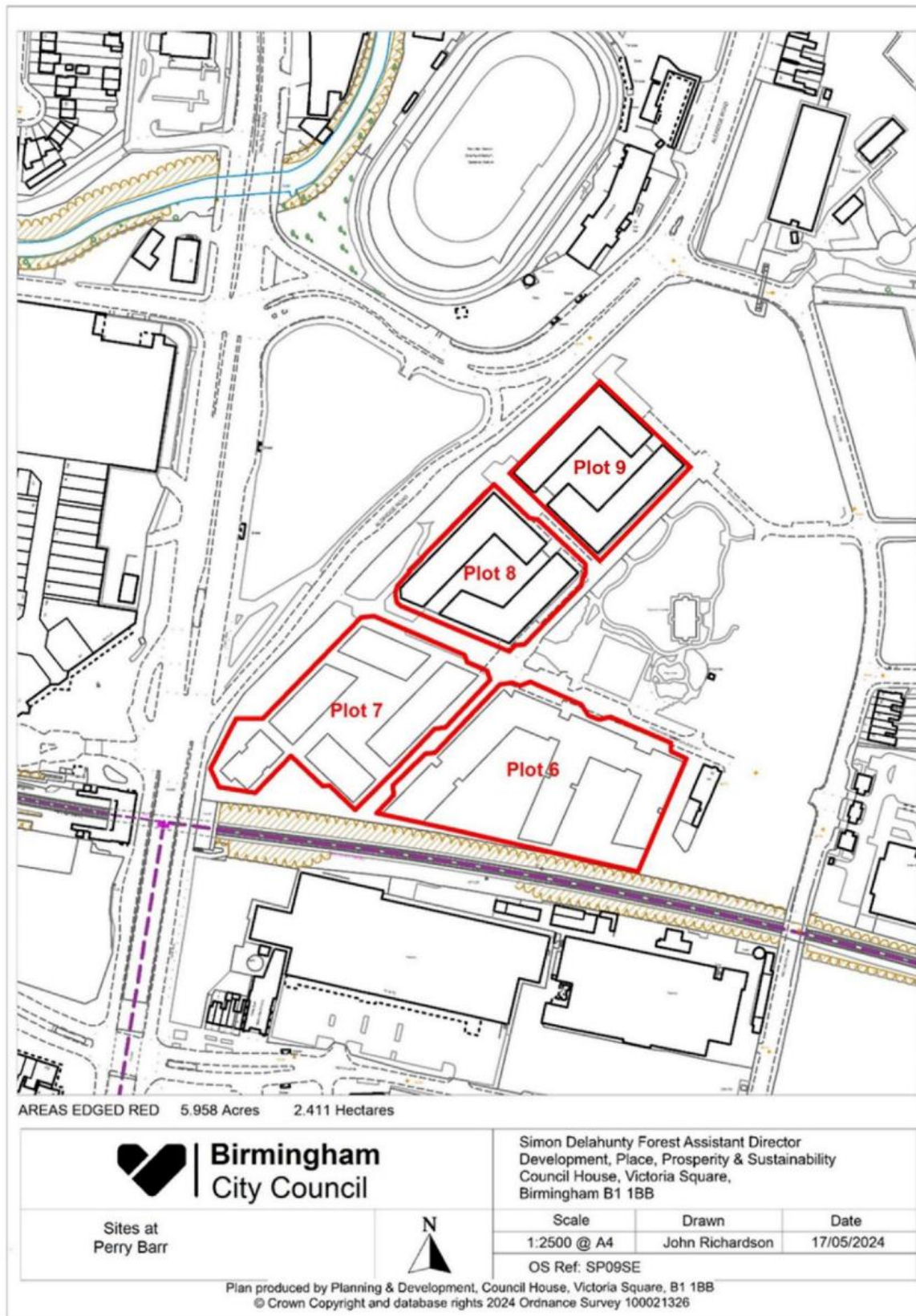
10 APPENDICES

- 10.1 Appendix 1 – Site Plan
- 10.2 Exempt Appendix 2 - Report
- 10.3 Exempt Appendix 3 – Sales Report and accompanying documentation
- 10.4 Appendix 4 – Updated Equalities Assessment
- 10.5 Appendix 5 – Risk Register
- 10.6 Exempt Appendix 6 – Report Overview & Scrutiny Recommendations

11 BACKGROUND PAPERS

- 11.1 Joint Cabinet Member Chief Officer Report approved 6 June 2019 - Perry Barr Regeneration Scheme Full Business Case.
- 11.2 Report to Cabinet approved 11 February 2020 – Commonwealth Games – Athletes Village Update (Contracting of Plot 7)
- 11.3 Report to Cabinet approved 17 March 2020 – Birmingham 2022 – Revised Perry Barr Regeneration Scheme FBC (RFBC)
- 11.4 Report to Cabinet approved 21 July 2021 – Birmingham 2022 – Revised Perry Barr Regeneration Scheme FBC (RFBC)
- 11.5 Report to Cabinet approved 23 July 2024 – Perry Barr Plot 9 Appropriation

