

Birmingham City Council

Report to Cabinet Committee Property



25th July 2024

Title:	SALE OF FREEHOLD INTEREST - 7-20 WILLIAM HENRY STREET, NECHELLS, BIRMINGHAM
Lead Cabinet Portfolio:	Councillor Sharon Thompson, Deputy Leader and Economy & Skills
Relevant Overview and Scrutiny Committee:	Economy & Skills and Culture – Councillor Katherine Iroh (Chair)
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Authorised by:	Philip Nell, Strategic Director, Place Prosperity & Sustainability Directorate
Is this a Key Decision?	No
If this is a Key Decision, is this decision listed on the Forward Plan?	Not applicable
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:

Nechells

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 sale of the Council's freehold reversionary interest in the site known as 7-20 William Henry Street, Nechells, Birmingham to the tenant occupiers.
- 1.2 The property has a site area of approximately 0.6 acres and is shown edged red on the attached plan at Appendix 1.
- 1.3 The recommendations contained in this report and the Exempt Appendices 2, 3 and 4 will generate a capital receipt supporting the Council's Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.
- 1.4 Options for this land have been fully considered and the sale of the site provides the best outcomes for the city as detailed in Exempt Appendix 2.

2 COMMISSIONERS' REVIEW

- 2.1 Commissioners support recommendations.

3 RECOMMENDATIONS

That the Committee:

- 3.1 Authorises the Assistant Director of Investment & Valuation to conclude an unconditional sale of the Council's freehold interest, to the current tenants on the recommended terms as set out in Exempt Appendix 4.
- 3.2 Note the purchasing tenant will meet payment of the Council's legal and surveyor's costs, as detailed in Exempt Appendix 4.
- 3.3 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 comprises single storey industrial premises fronting William Henry Street with a yard which lies to the rear of the site. The total site area extends to approximately 0.6 acres.
- 4.2 The overall site is shown edged red on the plan at Appendix 1 of this report.
- 4.3 The property is owned freehold by the City Council and is currently operated as a scrap yard. The property is occupied under a lease dated 25 December 2016 which is due to expire on 24th December 2031 with a break option on 25th

December 2026. The rent is next due to be reviewed at the break date. The asset is held within the Council's commercial property portfolio.

- 4.4 Following a comprehensive review of the Council's commercial property portfolio, supported by appointed advisors Avison Young in 2020, the Council's interest in this property was identified as an asset which the Council should consider for sale.
- 4.5 In accordance with agreed process, the Council's currently appointed agent Lambert Smith Hampton has negotiated and agreed terms with the occupying tenants for the sale of the Council's freehold interest in the property.
- 4.6 The outcome of the negotiations and recommendations for sale are detailed in Exempt Appendices 2 and 3. The agreed Heads of Terms are contained in Exempt Appendix 4.
- 4.7 The proposed sale represents best consideration and has been validated as such by the Assistant Director of Investment & Valuation based upon an analysis of the financial terms of the recommended sale, consideration the Council's Property Strategy, and wider aspirations and ambitions for the City.
- 4.8 The capital receipt will directly contribute to the City Council's current Financial Recovery Plan.

Proposal and Reasons for Recommendations

- 4.9 **Proceed with Agreed Transaction.** It is recommended to proceed with the transaction outlined in this report, in line with the aims of the Property Investment Strategy, supported by external advice from the Council's retained agent Lambert Smith Hampton. The capital receipt generated will assist with delivery of the Council's Financial Recovery Plan, and the sale to the existing tenants will enable investment in the site and secure/create local jobs.

Other Options Considered

- 4.10 **Option 2 - Do Nothing.** The Council is under no obligation to proceed with the proposal and would suffer no reputational consequences if it did not proceed. It would not, however, be in line with the aims of the Property Investment Strategy or the external advice obtained to support delivery of the Strategy. The negotiated capital receipt would not be realised at this time and would not be available assist with delivery of the Council's Financial Recovery Plan, with there being no guarantee of a future opportunity. The property is not allocated, nor does it have planning consent for an alternative use and is therefore not an immediate development opportunity. The property does not have an obvious alternative use which would benefit the Council.
- 4.11 **Option 3 – Dispose of the Property to Council Wholly Owned Company (WOC)** The property is not deemed to be of a strategic value to the Council or a significant development opportunity such that it would wish to retain overall control of the asset through transfer into a WOC. In addition, there is limited

income or future income growth from the property to support and fund a sale of this nature.

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 protected under the terms of the existing lease.
- 5.2 The 'risk' of not proceeding could only be seen in terms of a lost opportunity to generate a capital receipt to support the Council's Financial Recovery Plan.

6 CONSULTATION

- 6.1 The Property Investment Board comprising officers from Investment & Valuation, Finance and Legal recommends proceeding with the transaction.
- 6.2 No further external consultation is necessary for this commercial transaction.

7 MEMBER ENGAGEMENT

Ward Councillor(s)

- 7.1 The Ward Councillor was notified on 12th March 2024. At the request of the Cabinet Member, the Ward Councillor was re-notified and consulted on 1st July 2024. No response was received.

Overview and Scrutiny

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

8 IMPACT AND IMPLICATIONS

Finance

- 8.1 The transaction will generate a capital receipt for the Council, as set out in Exempt Appendix 2.
- 8.2 The property currently generates a gross annual rent which will be lost to the City Council, provision for which is being made in the Financial Plan 2024 to adjust the commercial portfolio income budget for disposals under the programme. The use of the capital receipt from this specific asset will contribute to the City Council's Financial Recovery Plan 2024, to ensure a balanced budget and prioritise the generation of capital receipts.
- 8.3 As the site is currently let on full repairing and insuring terms (the tenants pick up all those costs), the holding costs related to this asset are limited to the cost of City Council officer time incurred in managing the agreements as part of the wider City portfolio of properties and these are not specifically recorded or measured.
- 8.4 The purchaser will pay the City Council's legal and surveyor's costs related to the disposal, as detailed in Exempt Appendix 4.

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

Legal

- 8.6 Sections 120 - 123 of the Local Government Act 1972 authorise 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 Investment & Valuation has confirmed that the recommended sale, as detailed in Exempt Appendices 2 and 3 represents best consideration and satisfies the Council's obligations, under Section 123 of the Local Government Act 1972.
- 8.7 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.
- 8.8 The Local Government Act 2003 and guidance issued under it authorises the Council's investment management functions.
- 8.9 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 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

- 8.10 An Equality Assessment has been carried out EIA000469 dated 5th July 2024 and is attached at Appendix 5. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

9 APPENDICES

Appendix 1 – Site Plan

Exempt Appendix 2

Exempt Appendix 3 – Recommendation report

Exempt Appendix 4 – Heads of Terms

Appendix 5 - EIA000469

10 BACKGROUND PAPERS

10.1 Nil