

Executive Board – 16 July 2024

Subject:	Disposal of The City Ground, Pavilion Road, Nottingham
Corporate Director(s)/Director(s):	Sajeeda Rose, Corporate Director for Growth and City Development
Executive Member(s):	Councillor Ethan Radford, Executive Member for Skills, Growth and Economic Development
Report author and contact details:	Beverley Gouveia, Head of Property Beverley.gouveia@nottinghamcity.gov.uk
Other colleagues who have provided input:	Bevis Mackie – Corporate Portfolio & Investment Manager Mick Suggett – Conveyancing Team Leader Glenn Hammons – Technical Finance Team Leader
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a) <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision.	
and/or	
(b) Significant impact on communities living or working in two or more wards in the City. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of expenditure: <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital If Capital, provide the date considered by Capital Board Date: N/A	
Total value of the decision: Exempt	
Section 151 Officer expenditure approval Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a Spend Control Board approval reference number: N/A	
Commissioner Consideration Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Any comments the Commissioners wish to provide are listed below.	
Wards affected: Outside of administrative boundary	
Date of consultation with Executive Member(s):	
Relevant Council Plan Key Outcome:	
Clean, Green and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Living Well in Our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>This report considers the sale of assets from the Property Trading Account. The disposal if approved will deliver a capital receipt that can be used in line the Councils Capital Strategy but will result in an annual revenue loss which will need to be mitigated. The sale will enable significant redevelopment which will benefit the city and wider area.</p> <p>The Executive Board being asked to approve the recommendations considering the significant negotiations and due diligence which has been undertaken to date and will be undertaken as part of the disposal process. The decision will be subject to further legal, property and financial</p>	

review and due diligence but a decision at this point will allow a disposal and a significant receipt in 2024/25.

Does this report contain any information that is exempt from publication?

This report/ an appendix to the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to disposal negotiation between the Council as vendor and the purchaser and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because disclosure at this stage could materially prejudice any required negotiations and ultimately the disposal.

Recommendation(s):

- 1** Approval to declare the site known as 'Land & Buildings situated at Pavilion Road and Trentside and 672 sq. yards or thereabouts, Trentside, West Bridgford, Nottingham' surplus to the Property Trading Account and make the property available for disposal.
- 2** To delegate approval of the final sale terms (Heads of Terms) for the freehold sale of the site to the Corporate Director for Growth and City Development in consultation with the Corporate Director of Finance and Resources (s151 Officer).
- 3** To delegate the final decision to dispose of the asset to the Corporate Director for Growth & City Development in consultation with the Corporate Director of Finance and Resources (s151 officer) once all required due diligence has been satisfied.
- 4.** To delegate the approval of any required licences/agreements/deeds to ensure completion of the sale to the Director of Economic Development & Property.

1. Reasons for recommendations

- 1.1 Recommendation 1:** To facilitate a sale the assets comprising 'Land & Buildings situated at Pavilion Road and Trentside and 672 sq. yards or thereabouts, Trentside, West Bridgford, Nottingham' will need to be declared surplus to the Property Trading Account and made available for sale on terms to be agreed and approved. If suitable terms are not agreed the assets will remain part of the Property Trading Account.
- 1.2 Recommendation 2:** Delegating agreement of the final sale terms as documented in the Heads of Terms will allow the disposal to proceed without the need to bring a decision back to the Executive Board. Agreement will be in consultation with the s151 Officer.
- 1.3 Recommendation 3:** The final decision to sell the asset will be delegated to allow the sale to complete when all documentation has been agreed. This decision will only be made following the satisfactory conclusion of all required legal, financial, and commercial due diligence. Such due diligence will include:
 - a. Obtaining independent valuation advice to confirm viability and that the Council has complied with its Best Consideration obligations.

- b. Any required financial due diligence such as anti-money laundering checks, financial viability checks, purchaser identity checks and any other required due diligence.
- a. Any additional finance/legal/property due diligence identified during the disposal process.

1.4 The appointment of external specialists to advise on this disposal is key to the Council ensuring the Council meets its Best Consideration obligations, completes the disposal in a timely manner if approved and ensures that all prior due diligence/risk mitigation measures have been completed satisfactorily. External appointments will extend to specialist agency advice and valuation work, externalised legal work, and specialist financial appraisal work if required.

1.5 **Recommendation 4:** The delegation of any required licences/agreements/deeds to the Director of Economic Development & Property has been included to ensure the disposal, if approved, progresses at pace.

2. **Background (including outcomes of consultation)**

2.1 The assets which are subject to this disposal are shown edged red on plans in the exempt appendix and are held under two lease agreements with one expiring in 2061 and the second in 2029.

2.2 The principal tenant has occupied the site since the late 1800s and to ensure continued and successful occupation, a significant redevelopment of the site is required. This redevelopment will also include the smaller asset hence its inclusion in this report.

2.3 After considerable negotiation and appraisal of all options, an in-principal agreement has been reached regarding terms for the freehold sale of the asset.

