


REPORT TO CABINET

26 August 2020

Subject:	Future Use of 1 Providence Place and other assets in West Bromwich town centre
Cabinet Portfolio:	Councillor Millard Cabinet Member for Inclusive Economic Growth
Director:	Executive Director Neighbourhoods – Alison Knight Executive Director of Childrens Services - Lesley Hagger Director for Education, Skills and Employment Chris Ward
Contribution towards Vision 2030:	
Key Decision:	Yes
Cabinet Member Approval and Date:	Yes
Director Approval:	Yes
Reason for Urgency:	Urgency provisions do not apply
Exempt Information Ref:	Exemption provisions do not apply
Ward Councillor (s) Consulted (if applicable):	Not applicable
Scrutiny Consultation Considered?	Budget and Corporate Scrutiny Management Board will consider the matter on 20 August 2020
Contact Officer(s):	David Harris David_Harris@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

- 1 Agree that the 1 Providence Place building, West Bromwich and the remaining Providence Place development plot be declared surplus to the Council's requirements.
- 2 That subject to 1 above, approval is given to dispose of 1 Providence Place building, West Bromwich and the remaining Providence Place development plot for sale to the Department for Education on negotiated terms for the purpose of developing a new 750 place free school.
- 3 Authorise the Director – Law and Governance and Monitoring Officer in consultation with the Executive Director – Neighbourhoods enter into or execute under seal, if necessary, the associated sale and transfer agreements relative to the disposal of 1 Providence Place and the development plot on terms and conditions to be negotiated between the Executive Director – Neighbourhoods and the Department for Education.
- 4 Authorise the Director – Law and Governance and Monitoring Officer in consultation with the Executive Director – Neighbourhoods, to enter into or execute under seal, if necessary, the associated lease or licence agreement for the occasional use of West Bromwich Town Hall on terms and conditions to be negotiated between the Executive Director – Neighbourhoods and the Department for Education.
- 5 Agree that the transfer agreements can proceed whilst acknowledging the departure from the Capital Approval Process and the outcome of the Strategic Investment Unit Appraisal.

1 PURPOSE OF THE REPORT

- 1.1 On 22nd July 2020, the Cabinet approved that 1 Providence Place was surplus to the Council's office accommodation requirements (Minute No. 58/20 (1) refers).
- 1.2 This report sets out the options for the future use of 1 Providence Place, including leasing the building for private office accommodation, converting the building to residential, or the sale of the asset.

- 1.3 The preferred future use of the asset is set out within this report, this being the disposal of the property and the adjacent development plot for best consideration and to also enable to the Department for Education (DfE) to develop a new 750 Place Free School on these sites. Additional reference is made to the requirement from the DfE for occasional use of West Bromwich Town Hall.
- 1.4 The preferred future use of the asset has been subject to an appraisal by the Council's Strategic Investment Unit in accordance with the Capital Approval Process, this report sets out the outcome of this appraisal and the rationale for the decisions now recommended to Cabinet.

2 **IMPLICATION FOR VISION 2030**

- 2.1 **Ambition Three; By 2030 our children will benefit from the best start in life and a high-quality education throughout their school careers with outstanding support from their teachers and families.**
- 2.2 **Ambition Four; By 2030 our workforce and young people are skilled and talented, geared up to respond to changing business needs and to win rewarding jobs.**
- 2.3 **Ambition Ten; By 2030, Sandwell will have a national reputation for getting things done, focusing on what really matters in people's lives and their wider communities.** By declaring the asset surplus to requirements and through the negotiation of acceptable terms with the Department for Education this disposal enables the development of a new 750 place secondary free school to come forward, meeting basic need and also securing a prestigious Academy with the ongoing association with the City of Birmingham Symphony Orchestra.

3 **BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 1 Providence Place office building has been declared surplus to the council's requirements for office accommodation, the justification for this being set out in the report to Cabinet on 22nd July 2020. In brief this related to having sufficient office accommodation within the council's portfolio to meet needs particularly given the Work Place Vision programme.
- 3.2 It is understood that the commercial tenants in the 1 Providence Place building BT are planning to relocate to Birmingham as soon as their new offices are ready for occupation (expected Spring 2021). Assuming the relocation of the council office teams based in 1 Providence Place to Oldbury, this could result in the Providence Place building becoming completely empty early 2021.