Appendix 1 Site Plan



EQUALITY IMPACT ASSESSMENT

Cabinet Committee Property Report (08/08/2024)-
Disposal of Plots 6, 7 and 8 Perry Barr Residential
Scheme

Reference: EIA000478

Date: 16/07/2024

Submitted by: Mumtaz Mohammed



EIA Form – About your EIA

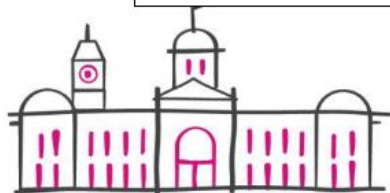
Reference number	EIA000478
Date Submitted	16 July 2024
Subject of the EIA	Cabinet Committee Property Report (08/08/20240)- Disposal of Plots 6, 7 and 8 Perry Barr Residential Scheme
Brief description of the policy, service or function covered by the EIA	This activity is related to the sale of the Council's property interest in Plots 6, 7 and 8 of the Perry Barr residential scheme in Perry Barr on a leasehold basis. These three plots contain 755 homes out of 968 which were constructed in Phase 1 following planning approval in 2019 for athlete accommodation for the Birmingham 2022 Commonwealth Games with a proposed legacy use for residential accommodation following the games. 968 homes were built over four plots but these were not used for the commonwealth games due to delays and were instead fitted completing the internal fit out of the homes so that they are ready for occupation by the general public excluding plot 6 which was built to a standard that did not include fixtures and fittings. The homes are currently unoccupied. Plot 9, of 213 homes, is subject to a separate EIA000458.
Equality Assessment is in support of...	["New strategy"]
How frequently will you review impact and mitigation measures identified in this EIA?	Not required
Due date of the first review	2024-12-30

Directorate, Division & Service Area

Which directorate(s) are responsible for this EIA?	["Places, Prosperity and Sustainability"]
Division	Property and Investment
Service area	Perry Barr Residential Scheme
Budget Saving	Yes

Officers

What is the responsible officer's name?	Click or tap here to enter text.
What is the responsible officer's email address?	mumtaz.mohammed@birmingham.gov.uk
What is the accountable officer's name?	Philip Nell
What is the accountable officer's email address?	philip.nell@birmingham.gov.uk



Data Sources

Data sources	["Relevant reports/strategies"]
Data source details	Information internal to the Council has been utilised to prepare this report. Preceding Perry Barr Cabinet Reports have been considered for the impact of the disposal of plots 6, 7 and 8 within the overarching Perry Barr 2040 and Perry Barr Residential Scheme ambitions.

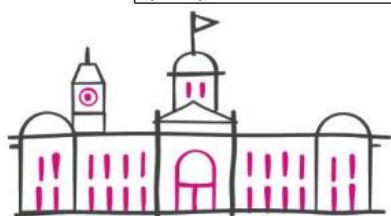
Protected Characteristics

Protected Characteristic – Age

Does this proposal impact people due to their age as per the Equality Act 2010?	No
What age groups are impacted by your proposal?	
Please describe any potential impact to the age characteristic	
How could you mitigate against any negative impact to the age characteristic?	
Please describe how this proposal does not impact people due to their age	The three plots are vacant buildings which have not been occupied to date. They are being disposed of to a company not any individual. Any changes to the planning conditions for the plots will be addressed through variation of condition planning applications.

Protected Characteristic – Disability

Does this proposal impact those people with a disability as per the Equality Act 2010?	No
Please describe any potential impact to the disability characteristic	
How could you mitigate against any negative impact to the disability characteristic?	
Please describe how this proposal does not impact people due to their disability	The asset is being disposed of to a company not any individual.



Protected Characteristic – Sex

Does this proposal impact citizens based on their sex as per the Equality Act 2010?	No
What sexes will be impacted by this proposal?	
Please describe any potential impact to the sex characteristic	
How could you mitigate against any negative impact to the sex characteristic?	
Please describe how this proposal does not impact people due to their sex	The asset is being disposed of to a company not any individual.

Protected Characteristic - Gender Reassignment

Does this proposal impact people who are proposing to undergo, undergoing or have undergone a process to reassign one's sex as per the Equality Act 2010?	No
Please describe any potential impact to the gender reassignment characteristic	
How could you mitigate against any negative impact to the gender reassignment characteristic?	
Please describe how this proposal does not impact people due to gender reassignment	The asset is being disposed of to a company not any individual.

Protected Characteristic - Marriage and Civil Partnership

Does this proposal impact people who are married or in a civil partnership as per the Equality Act 2010?	No
What legal marital or registered civil partnership status will be impacted by this proposal?	
Please describe any potential impact to the marriage and civil partnership characteristic	



How could you mitigate against any negative impact to the marriage and civil partnership characteristic?	
Please describe how this proposal does not impact people who are married or in a civil partnership	The asset is being disposed of to a company not any individual.

