

APPENDIX 1:

Report of the Policy Review Panel – Urban & Rural Estates A Summary of Evidence, Findings and Key Themes

1. Chair's Foreword

I was very pleased to Chair this Policy Review Panel that was set up to consider governance and policy with respect to the council's sizeable urban and rural estates.

We set out to gain a better understanding of how the Corporate Property Strategy and Asset Management Plan links to and supports the council's Corporate Plan and priorities and how these assets were overseen and managed. While both estates contribute towards the council's own budget strategy, they also play a key role in supporting Brighton and Hove's status as a major visitor destination in terms of its unique retail offer and outstanding Downland landscape, much of which lies within the South Downs National Park.

The panel considered the need for balance between achieving value for money from these assets on behalf of local tax-payers and the wider social and environmental benefits that these estates provide.

We heard from a range of experts that provided very useful information and context, particularly in relation to the rural estate from both a farming and conservation perspective, and I would like to sincerely thank them for giving up their time to help us with this piece of work. I would also like to thank the officers who facilitated this panel and the two other panel members, Cllr Janio and Cllr Sykes.

I hope that the panel's work and recommendations will provide for an increased involvement and understanding for elected members in relation to this important area of the council's services and I commend it to the Policy, Resources and Growth Committee.

Councillor Gill Mitchell
Chair of the Policy Review Panel

2. Report of the Policy Review Panel – Urban & Rural Estates

2.1 Background & Context

2.1.1 The council's property and land portfolio is valued at £1.69bn (2016 balance sheet). The operational portfolio (properties from which council services are delivered) consists of 11,858 residential units and in excess of 500 non-housing properties. The non-operational commercial portfolio consists of an Urban portfolio of approx. 630 properties, an Agricultural portfolio of a combined 12,500 acres plus a seafront portfolio that is valued in total at £195m and produces an annual income of approximately £10m pa that contributes to the Medium Term Financial Strategy.

2.1.2 The council's [Corporate Property Strategy & Asset Management Plan \(AMP\) 2014-18](#) sets out the property context for the city and the council's property holdings and functions, linking these to the council's corporate plan, priorities and strategic goals. It provides a strategic overview of the council's property assets to ensure that the council is making best use of its assets. It also makes sure that the systems, processes and policies are in place, or being progressed, to manage and maintain them. In addition, it provides a framework for challenging and reviewing the reasons for continuing to hold these assets.

Rural Estate

2.1.3 The council's rural estate consists of approx. 12,500 acres and was initially formed during the late nineteenth and early twentieth centuries with the aim of protecting the town's water supply and controlling development. It is mostly situated within the South Downs National Park and managed by national agents Savills on the council's behalf. The council recognises the great importance of the City Downland Estate and its contribution to the protection of the chalk aquifer, Downland landscape, biodiversity and heritage.

2.1.4 The council's current policy objectives stem back to the 2006 Downland Initiative, (renamed the City Downland Estate Policy) which was the first formal policy to recognise the importance of the Estate. The overall objectives of the agricultural strategy are to underpin, maintain and increase future rental income and capital value, whilst attempting to balance these against social value - social and environmental benefits.

2.1.5 Evidence to the panel highlighted that despite the council's limited control over the land due to the nature of existing agricultural tenancy constraints, the council's agents, Savills, who manage the estate, have achieved many

successes by negotiating with tenants at rent review and lease renewal stages to fulfil some of the City Downland Estate Policy objectives.

Urban Estate

- 2.1.6 The urban portfolio was historically acquired for road widening schemes, slum clearance and to create industrial estates to support local housing. It is significantly different to a standard institutional investment portfolio managed purely on investment criteria. It is mixed comprising mainly secondary and tertiary properties and a small proportion of prime retail properties. Although weighted towards retail, there are a number of industrial estates developed mainly in the 1960s on ground leases, a few offices and a wide range of other properties.
- 2.1.7 Income generation is a key strategy to support the council's service provision. The portfolio is managed to support local businesses and wider economic, social and environmental regeneration. The majority of the urban estate is managed by external agents Cluttons who are responsible for rent collection, landlord and tenant transactions, service charges and all day to day management issues. Cluttons have been successful in minimising voids and arrears and maximising income by completing rent reviews and lease renewals in a timely manner, and having proactive policies in place to ensure voids are minimised. However, as much of the portfolio consists of ageing secondary and tertiary properties the ability to continue achieving increasing rents is limited as the quality of the stock declines.
- 2.1.8 As the existing urban estate was accumulated by the council rather than actively acquired the panel heard that as an investment portfolio it is unbalanced in terms of risk. In order to provide an increasing return in the long term the council currently aims to rebalance the portfolio by:
- identifying under-performing assets for disposal and ring-fencing receipts for reinvestment,
 - obtaining & increasing revenue income to contribute to the support of the council's wider service delivery,
 - taking advantage of disposal opportunities to generate capital, or to increase income through lease extensions for example.
- 2.1.9 As with the rural estate, these objectives also need to be balanced against social and environmental factors (social value), development/regeneration opportunities and corporate council priorities.

2.1.10 Both estates produce a substantial income that contributes towards the council's budget strategy. Both also offer opportunities for redevelopment and capital receipts that are critical to the council's capital investment strategy, modernisation agenda, Medium Term Financial Strategy and contribute to the regeneration of the City and region through employment, health and housing outcomes.

Why this panel was set up

2.1.11 At December Policy Resources & Growth Committee (PRG) 2016, a Notice of Motion was presented requesting the establishment of a Policy Review Panel to consider the governance and policy with respect to the city council's urban and rural estates. A report outlining the process for the Policy Review Panel was approved at the January meeting.

2.1.12 During December Full Council a Notice of Motion was passed asking for consideration to be given to the re-establishment of a cross-party Asset Management Panel to enable greater member oversight of the management of the council's commercial and agricultural assets.

2.1.13 At January PRG a recommendation was agreed (item 110) to establish a Policy Review Panel. This Panel was asked to make recommendations back to Policy, Resources & Growth Committee on its findings, including recommended Terms of Reference for the establishment of a permanent Asset Management Board, as described in appendix 3.