2.4 The recommendations set out in this report, if approved, will provide the Council with a significant capital receipt in 2024/25 but will also result in a significant revenue loss. The disposal will facilitate the significant redevelopment of the site which will allow the tenant to invest and improve their facility which will benefit the local area and wider Nottingham City catchment.

2.5 The disposal has been considered alongside the Council's adopted Disposals Policy (adopted September 2022) which states that the Council might dispose of an asset to an individual or special purchaser through a private treaty disposal (either freehold or leasehold).

2.6 To justify a special purchaser disposal, the proposal should meet one, or more of the following criteria: -

1. The proposed disposal involves both Council land or buildings and an adjoining property or piece of land owned or controlled by the prospective purchaser.
2. The disposal to an existing tenant.

3. The disposal to a third party who, whilst not an adjoining landowner, would bring additional quantifiable social, environmental, or economic benefit.
 4. To enable the purchase of another site, which the Council considers necessary to meet its priorities and Council Plan objectives.
 5. For the grant of permanent and non-permanent rights, as by definition these are normally a request from a third party.
- 2.7 In addition to the one or more of the above criteria being met, an independent external valuation will be procured to advise the Council on the value of the asset and to ensure the authority is complying with its best consideration obligations.
- 2.8 In all circumstances a private treaty disposal would seek to produce financial benefits, which would be at least equivalent to those obtainable through an open market disposal and should be supported via recommendation from the Head of Property. Should this not be the case then the policy for disposals at less than best consideration should be followed.
- 2.9 Any decision to pursue a private treaty special purchaser disposal is entirely at the discretion of the Council and is the exception rather than the general rule.
- 2.10 The proposed disposal meets with criteria 2 and 3 above and a sale to the tenant will release the highest value due to the marriage value of the freehold and leasehold interests which can only be achieved in this disposal scenario.
- 2.11 The policy also requires the sale to be endorsed by the Head of Property. A disposal as set out in the exempt appendix is endorsed by the Head of Property who is also the author of this report.

3. **Other options considered in making recommendations.**

- 3.1 The Council has considered all available options which include do nothing, extend/re-gear the occupational leases and the recommended option of disposal. The appraisal of the options in the appendix sets out the commercial and finance opportunities and risks associated with each option and considers the results of ongoing historic and current negotiations.
- 3.2 **Do nothing and retain the current arrangement** - The option of do nothing would maintain the current landlord and tenant position. The current long lease has circa 37 years to expiry with a rental income received which is subject to upward and downward review which therefore makes it higher risk from a revenue performance perspective.

The benefits of the 'do nothing' option is:

- Officer time will be saved by not negotiating with the tenant.
- The asset becomes more valuable to the Council as the lease moves to expiry as its ability to charge a market rent becomes closer.
- The Council continues to receive a rental income from the site.

- Upon expiry of the lease there would be potential redevelopment/disposal options available for the Council as freehold owner although this option is in 37 years and therefore calculation of the benefit to the Council currently cannot feasibly be determined.

The risks associated with the 'do nothing' option:

- The tenant has stated that failure to redevelop the property could adversely impact the future viability of the asset and in this scenario the tenant may not undertake the redevelopment and could ultimately look to relocate.
- Relations with the tenant could breakdown which will impact the ongoing landlord & tenant relationship and may have wider implications for both parties. It is noted that the site sits outside the Nottingham City administrative boundary but the economic benefits to the city are realised.
- The tenant may be unable to undertake the significant redevelopment due to funding restrictions associated with a short unexpired lease.
- The Council's revenue is dependent on tenant performance for the next circa 37 years which represents a risk to income security.
- The Council could lose the opportunity to secure a longer-term lease agreement on more financially stable terms later.
- The Council could lose the opportunity to secure a significant capital receipt until lease expiry if a disposal was not progressed.

3.3 Lease Re-Gear:

3.4 A lease re-gear would result in the surrender of the current lease agreement and simultaneous grant of a long new lease on agreed terms.

The benefits of this option are:

- A lease re-gear could potentially provide a rental income based on market values.
- The longer lease would enable the tenant to draw down funding to facilitate the redevelopment of the site which would deliver economic benefits to the City.
- A long lease with secure income with uplifts to market rent could be sold in the future to raise additional capital.
- The Council maintains an element of control over a significant asset outside the administrative area.

The risks of this option are:

- Agreement requires a willing landlord and tenant, and the tenant has made its position clear that it would only wish to proceed with acquiring the freehold interest.
- If terms fail to be agreed – this would revert to the risks associated with option 1.
- Locking the land into a long lease agreement means the Council's control is limited.
- Agreeing terms of a new lease which cater for re-development/wider use of the site will be complex to agree therefore taking up significant officer time and resulting in higher costs for specialists.

- The value of the Council's freehold interest would decrease significantly particularly in the event of a 99-year lease or longer being granted.
- If a premium payment was negotiated the revenue pressure would need to be mitigated.
- A longer lease would defer any ability for the Council to review its disposal/redevelopment options.