- 3.3 In order to avoid a prolonged void period following any vacation it is recommended to identify an alternative use for the building at the earliest opportunity. This report details these alternative use options for the building and ultimately the preferred recommendation.
- 3.4 The Council has already received a direct approach from the Department for Education (DfE) in connection with the availability of the following Council owned assets:
- 1 Providence Place;
 - the Providence Place development plot; and
 - space in West Bromwich Town Hall
- 3.5 These assets all being located within West Bromwich Town Centre and following an extensive site search, undertaken subsequent to approval of a Free School application in June 2019, the DfE have during September – October 2019 formally identified these assets as the preferred sites to accommodate the development and operation of a new 750 place free (secondary) school sponsored by Shireland Collegiate Academy Trust (Shireland CAT), in partnership with the City of Birmingham Symphony Orchestra (CBSO).
- 3.6 The proposed new academy is part of the Government Free School programme which the DfE is responsible for delivering. If the CBSO school is not recommended and if re-use of the council's assets are not approved for the free school, the DfE will look to build the school outside of Sandwell. This would create a significant risk for the Council being unable to meet its statutory duty of providing every child in Sandwell with a school place. It would have a significant impact on the council's capital programme and create a larger cash flow challenge over the next 5 years. In addition, Sandwell would miss the opportunity of a prestigious arts and cultural offer. Further detail is included within Appendix 1 options table.

4.0 THE CURRENT POSITION

OPTIONS

- 4.1 The main options currently available to the Council in respect of 1 Providence Place building revolve around either retention of the asset by the Council for investment purposes, or disposal for best consideration to realise the optimum alternative use of the asset for the future.

4.2 Should the Council retain the asset as an office investment property advice has been received from the Councils letting agents Cushman & Wakefield which suggest that in the current and projected market conditions post COVID, it is unlikely to become more than 80% occupied and holding costs may be in excess of income for the initial period whilst all the space is marketed. If the asset was held in the longer term it would likely produce a positive return, perhaps up to a total income of circa. £2.5m over the next 7 years. This projection does however make the assumption that the rental market for high quality office accommodation (which has been impacted by COVID in terms of a general slow-down of letting activity and no rental growth,) will start to recover over this 7-year period.

4.3 The letting agents further advise the space would likely have to be re-let on a floor by floor basis and that it may be necessary to create smaller lettable areas in order to secure tenants, this is also likely to mean a regular turnover of tenants. A rental projection from the agents is included below:

	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	
	Dec-21	Dec-22	Dec-23	Dec-24	Dec-25	Dec-26	Dec-27	
No of floors Let	1	2	3	4	4	4	4	
Rent received	£61,695	£281,417	£486,601	£697,601	£697,601	£697,601	£697,601	
Less void NNDR	£308,657	£234,186	£157,349	£80,385	£76,964	£76,964	£76,964	
less letting fees	£33,900	£30,450	£31,650	£31,650				
Net income	-£280,862	£16,781	£297,602	£585,566	£620,637	£620,637	£620,637	<u>£2,480,998</u>

4.4 Another retention option may be to consider a conversion of the building to a residential use as social housing funded from the Housing Revenue Account and with the resultant new units managed as part of the Council's housing stock.

4.5 An appraisal has been produced which estimates the cost per unit when including a reasonable value for the asset, to compensate the General Fund at the point of transfer, if the property was appropriated to the HRA, together with a conservative conversion cost to accommodate up to 102 new dwellings. The overall cost of converting the building from its' current use, to residential use, based on Homes England and RICS guidance is around the £27m mark, this would provide a unit cost of circa. £265k per apartment. The £27m estimate is made up of £15.5m for capital works for the 102 apartments and the communal areas, £1.6m for fees, planning and contingency and the remaining £10m for the appropriation costs. Based on this projected capital costs when calculated per unit, it is not a feasible proposal and would not meet the test in that the payback period, rental return to repay the capital investment, would be well in excess of the 40-

year threshold for viability. The initial appraisal suggests that the payback period for this project would be nearer 60 years.