2.1.14 Also at the January PRG committee, item 111 was debated, concerning the sale of land at two rural sites – Poynings and Plumpton Hill. During the debate, a joint amendment was agreed that delayed the sale of these sites in order that they be discussed as a matter of priority at the first meeting of the Policy Review Panel, and that an agreed position be brought to PRG, or an urgency PRG as necessary, outlining the further options and recommendations.

2.1.15 The urgency of this review was due to the planned sale of agricultural sites contributing to the match-funding requirement of the Stanmer Heritage Lottery Fund bid. The immediate task of the Policy Review Panel was to consider alternative sites and capital receipts to make up the potential shortfall in the match funding and the potential shortfall in the council's capital investment programme, should the decision be taken not to sell Poynings and Plumpton Hill.

2.2 Panel's Objectives

2.2.1 The Policy Review Panel comprised of a cross party group of councillors who were supported by council officers from Property & Design, Finance, Legal, and the Policy, Partnerships & Scrutiny Team. External partners were invited by the Panel to attend any meeting where their expertise was required to inform the debate.

2.2.2 The Terms of Reference of the Policy Review Panel were agreed as being to:

- Consider governance and policy with respect to the city council's urban and rural estates
- Review the respective sections of the Asset Management Policy as they concern Downland asset definition and disposal.
- Review the Scheme of Delegation financial threshold for sensitive asset disposals to promote full scrutiny by members.
- Consider proposals for the sale of land at Poynings and Plumpton Hill through scrutiny of further information, other funding options, expert evidence, and the views of conservation bodies
- Production of a Policy Review Panel outcome report concluding and outlining findings and recommendations
- Consider the establishment and remit for a cross party Asset Management Board.

2.3 The Evidence Gathering Process

2.3.1 Evidence gathering took place throughout a series of themed meetings. Expert witnesses were invited to present their views and evidence to inform the Panel's considerations. Additional capacity-building meetings took place to support panel members' understanding of the key themes and areas of consideration. Meetings were held in private when commercially sensitive information was being presented, and also in public where the meeting's agenda allowed this.

2.3.2 Details of all meetings are shown in the table below:

Meeting Number	Agenda	Date
1	Brighton & Hove City Council (BHCC) Rural Estate; Land at Plumpton & Poynings	17 th Feb 2017
2	BHCC Rural Estate; Portfolio structure	17 th Mar 2017
3	BHCC Urban Estate; Scheme of Delegations	31 st Mar 2017
4	BHCC Rural Estate; Public meeting and debate	7 th Apr 2017

2.3.3 A full list of experts and organisations who contributed to the proceedings is shown in the table below:

Name	Organisation	Meeting(s) Attended
Keith Arnott & Guy Streeter	Savills – Rural Estates	17 th Feb 2017 & 17 th Mar 2017
David Fursden	National Trust	17 th Feb 2017
Phil Belden	Conservation Policy Advisor	17 th Feb 2017
William Shipley & Colin Brades	Cluttons – Urban Estates	31 st Mar 2017
James Osman	National Farmers Union	7 th Apr 2017
Maureen Holt	Campaign to Protect Rural England	7 th Apr 2017
Antony Whitbread	Sussex Wildlife Trust	7 th Apr 2017
David Bangs	Keep Our Downs Public	7 th Apr 2017
Vicky Lawrence & Andrew Lee	South Downs National Park	7 th Apr 2017
Neil Ravenscroft	Brighton University	7 th Apr 2017

2.3.4 Written submissions from experts were also accepted and considered by the panel. These submissions have been gathered and documented as an appendix to this report.

2.3.5 **Social Value**

It should be noted that there is no strict definition of ‘Social Value’ that the council prescribes to. For the purposes of this report, each witness’s interpretation, description and definition of social value is considered alongside all the other evidence they present.

2.3.6 **Brexit**

All the Panel meetings regarding the council’s agricultural estate raised Brexit and the uncertainty it brings. This was mainly discussed in relation to farmers’ reliance on subsidies, trade deals and tariffs for imports and exports of produce. Each witness’s views on the impact of Brexit are detailed in the evidence summaries below.

2.4 **Meeting One – Rural Estate; Poynings and Plumpton Hill (17/02/17)**

2.4.1 The Panel heard evidence from Savills (BHCC’s Agricultural Estates management consultancy, Phil Belden (Local campaigner), and David Fursden (National Trust trustee and Lord Lieutenant for Devon). The management of the council’s Rural Estate was discussed in regards to the proposed sale of two plots of land, Poynings and Plumpton Hill, which sit within the boundaries of the South Downs National Park. This was especially considered both from a financial and social value perspective. A summary of evidence and key themes is presented below in the order it was heard.