Protected Characteristic - Pregnancy and Maternity

Does this proposal impact people covered by the Equality Act 2010 under the protected characteristic of pregnancy and maternity?	No
Please describe any potential impact to the pregnancy and maternity characteristic	
How could you mitigate against any negative impact to the pregnancy and maternity characteristic?	
Please describe how this proposal does not impact people who are covered by the pregnancy and maternity characteristic	The asset is being disposed of to a company not any individual.

Protected Characteristic - Ethnicity and Race

Does this proposal impact people due to their race as per the Equality Act 2010?	No
What ethnic groups would be impacted by this proposal?	
Please describe any potential impact to the ethnicity and race characteristic	
How could you mitigate against any negative impact to the ethnicity and race characteristic?	
Please describe how this proposal does not impact people due to their race	The asset is being disposed of to a company not any individual.

Protected Characteristic - Religion or Beliefs



Does this proposal impact people's religion or beliefs as per the Equality Act 2010?	No
What religions could be impacted by this proposal?	
Please describe any potential impact to the religion or beliefs characteristic	
How could you mitigate against any negative impact to the religion or beliefs characteristic?	
Please describe how this proposal does not impact people due to their religion or beliefs	The asset is being disposed of to a company not any individual.

Protected Characteristic - Sexual Orientation

Does this proposal impact people's sexual orientation as per the Equality Act 2010?	No
What sexual orientations may be impacted by this proposal?	
Please describe any potential impact to the sexual orientation characteristic	
How could you mitigate against any negative impact to the sexual orientation characteristic?	
Please describe how this proposal does not impact people due to their sexual orientation	The asset is being disposed of to a company not any individual.

Monitoring

How will you ensure any adverse impact and mitigation measures are monitored?	An EIA has been produced as part of the disposal process to progress the sale.
Please enter the email address for the officer responsible for monitoring impact and mitigation	N/A



Appendix 5: Risk Register

Description of risk	Impact	Probability	Score	Mitigation Measures	Risk Owner
Insufficient time following Cabinet approval to complete transaction.	4	2	8	Ensure that the mechanics of the transaction process is agreed and understood and ready to proceed immediately following Cabinet approval.	Project Team, legal, sales agent
Purchaser may withdraw from the sales transaction	4	2	8	Continuous engagement with Sales Agent to determine risks from purchaser perspective and agree mitigation	Project Team, Sales Agent.
Council Cabinet does not approve of disposal, this will impact on establishing a community and add delays to affordable housing provision.	4	2	8	Clear explanation in the Disposal Report that confirms disposals are compliant with planning policy.	Project Team, local planning authority.
Council Cabinet does not approve recommendation to dispose Plots 6, 7 and 8.	4	1	4	Work closely across all departments and engage with Members and Councilors to ensure comprehensive support in advance.	Project Team
Governance Process for approval of disposal report may not be followed correctly.	4	1	4	Draft public and Exempt Reports early to consult colleagues to agree process is being followed correctly. Adapt to new working arrangements as required.	Project Team
Council Cabinet does not approve disposal would result in continued Council liability, risk of vandalism, security and other holding costs, Council Tax, maintenance and repair costs associated with void units.	4	1	4	Annual budget for Holding Costs is communicated as background context in the disposal reports to explain financial liability, political risks arising from the refusal to sell plots are made clear including market confidence in future PBRS plot disposals.	Project Team

Council Cabinet does not approve of disposal may have a reputation and political impact and erodes market confidence in Council's ability to dispose remaining PBRS Plots	4	1	4	As above. Make clear risks and implications of refusing sale and longer-term impact on the Council regarding the later PBRS Phases. Compromising Market confidence in the Council's ability to dispose of the plots will reduce market tension and competitive pricing and bidding	Project Team
Plot 6 Planning change of use from extra care to residential is refused or delayed beyond the agreed long-stop date	4	1	4	Engage Planning to understand planning criteria and matters to be addressed prior to submission of the planning application to be determined prior to long stop date – December 24.	Project Team & Planning and Planning Consultants

Probability	Impact	Score
1 - Unlikely	1 - Insignificant	1 - 4
2 - Possible	2 - Minor	5 - 8
3 - Likely	3 - Moderate	9 - 12
4 - Almost Certain	4 - Major	13 - 16

Birmingham City Council

Report to Cabinet Committee – Property

8th August 2024



Title:	APPROPRIATION OF PLOT 9 PERRY BARR RESIDENTIAL SCHEME TO THE HRA
Lead Cabinet Portfolio:	Cllr Sharon Thompson – Deputy Leader of the Council
Relevant Overview and Scrutiny Committee:	Cllr Katherine Iroh - Economy, Skills and Culture Overview and Scrutiny
Report Author:	Mumtaz Mohammed, Programme Manager Place, Prosperity and Sustainability Directorate Phone Number (07823534979) Mumtaz.mohammed@birmingham.gov.uk
Authorised by:	Philip Nell, Strategic Director for Place, Prosperity, and Sustainability
Is this a Key Decision?	Yes
If this is a Key Decision, is this decision listed on the Forward Plan?	Yes – Forward Plan Reference 013136/2024
Reason(s) why not included on the Forward Plan:	Not Applicable
Is this a Late Report?	No
Reason(s) why Late:	Not Applicable
Is this decision eligible for ‘call in?’	Yes
If not eligible, please provide reason(s):	Not Applicable
Wards:	Perry Barr

Does this report contain exempt or confidential information?

