

Brighton & Hove City Council

Strategy, Finance & City Regeneration Committee

Agenda Item 74

Subject: Residential Property Strategy (Non-HRA)

Date of meeting: 7 December 2023

Report of: Executive Director Economy, Environment & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The council owns a number of residential properties that are not part of the Housing Revenue Account (HRA). These are properties that are part of farms that historically provided accommodation for farm workers, or are within our parks, schools and cemeteries that historically provided accommodation for employees of the council. The historic use is no longer relevant, the properties are surplus to requirements and this proposed strategy sets out a plan for the future ownership, disposal, occupation and management of these properties. The report is supplemented by a Part 2 report.

2. Recommendations

2.1 That Committee notes the previous Committee decisions detailed in Appendix 1 of Part 2 of this report granting authority for the disposal of residential properties listed in paragraphs 3.2 and 3.3 of Part 2 of this report.

2.2 That Committee agrees to the disposal of additional vacant residential properties listed in paragraph 3.5 of Part 2 of this report and delegates authority to the Executive Director Economy, Environment and Culture and the Assistant Director Legal and Democratic Services to approve terms and take any necessary steps to facilitate this recommendation.

2.3 That Committee agrees to the disposal of residential properties listed in paragraph 3.8 and 3.9 of Part 2 of this report and delegates authority to the Executive Director Economy, Environment and Culture and the Assistant Director Legal and Democratic Services to approve terms and take any necessary steps to facilitate this recommendation.

2.4 That Committee agrees that 20% of the net proceeds from the disposal of properties within the City Downland Estate are ringfenced for the implementation of the City Downland Estate Plan priorities.

3. Context and background information

3.1 Further detail is provided on the properties in the paragraphs below.

Farm Cottages with Approval for Disposal

3.2 Many of the farm tenancies include residential properties that were previously required to provide accommodation for farm workers but are now surplus to requirements. The cottages have been retained with the farm tenancies and sublet by the tenant farmers. The rent from the sublet is split between the tenant farmer, who has direct management responsibility, and the council who retain responsibility for some repair and maintenance of the buildings in accordance with the farm tenancy. The council therefore receives a proportion of the market rent.

3.3 This committee has previously granted authority for the disposal of some of the farm cottages to provide £1.42m match funding for the Stanmer Heritage Lottery Fund project, which has been provided through disposals completed, as well as potential funding for the restoration of the Stanmer Traditional Agricultural Buildings.

3.4 Of the 27 properties previously approved for disposal eight have been sold. There are five properties which are no longer recommended for disposal but are instead recommended for retention within the existing leasing structure. There are 14 properties for which the recommendation remains to dispose of these properties. Four of these 14 are already vacant. Progress on the disposal of these farm cottages following the previous committee decisions was paused pending completion of the City Downland Estate Plan, which was approved in December 2022 by Policy & Resources Committee and endorsed by the South Downs National Park Authority in 2023.

3.5 It is recommended that the four properties currently vacant are now marketed for disposal as these are surplus to the farms' requirements for workers' residential accommodation. These are:

- 134 Vale Avenue
- 88 Housedean
- 1 Pickers Hill
- 2 Pickers Hill

The disposal of both the Pickers Hill cottages will be subject of a review of the proposed reletting of Pickers Hill Farm. If necessary one cottage may be retained and relet with the farm.

3.6 It is recommended that negotiations continue with our farm tenants for the surrender of the 10 cottages identified for future disposal from the farm tenancies.

3.7 The existing Committee approvals are for part or all of the capital receipts from the disposal of these properties be used to fund £1.42m match funding for the Stanmer Heritage Lottery Fund (HLF) project as well as funding for the restoration of the Stanmer Traditional Agricultural Buildings. The match funding for the Stanmer HLF project has been provided from capital receipts

from disposals completed. The strategy for the Stanmer Traditional Agricultural Buildings is being reviewed following an increase in costs. It is no longer recommended that the capital receipts from the disposal of these properties be ringfenced for the restoration of the Stanmer Traditional Agricultural Buildings.

Additional Vacant Properties

- 3.8 In addition to those properties previously approved for disposal there are properties that have become vacant more recently and do not yet have committee approval for disposal. The details are summarised in Appendix 2 of the Part 2 report. These are:
- 61 Park Street, Falmer
 - 2 Varndean Cottages
 - Flats 1 and 2 East Brighton Park
- 3.9 The properties are no longer required for their original purpose and do not need to be held so are surplus to requirements. It is therefore recommended that these be disposed of with the capital receipts being applied to the capital programme in line with the approved capital strategy.