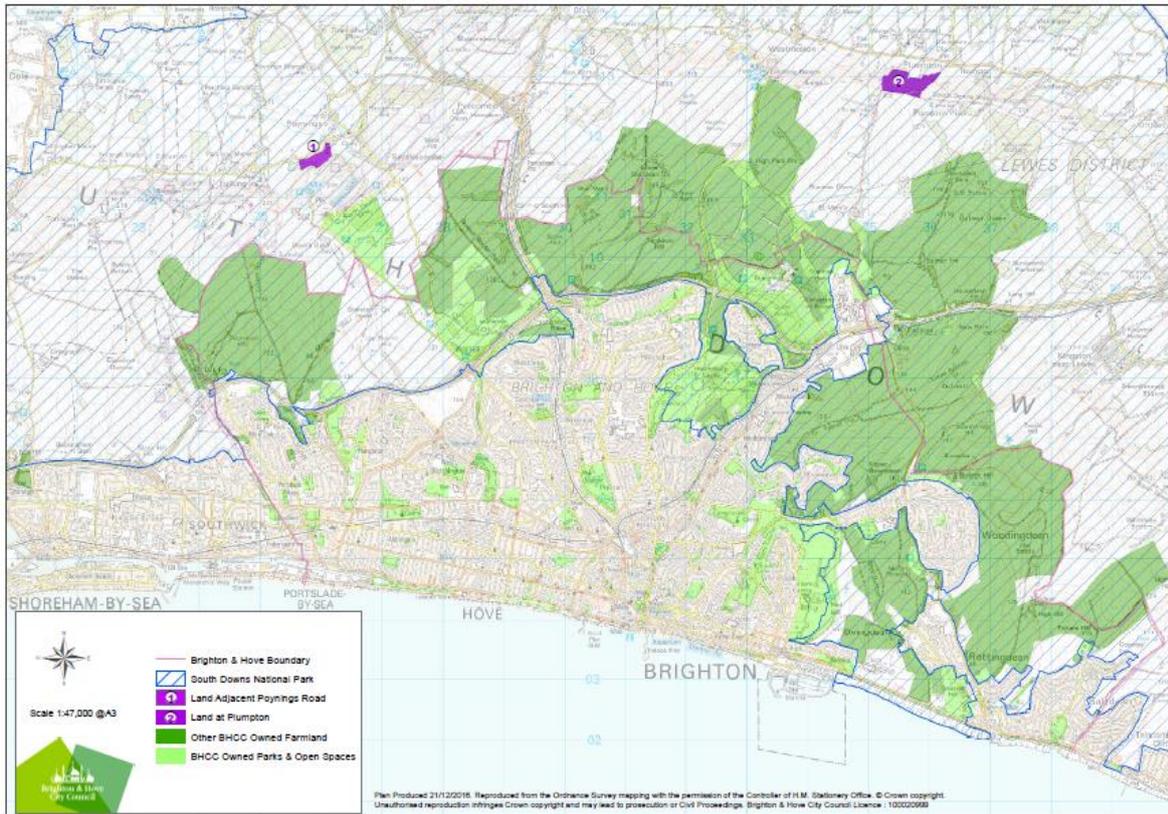


Figure one shows the location of Poynings and Plumpton Hill in purple

2.4.2 Overall themes of the meeting

The key areas for question raised by the Panel about the rural estate have been set out below.

- What is the best way to exercise control over future use of rural land?
- What local policy and national legislation needs to be considered when managing the rural estate?
- What opportunities are there to improve the management of the rural estate?
- What opportunities are there to improve the asset base e.g. viability, stock conditions
- What are the market uncertainties?
- What are the political uncertainties?
- How is social value quantified and evaluated?

2.4.3 Themes of evidence by witness

This section of the report describes the key evidence each witness made to the panel.

Savills – the council’s rural estate management agents

Savills began by describing the government and council policy areas which govern the management of the rural estate:

- **National/European Policy**

- **South Downs National Park** – *the newest National Park in England is governed by the statutory purposes specified by the Environment act 1995*
- **Water Framework directive** - *a European Union directive which commits European Union member states to achieve good qualitative and quantitative status of all water bodies*
- **UK & Common Agricultural Policy (CAP)** - *the agricultural policy of the European Union that implements the system of agricultural subsidies*

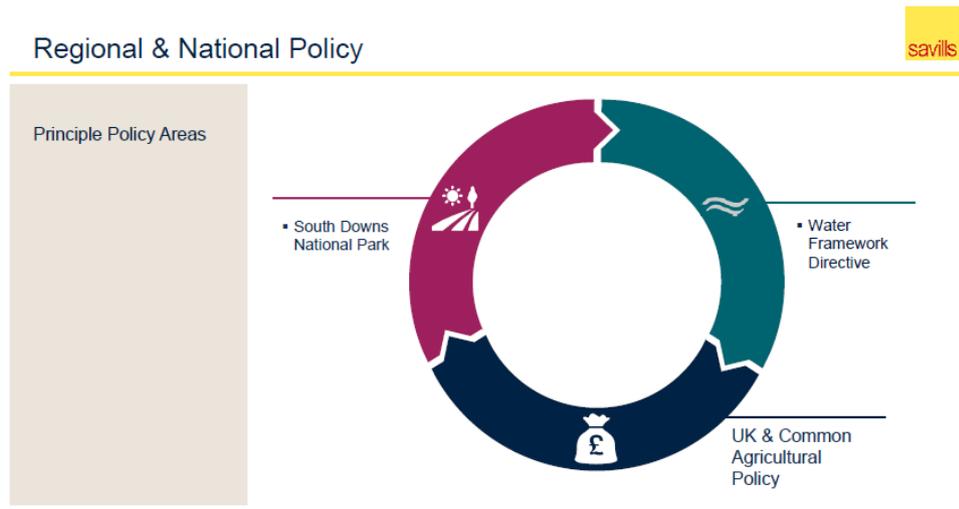


Figure 2 shows the Regional and National policies which shape and influence management of the rural portfolio

- **Local Policy**

- **BHCC Corporate Property & Strategy & Asset Management Plan** - *a strategic overview of all the council's properties*
- **BHCC City Downland Estate Policy (formerly known as the Downland Initiative)**
- **BHCC Biosphere reserve** – *UNESCO's (the United Nations Educational, Scientific and Cultural Organization) global network of Biosphere Reserves promote a balanced relationship between people and nature*

- **Impact of Brexit on the rural estate**

In relation to Brexit, Savills explained that the Brighton & Hove City Council's (BHCC) rural estate was made up of 75% Agricultural Holdings Act tenancies (AHAs) and is highly reliant on income from agricultural land use. AHAs were introduced in post-war legislation (Agricultural Holdings Act 1948) and gave security of tenure so that landlords have limited control of land use. Farmers with AHA tenancies have complete freedom of cropping, so can grow whatever they like on the land, provided it complies with the law.

The farmers in turn receive on average 60% of their income from subsidies in Common Agricultural Policy (CAP) EU legislation basic payments. The BHCC Estate is seen as an environmentally important area and is in part eligible for the Higher Level Scheme, which is the highest level of subsidy under the CAP. The question of what will replace CAP and stewardship grants is unknown but evidence to the panel suggested that it is not anticipated that regulations will change much, as the majority of regulations are likely to be similar post-Brexit.

Savills also noted that the risks for the council could be high regarding potential income loss, and opportunities would need to be looked at as to how this could be addressed in terms of diversification, tenancy arrangement changes and other options.