- 4.6 The Providence Place location is also considered less than ideal for residential uses redevelopment purposes due to lack of space for private and communal open space and the relationship with and proximity to the adjacent office block (West Bromwich Building Society Headquarters). and, if progressed, could potentially be developed in competition with and to the detriment of other Council sponsored projects in West Bromwich concerning the Bull Street site and the wider Indoor Market redevelopment site. There is an ambition to accelerate these residential led schemes if funding can be secured.
- 4.7 In terms of any freehold disposal option, there is a statutory obligation for the Council to obtain best consideration from the transaction. This could be achieved by virtue of an open market transaction following an appropriate marketing period or through a negotiated sale to an interested party (or special purchaser) provided the price agreed is supported by an independent market valuation. The most recent independent market valuation undertaken in March 2020 suggested that a current value of circa. £8m (for the 1 Providence Place asset excluding the development plot) could potentially be achieved from a market transaction.
- 4.8 Inclusive of the above opportunities the Council has a number of options to consider in respect of the future use of the 1 Providence Place building. These options are set out and scheduled in Appendix 1.
- 4.9 In consideration of all the options set out in Appendix 1 it is recognised that there is no clear and obvious solution in respect of the most effective future use of the 1 Providence Place asset if financial return is the primary consideration, it being difficult to compare a fluctuating rental return against a fixed capital receipt. Any disposal at current market levels is further complicated due to the purchase price paid by the Council in 2014 and the associated outstanding borrowing commitment. All options including retention having inherent risks but a disposal to the DfE does safeguard the future use for a purpose that is certain to provide a range of positive outcomes.

PREFERRED OPTION

- 4.10 In consideration of all these factors a freehold disposal of the 1 Providence Place building and the Providence Place development plot for an appropriate Capital receipt together with an occupational agreement for the Town Hall for School related use is recommended as the preferred solution for the buildings future use.

- 4.11 If successfully acquired by the DfE the Government would invest an additional £11m - £17m in the Providence Place building and the vacant development plot so that they would be refurbished and redeveloped as a new school, with a provisional completion date of September 2023.
- 4.12 The DfE have indicated that in order to obtain the necessary approvals and to give adequate time to progress the building works necessary to achieve a September 2023 completion date, the detailed terms of the property transactions envisaged, that would include a transfer of 1 Providence Place, the Providence Place Development Plot and the leasing of performance space within the Town Hall, would need to be agreed by Cabinet at the earliest opportunity.

A number of key benefits for the Authority are seen with a transfer of Providence Place to the DfE:

Financial: the Borough will gain a new free school funded directly through the free school programme. Together with the Chance Academy investment the projects will see an investment of approximately £40m in the Authority.

Established School Trust – Shireland CAT, the successor to Shireland Language College in Smethwick, is a very successful school trust sponsor.

World Renowned Organisation – the CBSO has been the joint partner in the new school venture, indicating a strong desire to base itself and work with Shireland CAT and the wider Sandwell school estate.

Prestigious Partnership – the CBSO is internationally renowned, and will provide strong links regionally and nationally.

Location – prominent, central site in West Bromwich supporting regeneration of the town centre.

Inward investment to West Bromwich Town Hall complex – the associated use of the Town Hall will enhance the cultural offer the Borough can offer, with performances by the orchestra, increasing and encouraging the number of visiting musicians to the area.

Managing the Council's Future Financial and Reputational Risks – the council has a statutory duty to ensure a sufficient supply of school places are available to meet demand. Failure to provide sufficient places may lead to the council facing legal challenges from parents / carers unable to secure a school place. The free school proposal together with Chance Academy form a significant proportion of the new secondary school places required across the Borough. With the CBSO free school proposal now approved by the Secretary of State for Education, the Authority will not receive any capital funding to construct the required new secondary school for the Borough. It is estimated that the minimum cost of a new school would be approximately £25m. All allocated Basic Need funding the Authority receives from the DfE to support the provision of new school places is fully committed to deliver the required 990 new places for September 2021.