Stanmer Village

- 3.10 There are 22 residential properties in Stanmer Village, including those at the Upper and Lower Lodges. Four of the 22 properties have previously been sold. A summary of the properties within Stanmer Village is set out in Appendix 3 of the Part 2 report. Of the 18 still within the council's ownership the current position is:
- Ten are leased to the Brighton & Hove Estates Conservation Trust. Of these seven are sublet on Assured Shorthold Tenancies (AST's), two are sublet on Assured Tenancies, one is vacant and in poor condition requiring significant investment.
 - Seven are managed directly by the council (Property & Design), five are let and two are vacant.
 - One forms part of High Park Farm tenancy and is sublet.
- 3.11 The Stanmer residential properties date from the Mid 18th Century and are constructed of flint and brick. Nearly all of the properties are Grade II listed and all form part of the Stanmer Conservation Area. They therefore benefit from a high level of statutory and regulatory protection and any improvements and repairs must be sympathetic to the heritage construction and may also require Listed Building Consent. This can make maintenance more costly than for more modern houses and/or those of standard construction.
- 3.12 The Brighton & Hove Estates Conservation Trust (the Trust) was established in 2005 as a charity whose objects are:

To improve the conservation and enhancement of the natural and built environment of the South Downs which are within the area of Brighton & Hove and more particularly, that of Stanmer Park.

There are five Trustees including two B&HCC council elected members. The Trust was granted a lease of 20 years for 10 residential properties, that previously formed part of the farm tenancy for Home Farm in Stanmer. The Trust pay the council a rent based on 30% of their turnover. The lease is due to expire September 2025.

- 3.13 Given the limited term remaining on the Trust's lease (less than 2 years) it is appropriate that both the Trust and the council review the options available beyond the lease term and agree a way forward. We are aware that the Trust are keen to continue their role and would seek a further lease from the council. This would be subject to the Trust providing the council with a detailed business case evidencing their long term financial sustainability to include proposals for meeting their full repair liability as well as evidencing their ability to fulfill their objects and demonstrate the benefits to the council.
- 3.14 There are 2 vacant properties, 16 Stanmer Village and 23 Upper Lodges, under the council's direct management. One is in good condition and the second is in very poor condition requiring significant investment in order to allow occupation. These properties are recommended for disposal to achieve a capital receipt for the council.

Appropriation to Housing

- 3.15 The properties have been assessed for suitability for appropriating into the HRA. For most of the properties decisions have been made not to proceed. This is due to a range of factors in particular due to type, construction and condition of the properties. The properties would present a significant challenge to refurbish and maintain and would require extensive investment to ensure compliance with relevant legislative and regulatory requirements relating to social housing, including council homes. In addition, a number of properties are isolated and not connected to a wider estate or on accessible public transport routes. The council has a successful buy back programme where we look to buy back former council homes through which over 300 homes have been purchased to date. This programme provides us with the opportunity to invest in purchasing homes of traditional construction on our existing estates offering the council alternative value for money opportunities to increase its housing stock.
- 3.16 There are however two properties that Housing wish to review in more detail and may consider these suitable for appropriation. These properties, detailed in Part 2 of this report, will be considered by Housing in further detail. These properties may be appropriated to Housing subject to a more detailed assessment of their suitability, a valuation and committee approval for their acquisition at market value.

Application of the Net Capital Receipts

- 3.17 Stanmer Village is within the City Downland Estate Plan (CDEP) area. Any proposals to dispose of properties within Stanmer village would therefore be subject to the original decision of Policy and Resources Committee on 1 December 2022 to ringfence the net capital receipts that are raised from the disposal of downland estate assets for reinvestment in the downland estate. This report recommends that 20% of the net receipts are ringfenced to allow

a greater element of the capital receipts to support the council's difficult financial position.

- 3.18 It is proposed that the net capital receipts from the farm cottages that have previously been approved for disposal, be decoupled from investment in the Stanmer Traditional Agricultural Buildings and the net proceeds, along with the net proceeds from the additional vacant properties identified at 3.8, are allocated to support capital investment in line with the council's approved capital strategy.
- 3.19 The timeline for disposals is dependent upon whether the properties are leased to an intermediary landlord and whether they are vacant or sublet. Vacant properties within the council's control can be marketed immediately subject to the completion of due diligence and appointment of a local agent. Vacant properties held in existing leases will need to be surrendered from the leases, which will be subject to the completion of surrender negotiations with the lessee. Where there are subtenancies in place it will be incumbent on the lessee to obtain vacant possession of the property in advance of surrender to the council.

4. Analysis and consideration of alternative options

Do Nothing

- 4.1 Where properties are already vacant is it not appropriate for them to remain so as this incurs costs in securing and maintaining the properties, including payment of council tax, and the condition of the properties will decline.
- 4.2 Properties held in existing tenancies can continue on that basis, however the council receives only a share of the income whilst retaining a repair liability. This is not considered the best use of council assets.

Retain and Convert to Commercial or Community Use

- 4.3 A change of use would need to be compliant with planning policy and would require a level of investment that would render the proposal unviable. It is not therefore recommended.