In summary:

- Potential decline in financial support from 2020
- 60% of farm income currently comes from EU subsidy
- No clear commitment from central government to match this support post-Brexit

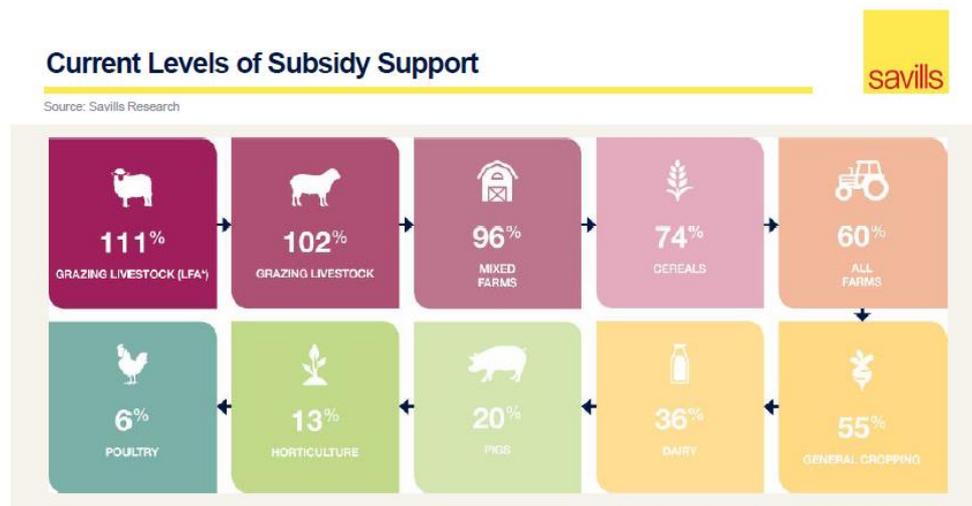


Figure 3 shows the level of EU subsidy that different agricultural products receive

- **Investment in farm buildings**

Savills stated that the importance of investment in farm buildings, and how failure to invest would lead to greater costs in the longer term. It was noted that due to budget pressures, they felt that BHCC are underspending on repairs and maintenance relative to the cost of the buildings. This is a significant risk as a key issue for BHCC is that it is reliant on the viability of farms to provide 90% of the income stream from rural assets, and farms falling into a state of disrepair will negatively affect this income stream. While there is potential to raise capital from the portfolio to reinvest into the assets,

the alternative is for tenants to invest to offset lack of council investment; however this may have a bearing on the rental income BHCC receive.

- **Financial performance of portfolio**

Savills explained how the Agriculture portfolio provides a steady income to the council, but recent trends have shown that small farms are declining in profitability due to their limited options around diversification. Financial viability is also linked to economies of scale (i.e. the larger the farm, the more profitable it is). This means that from a financial perspective, amalgamation of sites should be sought when possible. Widening activities and diversifying would also increase profitability, and while agriculture provides a consistent income, the best returns are achieved from investing in commercially let properties.

Changing Ratios of Rural Income Streams



Source: Savills Research

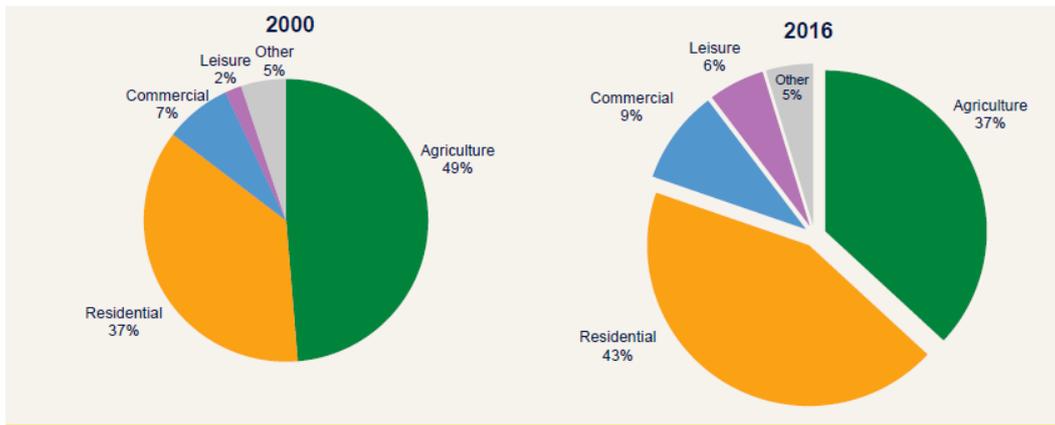


Figure 4 shows how the profile of income from the rural portfolio has changed over time.

Sources of income

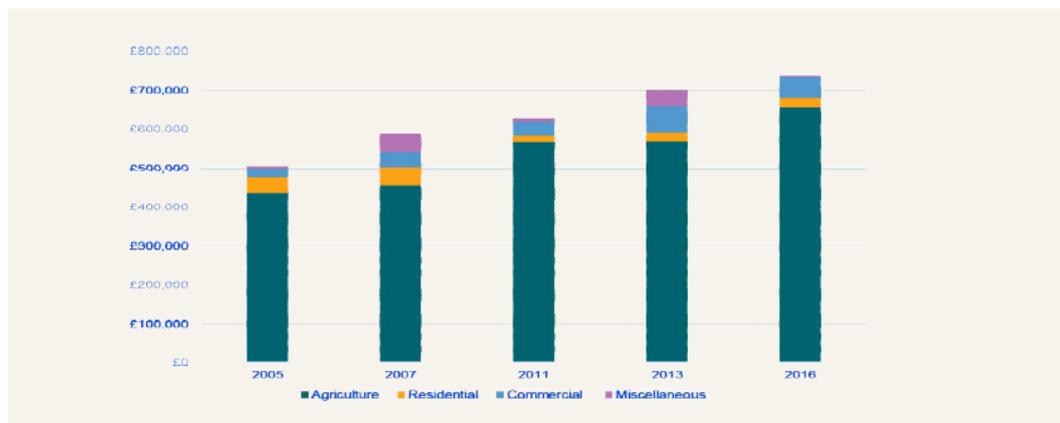


Figure 5 shows how the income generated by the council's rural portfolio has grown over time.

- **Hierarchy of property control**

Savills explained the hierarchy of property control to the Panel. This hierarchy is structured around on the varied strengths of different kinds of protections available to control the use of land (see diagram below).

Property Control Mechanisms



Figure 6 shows the hierarchy of control. This diagram shows that legislation is the most powerful control, and covenants are the weakest.

Savills explained that for example if BHCC relinquished a freehold they would have to rely on the sale contract and any restrictive covenants, as well as legislation, to protect the future management of the land. However, 60% of BHCCs rural tenancies are let under Agricultural Holdings Acts and as such BHCC have limited control over how these tenants use the land anyway.