4. Consideration of Risk

4.1 The following risks have been considered:

Risk	Mitigation	Considerations
That the Council does not obtain best consideration as set out under s123 of the Local Government Act 1972.	Independent valuation to be provided confirming best consideration has been met.	The sale price set out in the exempt appendix can only be obtained through the marriage of the freehold and leasehold interests. Sale of the asset on the open market would not release the same capital value.
Loss of recurring annual revenue that supports the General Fund budget.	Revenue pressure funding is to be used to cover annual revenue loss from the Property Trading Account.	The Council has an approved revenue pressure funding budget and an asset rationalisation reserve available to manage the pressure created. This budget is a finite amount and is sufficient to cover the revenue impact of this disposal.
Transaction not completed in require	Agency, valuation and legal representation is to be outsourced to ensure the transaction is completed in line with agreed timescales.	External appointments to key workstreams will ensure sufficient capacity to undertake this disposal.
Complicated disposal in terms of legal drafting.	The disposal will be complicated and will require significant resource which is mitigated by outsourcing.	There will be regular meetings with agents/legal/finance representatives to work through any issues.
Adverse public relations impacts or slows the disposal process for both vendor and purchaser.	Management of a co-ordinated communications programme between both parties.	N/A
Loss of latent uplift in land values if site is redeveloped.	The Council has legal mechanisms to ensure the Council obtains a share of any uplift in value created by redevelopment.	N/A
Unable to conclude exchange and	Legal and finance resource will be in place to consider	N/A

completion due to last minute changes to terms/contract documentation.	any proposed changes to agreed terms and the delegation of decisions will enable the Council to act quickly.	
Other risks contained in exempt appendices as they relate to commercial sensitivities		

5. **Best Value Considerations, including consideration of Make or Buy where appropriate.**

5.1 The Council will has obtained independent advice to confirm the disposal price meets with its best value and best consideration obligations. Appointment of external advisors will be via frameworks or quotations and will comply with Council procurement guidelines.

6. **Commissioner comments**

6.1 The Commissioners note the contents of this report. Section 4 of this report sets out the key risks of the project and associated mitigations. It is noted that paragraph 2.7 outlines the steps the Council is taking to gain assurance that it is meeting its best value obligations and legal responsibilities. On this basis the commissioners are content with the steps being taken at this time

7. **Finance colleague comments (including implications and value for money/VAT)**

7.1 In exempt appendix.

Comments provided by Glenn Hammons, Technical Finance Team Leader, 21st June 2024.

8. **Legal colleague comments**

8.1 In exempt appendix.

Comments provided by Mick Suggett – Team Leader, Conveyancing 21st June 2024.

9. **Other relevant comments**

9.1 **Please ensure that, where relevant, the report is sent to authorised colleagues in:**

Procurement

In relation to this disposal, the service area has identified several professional services requirements which must be procured in accordance with the Council's Contract Procedure Rules. These are each anticipated to be valued below threshold for the purpose of compliance with the Public Contracts Regulations 2015.

Specific advice is as follows:

The service area, with agreement from Legal Services, is seeking to appoint a provider of Legal resource via the Kent County Council Legal Services

Framework. This Framework is compliantly procured and available to the Council to use, so is an appropriate route to market. The framework terms allow for direct award where the customer is satisfied that, following their own due diligence, they can identify the supplier that offers best value for their requirement or where the supplier is able to supply the required services within the customers timescales.

In relation to specialist Agency advice this is anticipated to be valued below £100k. An exemption to competitive quotations under the Council's Contract Procedure Rules may be justified on the grounds that continuity of service with an existing provider offers best value for money. This should be supported with benchmarking of prices against market rates and clear contractual performance requirements to ensure value for money.

External valuation is anticipated to be valued below £25k, therefore a contract may be awarded in response to a quotation from one or more suitable providers. To ensure value for money, benchmarking of prices against market rates and clear contractual performance requirements are recommended.

If additional financial due diligence advice is required, this must be procured in accordance with Contract Procedure Rules as appropriate to the value of the work. The Procurement Team will assist in identifying a suitable framework or alternative compliant route to market as needed.

Dawn Cafferty - Interim Head of Procurement, 20/06/2024

Strategic Assets and Property

In exempt appendix.

Comments provided by Bevis Mackie, Corporate Portfolio & Investment Manager – 21st June 2024.

10. Crime and Disorder Implications (If Applicable)

10.1 There are none associated with the decision.

10.2 The disposal of the freehold interest in the subject site will enable to the tenant to undertake a significant redevelopment of a long-established leisure /sporting facility which draws significant public interest. The development will provide social and economic benefits to the local area comprising both Rushcliffe Borough Council and Nottingham City Council's administrative areas.

11. Social value considerations (If Applicable)

Not applicable.

12. Regard to the NHS Constitution (If Applicable)

Not applicable.

13. Equality Impact Assessment (EIA)

13.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because the decision does not impact on Council policy.

Yes

14. Data Protection Impact Assessment (DPIA)

14.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because the decision does not have any DPIA considerations.

Yes

15. Carbon Impact Assessment (CIA)

15.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because there are no proposals relating to CIA in this decision.

Yes

16. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

16.1 N/A

17. Published documents referred to in this report.

None