

Birmingham City Council

Report to Cabinet Committee- Property

25th July 2024



Title:	LETTING OF WEST CAR PARK NEC
Lead Cabinet Portfolio:	Councillor Sharon Thompson, Deputy Leader and Cabinet Member for Economy & Skills
Relevant Overview and Scrutiny Committee:	Economy & Skills and Culture – Councillor Katherine Iroh (Chair)
Report Author:	Ian Chaplin, Head of Investment Property Management Place Prosperity & Sustainability Directorate 07980 673040 Ian.Chaplin@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 – reference 013125/2024
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:	Outside city boundary (Solihull)

Does this report contain exempt or confidential information?

Yes

Exempt Information

Exempt Appendices 2, 3 and 4 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? Yes

Reasons why not included on the Notification: Not Applicable

1 EXECUTIVE SUMMARY

- 1.1 This report seeks authority for the letting of a large part of West Car Park, NEC, situated between Birmingham International Airport and the National Exhibition Centre, to a car park operator.
- 1.2 West Car Park comprises approximately 18 acres, partly occupied by the two private tenant companies. The section of the site which is subject to this report comprises approximately 12 acres (and around 1700 car parking spaces) and is identified edged red on attached Appendix 1.
- 1.3 The recommendations contained in this report, and Exempt Appendices 2, 3 and 4 set out the provisionally agreed terms, and are fully in line with the Council's wider ambitions and plans for financial stability and income generation.

2 COMMISSIONERS' REVIEW

- 2.1 Commissioners support the recommendations.

3 RECOMMENDATIONS

That the Committee:

- 3.1 Authorises the Assistant Director of Investment & Valuation to conclude the letting of the property on the recommended terms as set out in Exempt Appendix 4.
- 3.2 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 subject property comprises the predominant part of a larger car park adjacent to Birmingham International Airport and the National Exhibition Centre which had been unoccupied since Birmingham International Airport surrendered their lease during the Covid pandemic in 2020/21. Air travel has now returned to pre-pandemic levels along with the demand for associated car parking.
- 4.2 Following a formal marketing campaign, offers were invited on the basis of an opportunity to take occupation on a short to medium term basis. Details of the bids submitted, and the identity of the bidders are contained in Exempt Appendix 3.
- 4.3 The agreed Heads of Terms are outlined in Exempt Appendix 4. The best recommendable deal will see the site let on a 10 year lease with landlord-only break clauses in 2028 and 2031 to allow for potential future

development. In the interim, the site will generate rental income to assist with delivery against existing Medium Term Financial Plan targets.

Proposal and Reasons for Recommendations

- 4.2.1 To accept the recommendations outlined in section 3 of this report on the basis the letting of this property to the recommended bidder is consistent with the aim to maximise rental income from the re-letting of vacant property assets.
- 4.2.3 As the property was advertised as available To Let and bidders were invited to submit offers on private treaty basis, the recommended letting demonstrates the requirement to achieve best consideration under Section 123 of the Local Government Act 1972.
- 4.2.4 The rental income generated will directly contribute to the Council's Medium Term Financial Plan targets in relation to the maximisation of revenue from assets which continue to be held within the Council's commercial property portfolio.

Other Options Considered

- 4.3.1 **Option 1 – Do Nothing.** The Council would continue to be liable for the substantial holding costs associated with retaining such an asset, including business rates, utilities costs and ongoing security and insurance costs.
- 4.3.2 **Option 2 – Disposal for Development.** Whilst the wider West Car Park site has potential future development potential as part of wider master planning of the area around the National Exhibition Centre, Birmingham International Airport and Birmingham International Station, the current uncertainty around the likely route and timing for construction of the new 'people mover' between the railway station and the airport suggests disposal at this juncture would be unlikely to maximise the development value of the site.
- 4.3.3 **Option 3 – Proceed with Agreed Transaction.** It is recommended to proceed with the recommendations outlined in this report, in line with the Council's Medium Term Financial Plan to maximise the rental income from re-letting the vacant space. Break clauses in favour of the Council will ensure flexibility to benefit from future opportunities to bring forward development on the site.

5 RISK MANAGEMENT

- 5.1 There are no immediate risks to the Council if the property is not re-let.
- 5.2 The risks associated with not proceeding are the usual commercial risks which arise when holding a vacant site plus the loss of potential rental income.
- 5.3 There are inherent commercial risks associated with the letting of the site to a commercial parking operator. These are mitigated both by the overriding terms of the proposed lease and the opportunity for the Council as landlord to break the lease at regular intervals.

6 CONSULTATION

- 6.1 No formal consultation has been undertaken as the property is situated outside of the City boundary.,

Overview and Scrutiny

- 6.2.1 The Chair of Overview & Scrutiny Committee (Economy & Skills) was notified on 27th June 2024.

7 IMPACT AND IMPLICATIONS

Finance

- 7.1.1 This proposed letting will generate short to medium term rental income for the Council. The income will contribute to delivery of enhanced rental receipts to support delivery of MTFP income targets.
- 7.1.2 With respect to the letting representing best consideration, an open market settlement following a period of marketing on a private treaty basis satisfies the requirements of Section 123 of the Local Government Act 1972.
- 7.1.3 The recommended bidder is an existing tenant of the City Council with a proven track record and good credit/payment history.
- 7.1.3 The tenant will pay the Council's reasonable legal and surveyors' costs on completion of the lease. All sums are exclusive of VAT.

Legal

- 7.2.1 Sections 120 - 123 of the Local Government Act 1972 authorises the Council to hold, appropriate and dispose of land. The disposal power in Section 123 of the Local Government Act 1972 is subject to the best consideration test. The Director of Property & Investment has confirmed that the recommended letting, as detailed in Exempt Appendices 2, 3 and 4 represents best consideration and satisfies the Council's obligations, under Section 123 of the Local Government Act 1972.
- 7.2.2 Section 1 of the Localism Act 2011 contains the Council's general power of competence, which is circumscribed only to the extent of any applicable pre-commencement restrictions and any specific post-commencement statutory restriction of the power, and Section 111 of the Local Government Act 1972 contains the Council's ancillary powers in relation to the discharge of its functions including the disposal and acquisition of property and incurring of expenditure.
- 7.2.3 The Local Government Act 2003 and guidance issued under it authorises the Council's investment management functions.
- 7.2.4 Exempt information: Schedule 12A of the Local Government Act 1972 (as amended) paragraph 3. Information relating to the financial or business affairs of any particular person (including the Council). Exempt Appendices 2, 3 and 4 are

considered to be exempt 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.

Equalities

- 7.3.1 An Equality Assessment has been carried out EIA000471 dated 5th July 2024 and is attached at Appendix 5. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

8 APPENDICES

- 8.1 List of Appendices accompanying this report:

Appendix 1 – Site Plan

Exempt Appendix 2

Exempt Appendix 3 – Summary of Bids Received

Exempt Appendix 4 – Heads of Terms

Appendix 5 – EIA000471

9 BACKGROUND PAPERS

- 9.1 Nil