Yes

Exempt Information

Appendices 2, 3 and 5 are exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act, 1972 as amended:

Paragraph 3 - Information relating to the financial or business affairs of a particular person (including the authority holding that information).

Has this decision been included on the Notification of Intention to consider Matters in Private?

No

Reasons why not included on the Notification:

If yes, list reason(s). If no, insert 'Not Applicable'.

Exempt Appendices 2, 3 and 5, contains sensitive commercial information on the purchase price and 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 The appropriation of Plot 9 of the Perry Barr Residential Scheme to the Housing Revenue Account was approved by Cabinet on 23 July 2023. This report seeks to provide assurance that the assumed open market value of the property utilised for the appropriation is appropriately evidenced and independently validated, as set out in the Section 123 marketing completion report provided by the Council's sales and marketing agent.

2 COMMISSIONERS' REVIEW

- 2.1 Recommendations supported.

3 RECOMMENDATIONS

That Cabinet Committee Property

- 3.1 Note that Cabinet on 23 July authorised and approved the appropriation of Plot 9 for this value to the HRA and authorised the City Solicitor (or their delegate) to prepare, negotiate, execute, and complete all relevant legal documentation required to give effect to the above.
- 3.2 Note the disposal value provided in the Section 123 marketing and completion report – Exempt Report Appendix 3, for the Perry Barr Residential based on an independent market valuation carried out by the Council's appointed sales and marketing agent.
- 3.3 Note that the independent valuation is consistent with the assumed open market value for the purpose of the appropriation

4 KEY INFORMATION

- 4.1 Below is a brief history to the Council's development at Perry Barr and a fuller update will be provided to Cabinet in September.2024. Alongside this report, a report on the disposal of Plots 6, 7 & 8 at the Perry Barr Residential Scheme is being presented to Cabinet Committee Property on 8th August for approval and provides additional information on the scheme.
- 4.2 Perry Barr, situated three miles north of Birmingham City Centre, is a vibrant and evolving area, home to a young and diverse community. It is an area with high housing demand and is earmarked for regeneration investment in the Big City Plan 2030.
- 4.3 The Perry Barr Regeneration Scheme is a comprehensive initiative aimed at revitalising the area and has been backed by significant amounts of public sector investment. This investment has focussed on enhancing public transport infrastructure, new schools, providing new homes, and creating community spaces. Birmingham securing the right to host the 2022 Commonwealth Games in December 2017 also served as a catalyst for regeneration in this part of the city.

- 4.4 The Perry Barr Residential Scheme (PBRs) is a large, multi-phase residential development with Phase 1 originally planned to operate as the Games-time athletes' village to accommodate c. 6,500 athletes and officials within a series of apartment buildings and townhouses delivered to "games-specification" on the former Birmingham City University (BCU) Teaching Campus at Aldridge Road.
- 4.5 The regeneration scheme consists of 3 phases of development in the vicinity of the Perry Barr railway station and the Council acted as developer for Phase 1. The land for phases 2 and 3 was acquired for future development.
- 4.6 Phase 1 received detailed planning consent in 2018 for a total of 1,414 homes across 11 development plots which included 1,146 residential homes (use class C3) and 268 Extra Care homes (use class C2) allocated to Plot 6. The planning consent required 312 of the 1,414 to be affordable homes. These affordable homes were subsequently allocated to plots 7-9. Outline planning consent was also obtained for phase 2, identifying the potential for the provision of a further 400 homes with a greater focus on family housing than was the case for phase 1.
- 4.7 Demolition works commenced in 2018 and initial authority was granted to develop eight of these plots (Plots 1, 3, 4, 5, 6, 7, 8, and 9) providing 1,151 residential units, with Plots 2, 10 and 11 planned for development or disposal post-Games.
- 4.8 The Council was in contract via a Construction Development Agreement (CDA) with Lendlease Construction Europe Ltd (Lendlease) in June 2019 for the development of the eight plots. Lendlease had awarded contracts to Tier 1 contractors for the development to Games-specification of Plots 6, 7, 8, and 9. The contract for the delivery of Plot 1 was in negotiation and the delivery approach for Plots 3, 4 and 5 was being reviewed to ensure those plots could be delivered as part of the programme and within budget.
- 4.9 In March 2020, the World Health Organisation declared COVID-19 as a global pandemic. In response to the emerging working environment the Council, in consultation with the Commonwealth Games Federation, Birmingham 2022 Organising Committee and Government undertook a review into the deliverability of the PBRs for Games-time accommodation for the athletes from both a programme, risk and value for money perspective.
- 4.10 An early outcome of this review was to cease design works (RIBA Stage 4 design partially complete) on Plot 1 and to omit it from the scope of the Games-time development. This decision was taken following a review into the development timescales, commercial viability and affordability of Plot 1.
- 4.11 Following further review into the deliverability and affordability to the Council of the remaining plots under construction, and when considering the additional costs required to accelerate and de-risk the programme for Games-time, and in response to COVID-19, a decision was confirmed by the Commonwealth Games Federation (CGF) to omit the PBRs from Games-time usage in August 2020. This

created an opportunity for the Council to omit certain previously planned elements of Games-time specification and to refocus the programme on the delivery of homes ready for occupation.