Lease with Land to provide Smallholdings

- 4.4 The retention of farm cottages to provide accommodation as part of a new smallholding or grazing tenancy would require the surrender of land from existing farm tenancies, many of which are Agricultural Holdings Act tenancies (AHA's). These do not permit the council as landlord an opportunity to take land out of the existing tenancy. In addition, smallholdings are generally financially viable where they are subsidised, either by the tenant or the landlord. The provision of accommodation as part of a smallholding tenancy is unlikely therefore to secure a market rent as this would challenge the financial viability of the business. This is not recommended because of the legal and viability risks alongside the potential cost to the council.

Lease to a Registered Provider

- 4.5 This option has been considered in detail, however the interested party was reliant upon securing grant funding to pay for the significant investment required to refurbish the properties to allow occupation. The registered provider interested in taking a lease was unsuccessful in securing grant funding and the proposal was not financially viable.
- 4.6 Of the remaining farm properties most are in isolated locations and/or with poorer public transport connections. The age, construction and condition of the properties is also the most relevant factor as the farm cottages and will require immediate investment and high levels of maintenance.

Lease to a Commercial Landlord

- 4.7 This is possible in all circumstances albeit some properties would be considered more attractive than others. Some properties would be suitable for subletting on Assured Shorthold Tenancies, whilst others might be considered appropriate for holiday lets. In all circumstances the lease terms would need to reflect the level of investment required and would be based on the council receiving only a share of the net rent.

Appropriate to Housing

- 4.8 Housing have been provided with an opportunity to consider the acquisition of all of the properties identified within this report and their advice is set out in paragraphs 3.15-3.16. Two properties are to be considered in further detail by Housing for appropriation. Disposal this way will be subject to the completion of further due diligence and committee approval for the acquisition.

Disposal

- 4.9 This is the recommended option. The original purpose of these properties, which was the provision of accommodation for council employees or farm workers is no longer relevant. The properties are not required for this purpose. The council has in most cases let the properties to a party who have acted as an intermediary landlord. In these circumstances the council receives only a proportion of the rent and for the farm cottages retains some of the repair liability. This does not represent best use of the asset.
- 4.10 The properties are not part of the HRA and do not fulfil the council's objectives set out in the Housing Strategy. To do so would require appropriation of the properties to Housing. This has been discussed in the body of the report with reasoning as to why not all of these properties are suitable for appropriation.
- 4.11 The properties require investment and ongoing maintenance which would impact the viability and value of alternative uses. Disposal could provide the council with a capital receipt. The impact of the disposal of these properties would be taken account of in the council's revenue budget.

5. Community engagement and consultation

- 5.1 Consultation has been carried out with Housing who are interested in acquiring two of the properties subject to the completion of due diligence and approval by Committee. They do not wish to acquire the majority of the properties because they are in isolated locations, do not meet accommodation standards and because of their age and construction require significant investment and will be expensive to repair and maintain.
- 5.2 Consultation has been completed with the tenants who are impacted by these proposals and discussions will continue to ensure tenancy changes are mutually agreed.
- 5.3 Initial consultations have been had with the Brighton & Hove Estates Conservation Trust.

6. Conclusion

- 6.1 The historic uses of the properties identified is no longer relevant. The properties are not part of the council's core housing stock and subletting of the properties via an intermediate landlord does not fulfill the council's Housing Strategy. To do so would require appropriation by the Housing service and this has been considered and recommended where appropriate.
- 6.2 The properties are surplus to requirements and it is recommended they be disposed of to achieve capital receipts to support the council's Medium Term Financial Strategy.

7. Financial implications

- 7.1 The proceeds from the disposal of the properties identified in paragraphs 3.2 to 3.5 of this report were excluded from the requirement to ringfence receipts generated from assets within the Downland Estate as these decisions pre date the CDEP.
- 7.2 The disposal of properties identified in paragraphs 3.8 will generate net capital receipts for the city council after allowing for maintenance, security, disposal costs and offsetting any loss of rental income through the repayment of debt or investment.
- 7.3 The disposal of properties within Stanmer Village will generate net capital receipts for reinvestment of which 20% will be allocated to the implementation CDEP priorities. The remaining net capital receipts will be allocated for capital investment in line with the capital strategy.

Name of finance officer consulted: James Hengeveld Date consulted:
23/11/23

8. Legal implications

- 8.1 There is a general obligation on a local authority when disposing of land to achieve the best consideration reasonably obtainable as set out in Section 123 of the Local Government Act 1972. Each disposal proposed will need to be evaluated and subject to professional valuations to ensure this duty is complied with.

Name of lawyer consulted: Elizabeth Culbert Date consulted: 23/11/23

9. Equalities implications

- 9.1 It is not considered that the proposal would negatively impact on any particular group in relation to their 'protected characteristics'. Therefore, no equalities implications have been identified as arising from this report. It is proposed that disposals are marketed openly through local agents to ensure transparency and equity.

10. Sustainability implications

- 10.1 It is anticipated that following disposal the purchaser would likely make improvement to the properties which would include elements to improve energy efficiency.