- 4.13 Should Cabinet endorse the recommendation to proceed in connection with a disposal to the DfE the total capital receipt for the disposal of the council's freehold interests in 1 Providence Place, and the Providence Place development plot would be at a level not less than the market value previously assessed.
- 4.14 A receipt at a value reflective of full market value could be considered best value achievable, but is some way below the acquisition price paid by the Council in the sum of £23.558m (including Stamp Duty) in 2014, this is due to a number of valuation considerations specifically noting that in October 2013, the Council's expert valuers had estimated the freehold market value of the building (with vacant possession, i.e. no tenants) to be £9,500,000 - £11,400,000. The significant difference between this 2013 valuation and the July 2014 purchase price of £23.558m being associated with the 15-year lease of the building (NB: A secure 15-year lease would increase the valuation of the building as valuations take into account guaranteed income streams). This tenancy was assigned to the Council in March 2014 as a result of the termination of the Strategic Partnership agreement between Sandwell MBC and BT.

NEGOTIATION PARAMETERS

- 4.15 In order to progress any discussions in respect of a likely purchase price of 1 Providence Place and the Council's ability to make the space available, a market valuation exercise was jointly commissioned which was also inclusive of the development plot. The independent valuation suggested a market value as at March 2020 of £8m for the 1 Providence Place office building and £460,000 for the development plot. A further valuation was undertaken on a special assumption basis which produced a prospective value of £11.535m however this valuation assumes the office was fully let to a tenant of good covenant strength.

The recent advice from C&W suggests that securing a letting of the whole building at the rentals levels assumed for the special assumption valuation is not feasible in the current market.

- 4.16 Having commissioned and considered the reports summarising the valuation work the DfE initially approached the Council with an offer to buy the freehold of the 1 Providence Place office building. This initial offer, made by the DfE, has been the basis of further discussion and negotiation, and subsequently has been increased. Officers are comfortable that the values negotiated represent the best value that could be achieved and are favourable to those values that would currently be achieved should the assets be advertised for sale on the open market.
- 4.17 It is now recommended that to progress matters with the DfE to enable them to acquire the freehold of the 1 Providence Place building together with the development plot, a sale be agreed for a negotiated sum and occasional use of West Bromwich Town Hall be facilitated on a leasehold basis in exchange for an up-front capital contribution (also negotiated). A breakdown of this proposed settlement recommendation is set out for ease of reference and comparison purposes in the Private Appendix 2.
- 4.18 Any agreement at the values proposed would also be subject to the Council having ample time to relocate its services from Providence Place and also deal with the termination of the current 3rd party occupation by BT. The Council would seek to retain any income attributable to this 3rd party agreement in the interim prior to handover.
- 4.19 The negotiated settlement and capital receipt should also be considered in the knowledge that the usual process for Free School development revolves around a sponsor nominating any suitable land owned by a local authority for use by the School, which is then transferred to the DfE at nominal value.
- 4.20 It is not recommended by officers to progress any agreement with the DfE that does not represent best consideration. It is relevant to point out that the initial market valuation for the 1 Providence Place asset suggested a value of £8m and that this valuation was finalised in March 2020. Should a market valuation be undertaken now, it is highly likely the value would be significantly less due to the uncertainty and material risk to the commercial property market associated with the COVID19 pandemic. An early decision is recommended to avoid the need for a further valuation of this asset to be undertaken by the purchaser.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Councillors Millard, Ali and Underhill have been consulted as part of the wider process in respect of the Free School proposal in their role as lead Cabinet Members for Inclusive Economic Growth, Resources and Core Services and Best Start in Life.

6.0 ALTERNATIVE OPTIONS

- 6.1 All options have been considered as part of Section 4.0 above.