- **Disposals of land to fund the Stanmer Project**

Savills highlighted that when disposing of land there is a need to take a value judgement between maximising value, asset protection and future control. The council defines its assets as either 'core' or 'non-core' to help with this judgement. Both sites (Poynings and Plumpton Hill) are categorised as 'non-core' assets, which means they can be considered for disposal. Non-core rural assets are either off-lying from the council's main areas of ownership or are located on the edge where it would be considered they would least impact on the overall integrity of the rural estate. Non-core assets, as evidenced, fail to deliver on the financial, social and environmental performance criteria and are not essential to the delivery of the City Downland Estate Policy. Conversely, core assets are vital to the delivery of the City Downland Estate Policy, are identified as financially strong performing assets and/or provide social and environmental benefits to the City. They are of cultural importance to the integrity and historic makeup of the Estate and of strategic importance to the City Downland portfolio.

Savills explained how the sale of these two sites would contribute to the match funding required as part of the council's Heritage Lottery Fund (HLF) bid for the restoration of traditional agricultural buildings in Stanmer Park. Not disposing of Poynings and Plumpton means BHCC would be reliant on other sites maximising sales, and given uncertain market conditions outlined above, this could be a risk to HLF project.

However, Savills pointed out that both of the sites are leased under the Agricultural Holdings Act, and as previously described, these kinds of lease limit any control that the council has over the use of the land, despite the fact that the council owns the freehold.

Phil Belden – conservation policy advisor to Sussex Wildlife Trust

The evidence from Phil Belden focussed on the importance of preservation of the land in terms of its biodiversity and social value. He presented a case for why public ownership of freeholds was the strongest protection land could have.

- **Economic, social and environmental value of the land**

Phil Belden outlined how the issue of economic value is wider than farm rents and capital land value. He explained that the council needs to appreciate the real and many values of the land, which could all produce financial gains. For example, open access to the country side improves health and wellbeing, which in turn saves money for the National Health Service. He believed that improving education around the complexities of the biosphere would have many social benefits and this value could be compromised if ownership fell out of public hands.

- **Concern over loss of control**

He then raised concerns in relation to the previously described hierarchy of protections, stating that nothing is better than public ownership to maintain control of land. This is because no form of covenant is watertight and can often be circumvented by planning legislation. He gave his example of development at Brighton Marina and development at Cliff Height. In his experience, if a private owner wants to do something with the land, they will find a way.

He stated that free access to land is important for the city, and complements nearby land holdings e.g. Worthing. He also stated that un-vetted purchasers of land could be vulnerable to prosecution in relation to land pollution, which would cost the council money.

- **Social value**

“One can bring decisions together to support each other, rather than clash with economic reality. For example the council, South Downs National Park Association (SDNPA), Environment Agency and Southern Water working

together (CHAMP project) to more sympathetically manage the land to protect the city's drinking water supply. There was a value in bringing in other partners to develop a more sympathetic and creative approach.” – Phil Belden.

Money could be saved by Southern Water treatment if ways of managing the land minimise fertilisers. The money saved could then be spent on other environmental and social aspects.

David Fursdon – Board of Trustees, National Trust; Chair of South West Rural and Farming Network; Lord Lieutenant of Devon

- **Control over land**

David Fursdon outlined his view that there are three ways control can be exercised over land use when one was no longer the freeholder. These are to:

- Rely on statutory controls – e.g. Site of Special Scientific Interest (SSSI) conservation designations, which are the basic building block of site-based nature conservation legislation. Most other legal conservation designations in the United Kingdom are based upon them.
- Rely on legal controls imposed through contract for sale – including restrictive covenants (a clause in a deed or lease that limits what the owner of the land or lease can do with the property) and ransom strips (the retention of a small parcel of land within a larger plot to prevent large scale development on a site).
- Rely on financial incentives e.g. current EU subsidies.

David Fursdon explained that the ability of BHCC to enforce the future protection of a site, once no longer a freeholder, would depend on whether they had the resources to enforce the protection they sought. He acknowledged that it is true that nothing is as powerful as holding the freehold, nevertheless various layers of protection can be built up, which can provide a very strong degree of long term control over the land. In other words, a freehold is the most secure protection, but it is possible to create a ‘mosaic’ of protection (e.g. retaining a ransom strip to control development, alongside SSSI designation and covenants), which amount to significant protection. The issue with this is the additional resource required to manage the ‘mosaic’.

He stated that overall a ‘mosaic’ of protection is deemed the best response to uncertainty about national and European legislation/regulation in relation to the uncertainty around Brexit.

- **South Downs National Park status**

When asked by the Panel whether the SDNPA could purchase land, David Fursdon confirmed that the SDNPA cannot buy up land, and its designation as a National Park is not a protection against use of land. In order to protect the land other controls, e.g. SSSIs, were required.

- **Compulsory Purchase Orders**

David Fursdon outlined the role of Compulsory Purchase Orders (CPOs) as a legal function in the United Kingdom and Ireland that allows certain bodies which need to obtain land or property to do so without the consent of the owner. He explained that they represent a threat to any form of protection over land, even for land designated as a National Park.

- **Social value**

David Fursdon noted that Social Value is described in a variety of ways and agreement of a firm definition of it is currently part of an ongoing national debate. He believed that essentially the issue of social value is a policy matter for the council, and perhaps one of the objectives it may wish to consider further. He explained that the work happening nationally looks to identify possible income streams for environmental and social uses of land, but ultimately these income streams will be capitalised and will form part of the monetary value of land, so social value still ends up having a monetary value ascribed to it.

2.4.4 **Panel debate**

The panel considered this evidence presented to them in relation to the sale of land at Poynings and Plumpton. Following consideration and debate, they requested that the portfolio of property and land identified to match fund the Heritage Lottery Fund bid and support the Capital Investment Programme be reordered so that Plumpton and Poynings were no longer vital to the project's match funding. This would provide additional time to fully consider alternative approaches to the management of these two pieces of land. Officers confirmed that this approach was acceptable, and that a decision on the two sites would be made at the next panel meeting.

2.5 **Meeting Two (17/03/17) – Rural Estate – Evidence from Savills**

2.5.1 The Panel's second meeting continued the discussion and evidence gathering in relations to how the council manages its rural estate. Savills returned to provide further financial information (some of which is redacted from this report due to the commercially sensitive nature) and details of how the portfolio is structured.