- 4.12 The development of Plots 3, 4 and 5 was also removed from the scope of the Lendlease CDA via change control approved by Programme Board in 2020 following a review into the optimal development and delivery approach.
- 4.13 Plot 6 was completed to shell and core in September 2022, with Plots 7, 8 and 9 completed to turnkey standard by February 2024. The public realm was substantially completed in February 2023, with the exception of the Aldridge Road element which was scheduled to be completed after the Games and it is expected these works will cost up to £0.5m based on pre-tender estimate prepared by the Council's advisor. The Council will incur the costs of this work and seek approval through its normal Governance process at a later date.
- 4.14 The original strategy for post-Games disposal of the accommodation involved retrofitting to a "legacy specification", made ready for occupation for a variety of tenures including, owner occupation, private rented and affordable housing, with the houses proposed for plots 3, 4 and 5 earmarked for appropriation to the HRA. This would bring forward the regeneration of Perry Barr and act as a catalyst to generate further development opportunities and deliver future growth in the area.
- 4.15 Following appointment of the Council's property sales agent in June 2020 a revised strategy for post-Games disposal with the wholesale disposal of Phase 1 was considered and soft-market exercises were undertaken. This confirmed there was no appetite in the market due to the peerless nature of the development (there were no other large, multi-storey residential apartment buildings in Perry Barr) in an untested and long-under-invested area of the city (the area suffered from negative perceptions). In addition, the narrow product offering (the scheme consists of just 1- and 2-bedroom apartments) caused concern that absorption rates (how quickly new homes could be let or sold) would be low once the market saturation for 1- and 2-bedroom new homes had been met. The strategic mitigation was to reconstitute the disposal strategy to focus on plot-by-plot disposals and to broaden the tenures for sale and rent in order to appeal to the widest possible market seeking to live in the new place. This would seek to underpin values and optimise the receipt for the Council serving as developer.
- 4.16 To mitigate the risk of oversupply, the revised plan included:
- Plot 6 - mixed tenure. Disposal to a specialist extra care operator (without finishing the building to "legacy-specification" as this would not coordinate with acquiring party's branding).
 - Plot 7 - rental tenure. Refinance/disposal via income strip (lease-and-leaseback) to institutional investor.
 - Plot 8 - sale tenure. Disposal via sale to institutional investor.

Plot 9 - sale tenure. Direct sales of long-leasehold apartments via DLUHC First Homes programme, with the balance of remaining homes unsold and the long-leasehold of the block to be sold to an institutional investor.

- 4.17 The Council received interest from third parties for the wholesale acquisition of Plot 8 and Plot 9, however, the advice of the sales agent was these were uncompetitive and unrealistic, and could not be recommended as representing best consideration.
- 4.18 Plot 6 was marketed formally in November 2022, and while this garnered a response from the market, no offers were deemed commercially beneficial to the Council to proceed - many required significant further investment and continued commercial risk to be borne by the Council.
- 4.19 Market conditions have been challenging since the beginning of 2020, and while the direct impacts of the pandemic on the project have fallen away, the impact of macroeconomic challenges has directly impacted the disposal of plots and homes across the project.
- 4.20 The Council engaged a residential sales agency to help administer the sales and marketing process for First Homes to qualifying members of the general public and was successful in attracting interest in the programme. However it was impossible to complete sales due to the impact that the mini budget in September 2022 had on the mortgage and lending markets, and the subsequent challenges for sales valuations. Therefore, the strategy was again refocused on business-to-business institutional disposals.
- 4.21 While interest was established in Plots 7, 8 and 9 the option of appropriating Plot 9 into the HRA was explored, and a proposal to follow this approach was considered and approved by Cabinet on 23rd July 2024. Plots 7 and 8 were remarketed alongside Plot 6 due to no credible interest in the extra care due to the size of the development and the still-untested location. Interest was established from institutional investors for plots 6, 7 and 8 with the proposal for removing the extra care planning condition from plot 6.
- 4.22 The Council then reverted back to marketing the development plots to institutional investors for all the plots and the bulk purchase approach for plots 6, 7 & 8 was agreed as the appropriate route to maximise capital receipts on a timely basis from the sales of the plots.
- 4.23 With the issuing of a S114 notice in September 2023, the Council have considered the options for disposal of the nearly complete plots 6 to 9 and have received offers for plots or combinations of plots which are being considered in Cabinet Committee – Property in August 2024. Alongside this consideration, Cabinet on 23rd July 2014, approved the appropriation of one block (plot 9) into the HRA to use as general needs social housing, in order to meet the needs of residents waiting for available social housing.