7.0 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The sale of the 1 Providence Place would result in a loss of a potentially income producing asset and the Council would still have the liability of the outstanding capital borrowing commitments relating to the 2014 acquisition of the building. The acquisition using capital borrowing being considered the appropriate course of action at the time as a means of releasing the Council from its significant ongoing lease and rental obligations.
- 7.2 The Council still has an outstanding borrowing commitment linked to the acquisition and there is an annual interest charge payable as well as the annual Minimum Revenue Provision, the full detail of this borrowing is set out in Private Appendix 1.
- 7.3 The Council would receive a capital receipt in consideration for the asset disposal.
- 7.4 The Strategic Resource Implications have been assessed as part of the Strategic Investment Unit (SIU) appraisal process.
- 7.5 In accordance with the Capital Approval Process a score of 65% or higher is required in order for matters to proceed for decision. On this occasion the SIU process has produced a score of some 55% to support the suite of disposals and transfers to the DfE as set out within this report, this score is currently below the 65% threshold referenced in the process.
- 7.6 As a departure from Capital Approval Process the recommendations within this report are put forward to Cabinet for approval and decision due to the lack of viable alternative options to secure the new free school within Sandwell, the risks to provided adequate education provision within the borough and on the strength of the non-financial outcomes forecast to be realised as a result of the Council supporting and facilitating the free school proposals.

8.0 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 Prior to being in a position to enter into contract with the DfE, and should negotiations progress successfully, the Council would need to obtain vacant possession of the 1 Providence Place asset and in accordance with the suggested Cabinet decision recommendations in this report, then formally declare this building and the adjacent development plot surplus to Council requirements in advance of completion. All commercial leases relative to the building will need to be terminated in advance any transfer. The detailed transactional agreements to be negotiated with input from Legal Services would need to deal with these issues to minimise any risk to the Council.
- 8.2 In respect of the Town Hall and the development plot any dealing of these assets would need to be agreed on an appropriate legal basis, the development plot to be disposed of by freehold transfer and the occasional use of the Town Hall to be documented by Lease or Licence.
- 8.3 Pursuant to S.123(1) of the Local Government Act 1972, Local Authorities may dispose of land in any manner they wish, but they may not dispose of property for less than best consideration that can reasonably be obtained (S.123(2)) without the consent of the Secretary of State. However, Paragraph 20(2) of Schedule 1 of the Academies Act 2010, disapplies this statutory requirement to a disposal of land to a person for the purposes of an Academy or Free School.
- 8.4 Any disposal must be in accordance with the Council's protocols and procedures for dealing with land and property. 1 Providence Place has not previously been determined as potentially surplus to Council requirements, a formal decision to declare the asset surplus is therefore needed before any disposal process could progress hence the recommended decision in this report. It is also preferable to negotiate some form of contractual commitment from the DfE in an attempt to ensure the future use of the sites for an education related use and if this is not feasible for any reason, offer the Council rights of pre-emption.
- 8.5 Any disposal negotiated on terms to be agreed, based on the parameters set out within this report and subject to the asset having been declared surplus by Cabinet, would be progressed in accordance with the relevant legislation, caselaw and the Council's protocols and procedures. If disposal terms are agreed within the parameters set out in this report they are recommended for approval in accordance with the Council's Financial Regulations APPENDIX 1 - THE DISPOSAL OF COUNCIL-OWNED LAND & BUILDINGS. In the absence of a Land and Asset Committee the disposal to the DfE and the grant of the supplementary agreements are herewith reported in this paper as the preferred option to Cabinet for immediate decision.

- 8.6 The Council has a statutory responsibility to ensure there are sufficient school places. Failure to do so can lead to legal action being taken by a parent (s) if a school place cannot be offered. This, together with the publicity that would inevitably lead to would have a significant negative impact on the Councils' reputation both locally and nationally not forgetting the financial costs associated with any legal action.

9.0 EQUALITY IMPACT ASSESSMENT

- 9.1 There are no equality impact implications of the proposals.

10.0 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 There are no data protection implications of the proposals.

11.0 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.2 The Corporate Risk Management Strategy (CRMS) has been complied with – to identify and assess the significant risks associated with this decision/project. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks.

- 11.3 Based on the information provided, it is the officers' opinion that for the significant risks that have been identified, arrangements are in place to manage and mitigate these effectively.

