

# Birmingham City Council

## Report to Cabinet Committee- Property

25<sup>th</sup> July 2024



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<b>Title:</b>	<b>Sale of Former Dixon Road Junior &amp; Infant School, Dixon Road, Small Heath, Birmingham B10 0BP</b>
<b>Lead Cabinet Portfolio:</b>	Councillor Sharon Thompson, Cabinet Member for Property
<b>Relevant Overview and Scrutiny Committee:</b>	Economy & Skills and Culture – Councillor Katherine Iroh (Chair)
<b>Report Author:</b>	Warren Bird, Strategic Investment Property Manager Place Prosperity & Sustainability Directorate Warren.Bird@birmingham.gov.uk
<b>Authorised by:</b>	Philip Nell, Strategic Director Place Prosperity & Sustainability Directorate
<b>Is this a Key Decision?</b>	No
<b>If this is a Key Decision, is this decision listed on the Forward Plan?</b>	Not Applicable
<b>Reason(s) why not included on the Forward Plan:</b>	Not Applicable
<b>Is this a Late Report?</b>	No
<b>Reason(s) why Late:</b>	Not Applicable
<b>Is this decision eligible for 'call in?'</b>	Yes
<b>If not eligible, please provide reason(s):</b>	Not Applicable
<b>Wards:</b>	Bordesley Green

**Does this report contain exempt or confidential information?**

Yes

**Exempt Information**

Exempt 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:

- 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 sale of the Council's freehold reversionary interest in Dixon Road, former Junior & Infant School, Dixon Road, Small Heath, Birmingham to the occupier.
- 1.2 The property has a site area of approximately 1,201 sqm and is shown 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 Director of Property & Investment to conclude the sale of the property on the recommended terms as set out in Exempt Appendix 3.
- 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 is a brick-built Grade II Listed structure known as Dixon Road Junior & Infant School. The main structure has been split internally with this element comprising of the South Wing. The accommodation offers part open plan and part cellular classrooms with emulsion covered plastered walls, timber framed single glazed windows, fluorescent strip lighting, gas central heating to a wet radiator system, carpeting throughout and generally in reasonable repair and condition.
- 4.2 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 has been identified for potential sale. Therefore, in accordance with agreed process, Avison Young (on behalf of

the City Council) have offered and negotiated terms with the current tenant for a sale of the Council's Freehold interest in the property.

- 4.3 The negotiated settlement offer represents the best recommendable deal based on all of the market forces and surrounding circumstances and has been supported by our agents as being the best available.
- 4.4 The agreed Heads of Terms are outlined in Exempt Appendix 3. The transaction will generate a Capital Sum, and will contribute to the City Council's Financial Recovery Plan 2024. The subject site currently generates an income of £35,000 pa which will be lost to the City Council. Given the priority to generate capital receipts to support the Council's Financial Recovery Plan, provision for loss of this income is being provided in the MTFP as a pressure to rebase the income budget.

### **Proposal and Reasons for Recommendations**

- 4.2.1 To accept the recommendations outlined in Exempt Appendix 2 of this report on the basis the sale of this property to the recommended bidder is consistent with the aim to maximise the capital receipt from the disposal of parts of the Commercial Property Portfolio that are seen as a potential future income risk and assets that are not recommended for retention.
- 4.2.3 The existing occupiers were approached with an open market calculated figure and were offered first opportunity to purchase given their status as a special purchaser. The recommended letting demonstrates the requirement to achieve best consideration under Section 123 of the Local Government Act 1972 and is regarded as the best achievable in the market by our appointed agents (Avison Young).
- 4.2.4 The capital sum generated will directly contribute to the Council's Financial Recovery Plan 2024 targets in relation to the maximisation of revenue from assets which and no longer deemed as beneficial to be held within the Council's commercial property portfolio.

### **Other Options Considered**

- 4.3.1 **Option 1 – 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 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 to fund Council expenditure, 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.
- 4.3.2 **Option 2 – Disposal for Development.** Due to the Grade II Listed status of the building, the property and overall site is not suitable for development. Furthermore, due to the nature of the building, it is unlikely that conversion to alternative uses would be financially viable.
- 4.3.3 **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 a capital receipt to help the Council's Financial Recovery Plan. The sale to the tenant will give the tenant the ability to invest in the asset and secure/create jobs.

## **5 RISK MANAGEMENT**

- 5.1 The risks associated with not proceeding are the usual commercial risks which arise when holding a tenanted site and potential future income/capital receipt realisation.
- 5.2 The risk of not proceeding in relation to the Capital sum are in relation to potential market reduction and the lost opportunity to generate a capital receipt (at a level recommend by a market leading agent) to go towards the Council's Financial Recovery Plan 2024.
- 5.3 The tenant covenant is a community-based organisation and therefore carries a high-risk factor for strength of covenant. If the property were to return to City Council control the prospects of reletting are low due to the suitability, size and location of the property. The property could be regarded as operating at the market or even above market rental for property of this type, size and location. There is therefore a greater than average expected risk associated with the length of marketing and rent-free period that would need to be offered in order to secure a replacement letting. Holding costs would be high due to the Grade II listed nature of the property and security required. Management time would also significantly increase leading to more costs incurred.

## **6 CONSULTATION**

- 6.1 The Property Investment Board comprising officers from Investment & Valuation, Finance and Legal recommends proceeding with the transaction.
- 6.2 The Ward Councillor was notified on 21/4/2023. No further external consultation is necessary for this commercial transaction.

## **7 MEMBER ENGAGEMENT**

### **Ward Councillor(s)**

- 7.1 The Bordesley Green ward members have been notified of the proposed sale of this property and no objections were raised.

## **Overview and Scrutiny**

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

### **Other**

7.3 N/A.

## **8 IMPACT AND IMPLICATIONS**

### **Finance**

8.1.1 The transaction will generate a capital receipt for the Council, as set out in Exempt Appendix 2.

8.1.2 The property is currently subject to an annual rental of £35,000 per annum which will be lost to the City Council for which provision 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 is intended to go towards the City Council's Financial Recovery Plan 2024 to ensure a balanced budget and prioritise the generation of capital receipts.

8.1.3 As the site is currently let on full repairing and insuring terms (the tenant is responsible for costs) the holding costs related to this asset are limited to the cost of BCC officer time incurred in managing the agreements as part of the wider City portfolio of properties and these are not specifically recorded or measured.

8.1.4 The purchaser will pay a contribution towards the City Council's professional costs related to the disposal as detailed in Exempt Appendix 2.

8.1.5 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**

8.2.1 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 and 3 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 Appendices 2 and 3 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**

8.3.1 An Equality Assessment has been carried out EIA000444 dated 11<sup>th</sup> June 2024 and is attached at Appendix 4. This identifies no adverse impacts on any groups protected under the Equality Act 2010.

### **Procurement**

8.4 N/A

### **People Services**

8.5 N/A

### **Climate Change, Nature and Net Zero**

8.6 N/A

### **Corporate Parenting**

8.7 N/A

### **Other**

8.8 N/A

## **9 APPENDICES**

9.1 List of Appendices accompanying this report:

Appendix 1 – Site Plan

Exempt Appendix 2 – Exempt Information Report

Exempt Appendix 3 – Recommendation Report and Heads of Terms

Appendix 4 – Equality Impact Assessment EIA000444

**10 BACKGROUND PAPERS**

10.1 Property Strategy (Approved by Full Cabinet – November 2018)

10.2 Property Investment Strategy (Approved by Full Cabinet – July 2019)