2.5.2 **Overall themes:**

The overall themes of the meeting are listed below. Each theme is explained in more detail in subsequent sections of the report.

- There are two types of agricultural tenancies – Agricultural Holdings Acts (AHAs) and Farm Business Tenancies (FBTs).

- The BHCC estate is dominated by AHAs, which limit the control that the council has over use of land because farmers have complete freedom of cropping.
- The introduction of FBTs provided greater landlord control enabling BHCC to introduce its City Downland Estate Policy, but the process of converting tenancies from AHAs to FBTs can span multiple generations.
- Different uses of land will have an impact on rental income.
- More landlord control means that new strategy/policy objectives can be achieved.
- The Common Agricultural Policy (CAP) plays a vital role in achieving compliance and making farming financially viable.

2.5.3 The Panel received a presentation by Savills that summarised statistics about the Downland Estate including size, value and income. The detail of this information is omitted from this report due to being commercially sensitive. However, the presentation demonstrated that when commercial pressures increase, tenancies consolidate. There are now 16 principle farmers who cover 95% of the estate.

2.5.4 The council's Rural Estate

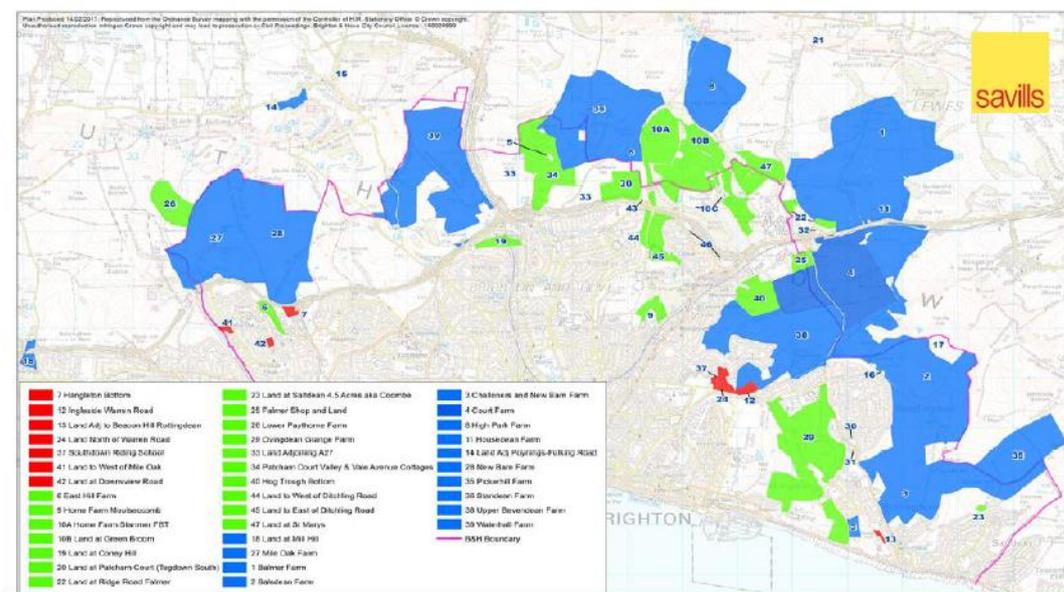


Figure 7 shows the profile of BHCC's rural estate. Red areas are commercial lets, green areas are Farm Business Tenancies (1995), and Blue areas are Agricultural Holdings Act (1948) tenancies.

2.5.5 Agricultural Holdings Act Tenancy

The Panel heard that both the Plumpton and Poyning's sites are let under Agricultural Holdings Act (AHA) tenancies. A significant amount (75%) of the

rural estate is comprised of these types of tenancies. As described in section 2.4.5, AHAs were introduced in post-war legislation and gave security of tenure so that landlords have limited control of land use. Farmers with AHA tenancies have complete freedom of cropping, and can therefore grow whatever they like on the land, provided it complies with the law.

Savills explained that AHA tenancies are passed on through generational succession, which means they can easily last up to 200 years. The majority of BHCC's AHAs are 2nd generation, so there is a further succession on these lets before they can become Farm Business Tenancies (see section 2.5.6). As a result AHAs will continue to dominate BHCC's agricultural estate for the foreseeable future.

Savills explained that Sites of Special Scientific Importance (SSSI) legislation and Common Agricultural Policy (CAP) are the key ways of enforcing or rewarding AHA tenants. They also explained that landlords are fully liable for most of the repair and maintenance costs of any AHA tenancy, which has financial implications for the council as Landlord.

2.5.6 Farm Business Tenancies

Farm Business Tenancies (FBTs) came into force as part of the Agricultural Holdings Act of 1995. They replaced AHA legislation and are now the only way to let agricultural land. They were brought in to deregulate the law relating to agricultural tenancies, and had the dual effects of increasing the amount of land available to rent in the agricultural sector, and increasing the average rent per acre charged.

Savills explained that FBTs represent 25% of the BHCC estate (2,508 acres) and 21% of BHCC's rural income. They introduced freedom of contract in relation to term and rent, rebalancing control between the landlord and tenant. Savills also explained how they have enabled tenants to diversify into a broader range of commercial opportunities, and have assisted BHCC to introduce and implement their City Downland Estate Policy, due to greater landlord control over the use of land.

2.5.7 City Downland Estate Policy

- 2.5.7.1 The panel reviewed the approach and governing principles of the council's main rural estate policy which is known as the City Downland Estate Policy.

