

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4480
Author:	Steve Sprason
Department:	Growth and City Development
Contact:	Steve Sprason (Job Title: Interim Head of Property, Email: steve.sprason@nottinghamcity.gov.uk, Phone: 07929 726438)
Subject:	disposal of investment property -appointment of agent
Total Value:	exempt information (Type: Revenue)
Decision Being Taken:	1) To approve the appointment of investment agent MK2 Real Estate Ltd to advise the council in the disposal of an investment property 2) To note that the commission is accompanied by an exemption from procurement procedures to permit a direct appointment approved by the corporate director, finance & resources and dated 24th November 2021
Reasons for the Decision(s)	<p>The provider has previously been commissioned to review the council's Investment Portfolio and to bring forward recommendations with regard to its future strategy including the disposal of selected assets as appropriate. That report provided a reasoned justification for the sale of a number of investment properties including the subject property. The provider is a niche operator in the investment property market and has detailed knowledge of both the Council's entire investment portfolio and the subject asset specifically. They are best placed to advise the Council as to the costs, liabilities and potential upside of the asset set against current market conditions. The nature of investment sales is that very often, as in this instance, they are conducted off market and with closure of a sale required in a very short timescale. As part of MK2's existing engagement with the council the prospective purchaser has made contact with them and outline heads of terms for the disposal of the subject property have been produced. MK2 have then introduced the purchaser to the Council. In the investment market this is regarded very much as normal practice and with the introduction then being appropriately recognised. The appointment of a specialist investment agent and with significant knowledge of the subject property is required to happen quickly. There is real risk that the prospective purchaser will withdraw if the matter cannot be progressed in a timely fashion. Given their existing interest in the property (they are the freehold owner) the prospective purchaser is considered to be a "special purchaser" and has offered a consideration to purchase in excess of the otherwise expected market price that would result from an open market sale. We have some confidence that MK2's positioning here and their asset/market knowledge will result in an improvement of the current offer on the table as negotiations are drawn to a conclusion. Time is very much of the essence. The MK2 fee proposal is considered to be competitive</p>

Other Options Considered: To tender the appointment of an advisor. The above sets out the time imperative to progress quickly. The need to tender an appointment would cause unacceptable delay, is unlikely to reduce the quoted fee and risks losing an agent with established specialist understanding of the asset. The outcome would also be to lose the enhanced offer of the special purchaser. There is also a risk of reputational fall out in the investment market if the Council does not recognise the introduction of the sale opportunity by the proposed provider.

Background Papers: None.

Published Works: None.

Affected Wards: Citywide

Colleague / Councillor Interests: None.

Any Information Exempt from publication: Yes

Exempt Information:

Description of what is exempt: 1) all references to the quoted fee/value of decision as this relates to a contractual arrangement between the council and a third party agent and is considered commercially sensitive.2) all references to the level of the overbid by the special purchaser in the reasons and circumstances section of the report. this relates to the terms of disposal to a third party purchaser and is considered to be commercially sensitive

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it is commercially sensitive. Detail is contained in an exempt appendix.

Documents exempt from publication:	Exempt Information appointment of agent 171221.docx
Use of Consultants	Number of Days:120 Rate per Day:0 Total value:49000 Start date:01/12/2021 End date:31/03/2022
Reason for using a consultant:	The council needs to receive appropriate levels of professional advice in the sale of an investment property of this nature
Other options considered:	to not appoint an agent. the council does not have the specialist property skills or capacity to deal with such a matter
Name of consultant:	MK2 Real Estate Ltd
Reason for selection?	as set out above
Has the consultant previously completed work for the City Council?	yes, the review of the Council's Investment Portfolio
Specific activities to be undertaken by the consultant are:	The provision of valuation, technical and professional advice and support in relation to the off market sale of an investment property
Period of engagement:	Until the sale is completed or the matter for any reason goes abortive. No fee is paid in the event of an abortive sale
By what process was the consultant selected?	Following the commissioning of the previous review work this commission for the disposal of an individual asset is being progressed as a direct appointment. An exemption from procurement procedures has been approved
Consultations:	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	There are no crime and disorder implications associated with this decision.
Equality:	EIA not required. Reasons: The decision does not impact on Council policy, services or functions.
Social Value Considerations:	The procurement of this service will not improve economic, social or environmental wellbeing.
Relates to staffing:	Yes
Relates to Council Property Assets:	Yes

Decision Type:	Portfolio Holder
Subject to Call In:	Yes
Call In Expiry date:	29/12/2021
Advice Sought:	Legal, Finance, Procurement, Human Resources, Property
Legal Advice:	<p>This decision is in respect of the appointment of an agent and not the proposed disposal of the property. There are no significant legal concerns arising from the proposals set out in this report.</p> <p>A legal review has been undertaken of the terms of the appointment and the client officer has been advised accordingly. The terms are considered standard and in line with the market for this type of service delivery.</p> <p>It is noted that an exemption has been approved in accordance with the requirements under the Contract Procedure Rules.</p> <p>Advice provided by Naomi Vass (Senior Solicitor) on 06/12/2021.</p>
Finance Advice:	<p>The direct appointment of the agent within this decision is supported by finance for the reasons set out in the body of the report.</p> <p>The expenditure within this decision will be funded from the capital receipt realised from this transaction. As this is revenue expenditure connected to the disposal of a fixed asset the Council is able to recover disposal costs capped at 4% of the gross capital receipt secured. The net capital receipt from this arrangement will be used in accordance with the Council's Capital Strategy.</p> <p>This decision falls outside of the remit of the Capital Board as it is in relation to revenue expenditure and as detailed above the costs are fully funded from the secured capital receipt.</p> <p>Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 26/11/2021.</p>
Property Advice:	<p>This appointment will allow the Council to dispose of an investment property which has been identified for sale under the Asset Rationalisation Program. This type of appointment is standard procedure in the disposal of investment properties and therefore raises no concerns. Advice provided by Beverley Gouveia (Disposals & Development Manager) on 22/11/2021.</p>
Procurement Advice:	<p>This proposal raises no significant procurement concerns, the Exemption from Contract Procedure Rules has been approved due to the nature and timing of the project. Advice provided by Steve Oakley (Head of Contracting and Procurement) on 15/12/2021.</p>

HR Advice:

As outlined, the proposal seeks authorisation to appoint a specialist investment agent to provide valuation, technical and professional advice and support in relation to off market sale of an investment property.

The Council does not directly employ such specialists and any time to create, evaluate and recruit to such a post could directly impact timescales for the project therefore this is not a practical solution.

The knowledge, expertise and capacity to carry out this work is not currently available in the existing team or within the Council, therefore the proposal, if approved, seeks authorisation to use capital receipts to engage independent external consultants, to carry out the valuation and provide technical and professional advice and support.

I understand that management propose to use a consultant from MK2 Real Estate Ltd to carry out this work as they have the specialist knowledge and expertise, they have previously been engaged with the Council and have detailed knowledge of both the Council's investment portfolio and the asset itself.

Management should consider the current budget controls and recruitment freeze that are in place.

The proposal to engage a Consultant due to the specialist nature of the work is therefore supported. Advice provided by Sheena Yadav-Staples (HR Consultant) on 06/12/2021.

Signatures:

David Mellen (Leader/ PH Strategic Regeneration Communications)
SIGNED and Dated: 20/12/2021
David Mellen (Leader/ PH Strategic Regeneration Communications)
NOT SIGNED
Sajeeda Rose (Corporate Director of Growth & City Development)
SIGNED and Dated: 19/12/2021