- 4.24 The HRA will take on the 213 units in Plot 9 at Perry Barr Phase 1, and offer as Social Housing, reducing the reliance on new build programmes planned to commence during the financial year.

5 Proposal and Reasons for Recommendations

- 5.1 Proceed with the proposed transaction. It is recommended to proceed with the transaction outlined in this report, in line with the external advice obtained to support the Disposal Strategy, to bring the process to its most beneficial conclusion by enabling prompt availability of social housing for occupation, reducing the debt burden to be borne by the General Fund and remove ongoing Council liabilities and associated costs associated with continuing to hold vacant properties. The Council is under obligation to ensure that any appropriation is undertaken at open market value. The continued holding costs to the Council are significant.

Other Options Considered: -

- 5.2 Do Nothing. The consequences of this would be to retain the vacant properties and continue to maintain the building at expense to the Council while we undergo a sales and marketing exercise to dispose of the plot on the open market. Do Nothing has been discounted as we need to remove the liability and ongoing costs to the Council including reputational damage of vacant properties and bring properties into use to address housing need across the city.
- 5.3 Commence individual apartment sales. The consequences of this would be to retain the vacant properties and continue to maintain the buildings at significant expense to the Council. Whilst the gross disposal proceeds may be enhanced by this approach, the holding costs would be incurred until all the apartments are sold which could take 5 years+ and will be dependent on market conditions (thus exposing the Council to continued commercial risk).

6 RISK MANAGEMENT

- 6.1 The risk of not providing a market valuation would undermine the Council's ability to demonstrate the appropriation of Plot 9 achieved best value for the Council. .

7 CONSULTATION

- 7.1 Deputy Leader – the Deputy Leader was pleased the Council was independently validating the value of the plot 9 appropriation.

8 MEMBER ENGAGEMENT

Ward Councillor(s)

- 8.1 There is ongoing dialogue with Ward Councillors for Perry Barr Cllr John Hunt and Cllr Morriam Jan to keep them informed of the Disposal Strategy, the associated transport and place making activity, and the regeneration of the wider

area. When presented with the appropriation of plot 9 to the HRA, councillors were comfortable with this use as social housing.

Overview and Scrutiny

- 8.2 The Economy and Skills Overview and Scrutiny Committee carried out pre-decision scrutiny of this report on 22nd July 2024. Key points and a response are provided in Exempt Report Appendix 5.

Other

- 8.3 The report has been presented to the Deputy Leader to ensure they were comfortable with the approach taken to ensure best value for the city and residents as well as any risks to the Councils financial recovery plan.

9 IMPACT AND IMPLICATIONS

Finance

- 9.1 The proposed appropriation of plot 9 to the HRA will result in the effective transfer of debt to the value of the property from the General Fund to the HRA. This will directly reduce costs to the General Fund representing the MRP / interest on this level of debt, with the costs instead borne by the HRA (and funded through the rents generated by the letting of the apartments).

Legal

- 9.2 Section 122 of the Local Government Act 1972 authorises the Council to appropriate for any purpose for which the Council are authorised by that or any other Act to acquire land by agreement any land which belongs to the Council and which is no longer required for the purpose for which it is held immediately before the appropriation.
- 9.3 Section 120 of the Local Government Act 1972 authorises the Council to acquire by agreement any land for any of their functions or for the benefit, development or improvement of their area.
- 9.4 Section 17 of the Housing Act 1985 authorises the Council to acquire by agreement for the purposes of its functions under part II of that Act houses, which includes flats, together with land occupied with the houses, and section 19 of that Act authorises the Council to appropriate for the purposes of part II of that Act any land vested in them or at their disposal.
- 9.5 The rules governing the HRA are set out in Part VI of the Local Government and Housing Act 1989 (the 1989 Act). Under Section 74(1) of the 1989 Act local housing authorities must keep in accordance with proper practices an account called a Housing Revenue Account. "Proper practices" are required by Section 88(1)(d) of the 1989 Act to be construed in accordance with Section 21 of the Local Government Act 2003. Section 21 of the Local Government Act 2003 empower s the Secretary of State to issue regulations and guidance to be followed by local authorities.

- 9.6 Section 75 of the 1989 Act requires that HRAs must be kept in accordance with Schedule 4 of the 1989 Act. This prescribes, in paragraph 5 of Part 3 (Special Cases), that on an appropriation into (or out of) the HRA adjustments to the council's revenue accounts must be made in accordance with any direction by the Secretary of State.
- 9.7 The Secretary of State's power to make directions is set out in Section 78 of the 1989 Act. The Housing Revenue Account (Accounting Practices) Directions 2016 (the 2016 Directions) – describe the information, to be disclosed in notes to the HRA; they do not make specific provision for appropriations. Instead local housing authorities need to account for appropriations as debits (or credits) as set out in Part 2 (and Part 1) of Schedule 4 to the 1989 Act. The relevant item is item 8, i.e. "Sums to be determined by the Secretary of State".
- 9.8 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 powers in relation to the discharge of its functions, including the disposal and acquisition of property.