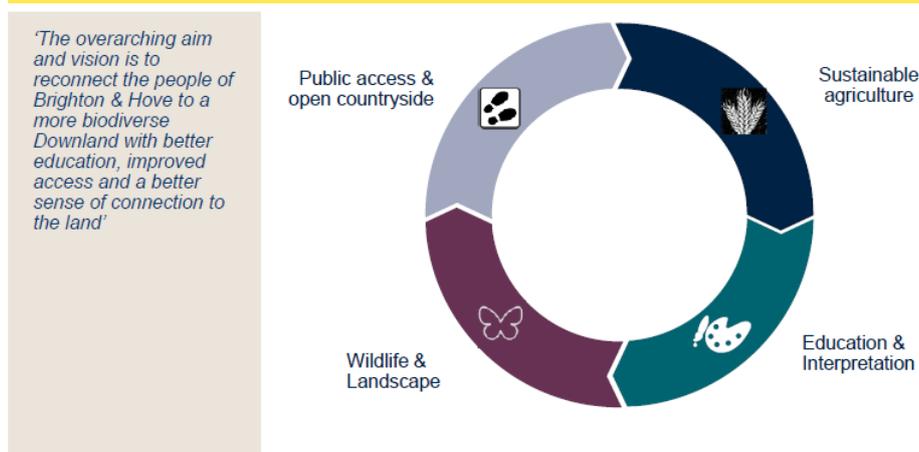


Figure 8 shows the governing principles of the Downland Estate Policy

- 2.5.7.2 Savills felt that against these four governing principles, BHCC was performing best in respect to Sustainable Agriculture and Public access. Education & Interpretation was an area for improvement and *'would benefit from greater engagement within wider council services as this was often not within the skill sets of land agents.'* Wildlife and Landscape conservation was mainly being achieved through CAP cross compliance, as governed by the EU's policy. The same could be said about Public Access. Even more access could be gained by negotiations at rent reviews, which would impact of the amount of rent the council receives. This is because any land that is required as public access reduces the size of the holding, resulting in a loss of rental income.
- 2.5.7.3 According to Savills *'It was still a very important, valuable and relevant document. Great strides had been made, but the vision was very ambitious and the biggest advances could now be made in terms of education and wildlife, providing sufficient resource is provided by BHCC in terms of capital and staff time.'*

2.5.8 Panel Debate

- 2.5.8.1 In light of the evidence presented by Savills in relation to the Agricultural Holdings Acts, which applies to both the Poynings and Plumpton Hill sites, the Panel agreed an interim recommendation whereby these pieces of land would not be sold at this time. A review of the rural estate Asset Management Strategy would be undertaken by a permanent Asset Management Board, pending agreement from the Policy Resource & Growth committee. The outcome of this review would determine whether

Poynings and Plumpton Hill could be considered for release at a later date, or for other projects, if required.

- 2.5.8.2 The decision to no longer consider the disposal of land at Poynings and Plumpton Hill at this stage reduces the estimated value generated by all non-core capital receipts identified as part of the HLF bid. Therefore this has the potential to put at risk the Parks for People HLF project match funding requirement. However, the majority of sites for disposal supporting the match funding and redevelopment of the Stanmer Traditional Agricultural Buildings are based on anticipated capital receipts estimates, which will change as sales are agreed, and there is potential for these estimates to be exceeded.
- 2.5.8.3 As the disposal programme progresses the financial position will become clearer. If a shortfall remains, the financial implications of any options to manage the shortfall will need to be reported to Policy Resources and Growth Committee (PRG) and reflected in future years' capital investment plans. This decision will be included as a recommendation to PRG.

2.6 Meeting Three – 31.03.17 – Urban Estate (non-operational)

- 2.6.1 The Panel's third meeting focussed on BHCC's urban estate. This is made up of non-operational urban sites and buildings, which means that it relates to sites/buildings that the council does not operate its own services from. Evidence was heard from William Shipley and Colin Brades of Cluttons. The discussion provided an opportunity for the Panel to consider proposals regarding the potential scope of a permanent Asset Management Board.

2.6.2 Key themes from the meeting

The evidence to the panel highlighted some key themes which are listed below. Details are provided in the subsequent sections of this report.

- The large income from BHCC's urban estate is vital to the council, funds a variety of service delivery activities and presents the council with potential redevelopment opportunities.
- BHCC has an extensive and mature portfolio generating substantial income.
- In order to strengthen the portfolio it needs to be rebalanced, so that low-quality assets are released to fund the acquisition of high-quality assets.
- Regeneration and support for local business is vital to a successful portfolio.
- Potential impact of Brexit is uncertain.
- Business rates impact on the city is likely less than reported elsewhere.

2.6.3 The council's portfolio

2.6.3.1 Cluttons explained that there are varied and historical reasons for the creation of BHCC's urban portfolio, with property being purchased for reasons such as the widening of roads and slum clearance. As a result, assets have not always been gained based on property investment principles or income generation and the portfolio cannot be compared in the market place to standard investment portfolios.

2.6.3.2 Because of this *'Many of the properties are no longer fit for purpose and not in the best of locations, which means that they produce low income levels and are potentially high risk in relation to the repairing leases. [The portfolio] is very susceptible to any economic downturn'*. – Cluttons

2.6.3.3 Cluttons explained how properties within the portfolio are categorised in one of three ways according to their rental value/income:

Primary	Best (Churchill Square, Western Road, East Street)
Secondary	Average (Lanes, North Laine, London Road, St James's Street)
Tertiary	Worst (Neighbourhood parades, non-retail streets)

2.6.4 BHCC's Urban Portfolio Objectives

Cluttons outlined the Urban portfolio's objectives which are to:

- Maximise rental income contributing to the council's financial strategy
- Support local businesses and regeneration

2.6.5 Annual rental income

Cluttons explained that the portfolio provides an annual income of approximately £8m from 571 leases, which contributes to a range of the council's service delivery costs. They stressed that few councils have comparable portfolios, although increasing numbers are building up portfolios through investment acquisitions over the UK.

Cluttons explained that rental growth depends on the location of properties, suitability of use and whether it meets the specification (e.g. how modern the facilities are) of a potential client. Because of this, rental levels are determined by the market rather than affordability.

2.6.6 Portfolio Performance

Cluttons provided an overview of performance, noting that the portfolio is performing well in terms of its key performance indicators (benchmarking data, rent arrears and voids), but there are three key areas of weakness that have been identified. These are now outlined below.

A: Dominance of Retail

The panel heard that a traditional portfolio balance tends to be 40% retail; 40% offices and 20% industrial. The income from our portfolio is made up of approximately 60% from retail (with the majority of this income coming from just 15 prime lettings), and only 15% from offices (the majority of this is from New England House). The remainder is a balance of industrial and miscellaneous properties. As a result Cluttons were concerned that:

'The council's portfolio is very high risk... and so investors would require a much higher return in compensation. The council could be sitting on a time bomb.' - Cluttons.

