

Birmingham City Council

Report to Cabinet Committee- Property

25th July 2024



Title:	INDUSTRIAL GROUND RENT SALES PROGRAMME
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 013126/2024
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:	Newtown, Nechells and Small Heath

Does this report contain exempt or confidential information?

Yes

Exempt Information

Exempt Appendix 2 and 3 is 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 property interests listed in Appendix 1 of this report by online 'platform' sale process described below.
- 1.2 The subject properties are shown edged red on individual attached plans at Appendix 4.
- 1.3 The recommendations contained in this, and the Exempt Appendix 3 are fully in line with the Council's wider ambitions and plans for financial stability. Sales of these assets will generate capital receipts supporting the Council's Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.
- 1.4 Options for these property interests 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 the Committee:

- 3.1 Authorises the Assistant Director of Investment & Valuation to conclude the sale of the Council's freehold property interests at a minimum of the 'reserve' values listed in Exempt Appendix 3 by online 'platform' sale through its appointed agents during the remainder of 2024.
- 3.2 Authorises the Assistant Director of Investment & Valuation, where deemed appropriate, to set individual reserve prices in excess of £200,000.
- 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 subject properties comprise surplus industrial interests currently held within the Council's commercial property portfolio. Sales of these assets are consistent with the aims of the Council's Property Investment Strategy to reduce the number of small assets held in the portfolio. Sales of these assets will generate capital receipts supporting the Council's Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget.

- 4.2 The current property lease and rental details for each of the assets are shown at Exempt Appendix 3. Individual identification plans showing the properties to be sold edged red are shown at Appendix 4 of this report.
- 4.3 The online 'platform' will offer both existing tenants and other interested bidders the opportunity to submit bids through a time limited online auction process. The tenants occupying the assets outlined in Appendix 1 will be notified in advance of the Council's intention to sell, the timeline for sale, and how bids can be submitted.
- 4.4 The sales methodology to deliver the proposed sale programme will fully recognise market sentiment and individual circumstance. The proposed delivery strategy and mode of sale adopted is tailored to maximise both the prospect of a sale completion and receipt realisation to demonstrate best consideration.

Proposal and Reasons for Recommendations

- 4.5.1 To accept the recommendations outlined in section 3 of this report on the basis the disposal of these assets is consistent with the aims of the Council's Property Investment Strategy. Sales of these assets will generate capital receipts supporting the Council's Financial Recovery Plan by generating resources and thus helping to achieve a balanced budget
- 4.5.2 The method of sale proposed is considered appropriate for the type of asset being offered to the market.
- 4.5.3 The basis of valuation is an Open Market appraisal of worth. Achieving the reserve value will satisfy best consideration under Section 123 of the Local Government Act 1972.
- 4.5.4 The capital receipts will be available to fund the Council's Financial Recovery Plan, providing resources to support delivery of a balanced budget.

Other Options Considered

- 4.6.1 **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. It would not however, be in line with the aims of the Council's Financial Recovery Plan or the Council's Property Investment Strategy to reduce the number of small investment assets held. The properties are not allocated for inclusion in any existing strategic planning proposals, nor do they have planning consent for an alternative use and are therefore not immediate development opportunities. The properties do not have an obvious alternative use which would benefit the Council.

- 4.6.2 **Option 2 – Proceed with Agreed Transaction.** It is recommended to proceed with the recommendations outlined in this report, in line with the aims of the Council’s Financial Recovery Plan.

5 RISK MANAGEMENT

- 5.1 There are no immediate risks to the investment interests listed in Appendix 1 if the proposed transactions do not complete since its interests are protected under the terms of the existing leases.
- 5.2 The ‘risk’ of not proceeding could only be seen of in terms of a lost opportunity to generate a potential capital receipt and reconciliation of the Council’s financial position.
- 5.3 Execution risk is deemed to be limited by use of an online ‘platform’ sale process as the disposal method.

6 CONSULTATION

- 6.1 The Property Disposals Board comprising officers from Investment & Valuation, Finance and Legal Services recommends proceeding with the transaction.
- 6.2 No further external consultation is necessary for these commercial transactions.
- 6.3 Ward members have been notified and consulted in relation to each of the assets being brought forward for sale.

7 MEMBER ENGAGEMENT

Ward Councillor(s)

- 7.1.1 Ward Councillors for Newtown, Nechells and Small Heath were initially notified on 12th, 13th and 27th March 2024 in relation to the assets listed for sale for their respective Wards. At the request of the Cabinet Member, all Ward Councillors were re-notified on 1st July 2024. No responses were received.

Overview and Scrutiny

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

8 IMPACT AND IMPLICATIONS

Finance

- 8.1.1 This proposed sale programme will generate capital receipts for the Council. The capital receipts will be available to fund the Council’s Financial Recovery Plan, providing resources to support delivery of a balanced budget.
- 8.1.2 The sale of the freehold interests in properties listed is estimated to generate a minimum capital receipt as summarised in Exempt Appendix 3.

- 8.1.3 With respect to the disposals being at best consideration, the Council will offer the individual assets at a reserve value representing the current minimum value at which the Council is deemed to be a willing seller as shown in Exempt Appendix 3.
- 8.1.4 The basis of valuation is an Open Market appraisal of worth. Achieving the reserve value will satisfy best consideration under Section 123 of the Local Government Act 1972.
- 8.1.5 Final reserve values will be validated prior to launch of the online 'platform' sales process (having specific regard to RICS guidelines) by both the Director of Property & Investment and the Council's retained agents (Lambert Smith Hampton). Validation will be based upon an analysis of available market evidence.
- 8.1.6 The sale of these assets will result in a loss of rental income as set out in Exempt Appendix 2. Provision for loss of this income is being provided in the Medium-Term Financial Plan (MTFP) as a pressure to rebase the income budget.
- 8.1.7 For each individual sale, the purchaser will pay the Council's reasonable legal costs, together with a surveyor's fee. These sums will be payable on completion of sale.
- 8.1.8 The purchase price, including any contribution to the Council's costs, is exclusive of VAT.

Legal

- 8.2.1 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 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.
- 8.2.2 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.
- 8.2.3 The Local Government Act 2003 and guidance issued under it authorises the Council's investment management functions.
- 8.2.4 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 Appendix 2 is considered to

be exempt as it contains 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

- 8.3.1 An Equality Assessment has been carried out EIA000470 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

- 9.1 List of Appendices accompanying this report:

Appendix 1 – List of Assets

Exempt Appendix 2

Exempt Appendix 3 – Lease and Reserve Values

Appendix 4 – Site Plans

Appendix 5 – EIA000470

10 BACKGROUND PAPERS

- 10.1 Nil