Equalities

- 9.9 An update to the Equalities Appraisal for the Perry Barr Regeneration Scheme (PBRs) was undertaken as part of this report and this determined there was no detrimental impact.

Procurement

- 9.10 There are no procurement implications with the recommendations of this report. However, it should be noted there are outstanding works to be completed to the public realm as noted in 4.12. The procurement of these works will be undertaken in accordance with the Council's Constitution and Procurement and Contract Governance Rules.

People Services

- 9.11 There are no additional staffing implications for this report.

Climate Change, Nature and Net Zero

- 9.12 An Environment and Sustainability Assessment is not included in this report as the existing buildings in the plots will be disposed of, but it should be noted that the disposal of the buildings will redistribute their resulting carbon emissions from scope 3 council emissions to city wide emissions.

Corporate Parenting

- 9.13 There are no corporate parenting implications for this report.

Other

- 9.14 All report authors should consider if there are any additional implications arising from this report and provide information here. Examples of other implications could include (but is not exclusively) community safety; digital and technology, health and wellbeing or social value.

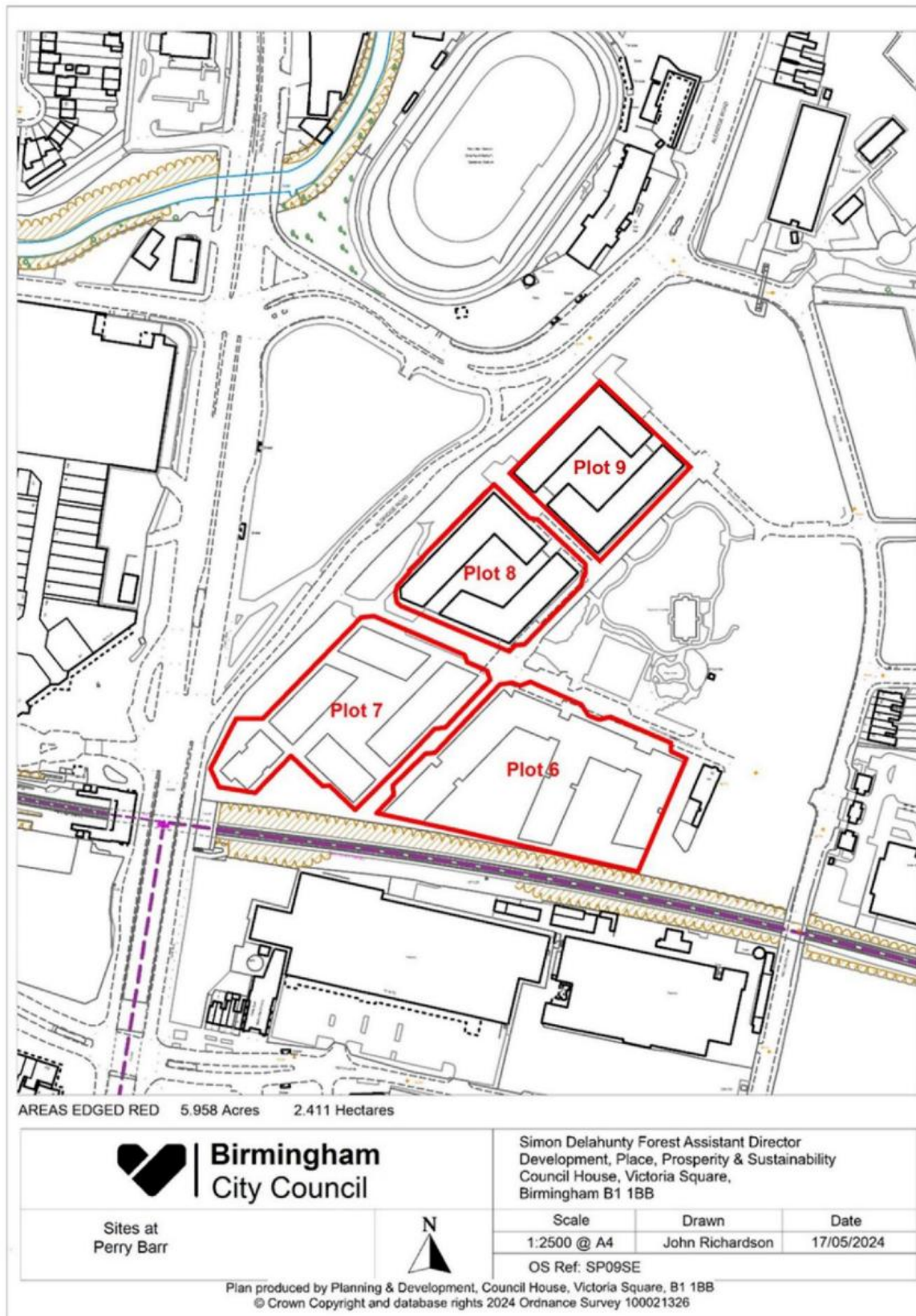
10 APPENDICES

- 10.1 Appendix 1 – Site Plan
- 10.2 Exempt Appendix 2 – Report
- 10.3 Exempt Appendix 3 – Sales Report
- 10.4 Appendix 4 – Updated Equalities Assessment
- 10.5 Exempt Appendix 5 – Report Overview and Scrutiny Recommendations

