

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