- 11.4 If the report recommendations are not agreed, then the council will risk having an insufficient level of school places which is contrary to the council's statutory responsibility. If there is an insufficiency of school places this will have a detrimental impact on children's future access to school places within Sandwell and the council's reputation will be detrimentally affected.

- 11.5 The council's strategic risk register currently includes a red risk around school place planning: SR040 - If the LA is unable to exert sufficient strategic control over school place planning and the direction of capital investment, then it will be unable to deliver on its statutory duties. The recommendations above if approved, will assist in the continued mitigation of this risk.

12.0 SUSTAINABILITY OF PROPOSALS

- 12.1 The sustainability of the report recommendations considers the long term economic benefits a new 750 place secondary free school will bring to West Bromwich and the wider borough.

- 12.2 As a new school the Academy will have to appoint a new staffing structure from Senior Management and teaching staff, through to caretaking and cleaning staff. The MAT has already established itself as a local employer through its existing network of schools.
- 12.3 Whilst the proposed free school is classed as a mainstream Academy, the CBSO has shared very ambitious and constructive plans with regards to holding regular performances at the Academy, or a local venue, such as West Bromwich Town Hall. All initiatives are seen to support the economic and cultural regeneration of the Town.

13.0 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The development of the new Shireland CAT / CBSO secondary free school will have a positive impact on the wider regeneration of West Bromwich, the Borough and regionally.
- 13.2 First and foremost the free school will be a mainstream secondary Academy, providing equal opportunity for a school place to all potential pupils, with the CBSO providing a music specialism. Each child's education will be enriched through the much wider curriculum the school will offer.

14.0 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 Loss of the 1 Providence Place asset has some short term operational and financial implications, in terms of the loss of back office accommodation adequate space within other Council buildings has been identified, should the intention be to accommodate the displaced office workers into these assets.
- 14.2 If negotiations are now progressed to a conclusion resulting in disposal to the DfE, the loss of the income stream from 1 Providence Place will put pressure on the budgets and income targets currently set for the building and the Council's wider commercial property portfolio from 2020 onwards (as the Council is ostensibly unable to renew or agree new commercial leases for any space within the building).
- 14.4 Loss of the Development Site at Providence Place for development complimentary to the proposed new school means that this site will no longer be available for commercial (or residential) redevelopment to be potentially brought forward in conjunction with the Council's regeneration strategy for the Town Centre. This site has however been available for a number of years with no viable office development proposal having come forward to date.

14.5 An agreement for use of the Town Hall as part of any agreement with the DfE and ultimately the Shireland CAT and CBSO could be beneficial in making the building more sustainable due to the increased usage, this will however also come at a cost in order to address some of the backlog maintenance issues associated with this listed building and heritage asset. Negotiations with the DfE have factored in this specific consideration and the capital contribution from the DfE secured towards the essential maintenance of the building can be managed by the Council as it sees fit. The Council also intend to engage with other potential funding sources with a view to securing the necessary resource to make improvements to safeguard the long-term future of heritage asset.

15.0 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 In order to find an early solution to ensure the 1 Providence Place asset does not stand empty indefinitely and secure the proposed new Shireland CAT/ CBSO 750 place secondary free school within the borough of Sandwell enabling completion of the new school in 2023, and following the extensive site search, it is now considered necessary to progress a transfer of the assets to the DfE in response to its specific expression of interest in acquiring the Council assets identified, inclusive of 1 Providence Place, to enable the development of the new school.
- 15.2 It is recommended that to move matters forward, the Executive Director – Neighbourhoods concludes a confidential dialogue to finalise the terms with the DfE within the parameters as set out in this report, with a view to the parties agreeing some mutually acceptable legal agreements necessary to fully accommodate the proposed Free School requirements, at the earliest opportunity. The delegated authority for completion of these final form contracts being subject to the parameters set out within this report, the proposals having been appraisal by the Council's Strategic Investment Unit, this appraisal report attached to the report as Appendix 2 and referenced in paragraphs 7.4 – 7.6

16.0 BACKGROUND PAPERS

16.1 None

17.0 APPENDICES

17.1 Appendix 1. Options Table

Tammy Stokes
Interim Director Regeneration & Growth