11 BACKGROUND PAPERS

- 11.1 Joint Cabinet Member Chief Officer Report approved 6 June 2019 - Perry Barr Regeneration Scheme Full Business Case.
- 11.2 Report to Cabinet approved 11 February 2020 – Commonwealth Games – Athletes Village Update (Contracting of Plot 7)
- 11.3 Report to Cabinet approved 17 March 2020 – Birmingham 2022 – Revised Perry Barr Regeneration Scheme FBC (RFBC)
- 11.4 Report to Cabinet approved 21 July 2021 – Birmingham 2022 – Revised Perry Barr Regeneration Scheme FBC (RFBC)
- 11.5 Report to Cabinet approved 23 July 2024 – Perry Barr Plot 9 Appropriation

Appendix 1 Site Plan



Appendix 4

Equalities Appraisal: Perry Barr Regeneration Scheme (PBRs)

Update 2

July 2024

1. Introduction

- 1.1. An Equality Analysis (EA) report (Reference Number: EA002780) was produced as part of the Commonwealth Games Village and wider Perry Barr regeneration programme Outline Business Case Cabinet Report ("the OBC") (26th June 2018), in line with the City Council's duties under the Equalities Act 2010. The EA report identified; "that there is some potential for the programme to have differential impacts on protected characteristics but that mechanisms are in place to mitigate this."
- 1.2. A review of the EA was undertaken with an update paper (Update 1) provided as part of the Full Business case (FBC) presented to Cabinet in June 2019. This update concluded that, "no additional equalities issues have been identified... and the Council will continue to monitor this".
- 1.3. A subsequent review was undertaken in July 2021 and no additional equalities issues were identified at that point. there were not additional comments or concerns raised at that point. The Programme of work was progressing well it was noted the Council has worked hard to ensure the construction work on the scheme provides opportunity to create employment, provide skills and training for both the workforce and local community and tackle socio-economic inequalities.
- 1.4. This paper does not address in any detail the highway scheme or public transport improvements currently being delivered adjacent to the residential scheme.

Equalities duties

- 1.5. The City Council has a duty under the Equalities Act 2010 ("the Act") to consider the needs of diverse groups when designing and delivering services, so that people can get fairer opportunities and equal services, to consider all the protected characteristics, and to tackle socio-economic inequalities.
- 1.6. The Act protects you from discrimination by; employers, businesses and organisations which provide goods or services, health and care providers, someone who you rent or buy a property from, school, colleges and other education providers, transport services and public bodies like government departments and local authorities. The Act contains nine protected characteristics which are age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex and sexual orientation.

2. Background

Perry Barr Residential Scheme

- 2.1 The scheme for the regeneration of Perry Barr, as set out in the Updated RFBC includes the delivery of the Perry Barr Residential Scheme (formerly known as the Commonwealth Games Athletes' Village), the wider demolition works, highways and public transport works, and site assembly.

The Residential Scheme was completed in March 2023 with four plots having been completed. Plot 6 was completed to shell and core with the fitout of kitchens and floor finishes remaining. Plots 7, & 8 have been completed to turnkey standard and are ready for occupation.

The planning condition requirement to provide 312 affordable homes across the estate remains and the Council is expected to discharge across plots 6, 7, 8 and 9. The discharge of this condition provides the Council the opportunity to consider if the existing plans for plots 1, 2, 3, 4, 5, 10 and 11 are still the most appropriate design for the scheme.

The discharge of the affordable homes condition has provided the opportunity to reconsider the scheme being delivered for Plots 2, 3, 4 and 5 and these have been redesigned to provide an increased number of homes that will be available for sale to 102 homes. This increase in houses, increases the mix of house types available within the scheme and introduces more family size homes than originally envisaged.

Highway Works

- 2.2 The highway works which include the demolition of the flyover and changes to the highway network, improvements to the Birchall Roundabout and introduction of a dedicated cycle lane and Sprint bus lane have been completed.

The Compulsory Purchase Order (CPO)

- 2.2 In September 2019 the Secretary of State confirmed the CPO. The Council managed to successfully acquire around 90% of the land required through negotiation with the remaining 10% or so vested.

3. Conclusions

- 6.1 The plots and public realm were completed in 2023 and are the open market for sale. There has been interest in the purchase of all 4 plots the sale of which is due to be completed in 2024 with occupation commencing later in the year.
- 6.4 No additional equalities issues have been identified as a result of this paper. The Council will continue to monitor this.