Evidence to the panel emphasised that the key threats to retail included:

- Increasing business rates – although Cluttons felt this had been overemphasised and not likely to have many cases of significant increases in the city.
- On-line shopping, which is drawing people away from the High Street

Street	Rental rate (zone A)	Comment	New arrivals
East Street	£200	Fashion orientated, mainly multiples	Presleys , Maje , Sandro
Churchill Square	£185	Prime multiples location	Skechers , Animal
Western Road	£140	Lack of modern units	Deichmann
North Street	£140	Close to Clocktower	Vape Store
Duke Street	£140	Gradual rental growth	
Meeting House Lane	£75	Prime Lanes pitch – independent traders	
Bond Street	£70	Prime North Laine location – independent traders	Shoe Embassy
London Road	£60	Improving secondary location	Presuming Ed

CLUTTONS

The table above shows the variation in rental averages across key retail streets in the city. It is clear that very central areas of the city command a far greater rent than those in just a little further out.

B: Too many tertiary - low quality properties

Cluttons informed the panel that these kind of properties are plentiful, but deliver lower rents, they are costly to repair and carry a higher risk of default from tenants. However, many of these leases contribute to the overall social and environmental value of the council's urban portfolio. Examples include

housing parades to support local communities and leases in the North Laine, which support independent traders and contribute to the character of the city.

C: The need for more office/industrial investments

Cluttons explained how the low number of offices in the portfolio limits the council’s ability to support local businesses. New England House is the council’s largest office property and is 99% let, which evidences that there is still significant demand for office space in the city. Increasing the amount of commercial office space the council owns, would strength potential links to its City Deal and regeneration aims. Additional commercial office space would also be financially beneficial as we potentially move to retaining 100% of business rates.

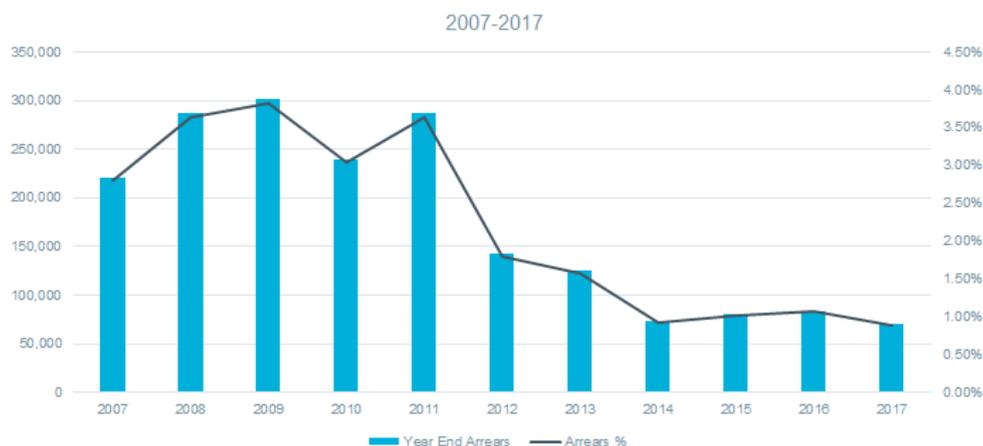
2.6.7 Portfolio Performance

The evidence from Cluttons showed how the council’s urban portfolio has performed well against national figures and industry benchmarks.

Whole portfolio (As at 1 April 2016)	Prime portfolio (As at 1 April 2016)	IPD Prime portfolio (Y/E 31 December 2016)
<ul style="list-style-type: none"> Income return 9.3% Capital growth 4.8% Total return 14.1% 	<ul style="list-style-type: none"> Income return 6.6% Capital growth 0.17% Total return 6.8% 	<ul style="list-style-type: none"> Income return 5.6% Capital growth -2.8% Total return 2.8%
<p>High returns compensate for high risk income</p> <p>Statistics pre-Brexit referendum</p>	<p>Prime portfolio comprising 15 shops on Western Road</p> <p>Statistics pre-Brexit referendum</p>	<p>Returns influenced by pre-and post-Brexit uncertainty</p>

The table above shows how the portfolio has performed across three key performance indicators, in comparison to the Investment Property Databank (IPD) national benchmarking figures. BHCC’s performance is shown both for the portfolio in its entirety, and also just the prime holdings.

Cluttons explained that the portfolio’s good performance is in part due to the work that has been done to reduce rent arrears, which could be negatively affected by current political uncertainty.



The graph above shows how the percentage of rent arrears in the BHCC urban portfolio has reduced in the 10 years between 2007 and 2017

2.6.8 Rebalancing the portfolio

Evidence from Cluttons emphasised the benefits the council could accrue if they were to rebalance their urban portfolio. They explained this in terms of a high-level strategy, and what the implications of a portfolio rebalance would achieve.

2.6.8.1 Strategy

Cluttons explained that the council would be well advised to adopt a strategy to sell lower quality investment properties to replace with fewer higher quality properties. As an example, it would be possible to sell five properties worth £1m and use the funds to acquire a high quality property worth £5m. The strategy would be a mid-to-long term phased sale and acquisition plan (i.e. 5 – 10 years), which would improve prospects for future rental growth at the same time as reducing the risk of capital expenditure.

2.6.8.2 Implications for the council

Cluttons stated that a rebalancing of the urban portfolio would reduce the number of commercial properties that the council owns. There is potential for a short-term income loss during the rebalancing, but Cluttons deem that the reduction in risk and long-term stability is of greater benefit. Better quality properties produce lower income return (as they are more secure and give better capital and rental growth potential), and they do not carry anywhere near the same level of risk in terms of tenants defaulting on rent, or being unable to keep up with maintenance requirements.

Cluttons also outlined that there might be a time lag between selling and buying due to investment market supply and demand. In order to accommodate this there would be a need to ring-fence sales receipts for reinvestment. They stated that there may also be a need for short-term capital receipt investment strategy to offset the temporary loss of income. Cluttons

also explained that an alternative strategy would be to fund investment purchases via Public Works Loan Board (PWLB) funding and repay with sales receipts.

2.6.9 The need for speed in decision making

The evidence from Cluttons outlined why it is important that the council can make timely and consistent decisions about its urban property portfolio. The Brighton property market is fast-moving and dominated by London, so the council may wish to consider investing elsewhere. Due to buoyant market conditions, now is a financially advantageous time to rebalance the portfolio, although this could change as plans for Brexit become clearer.

Cluttons stated that the council could be disadvantaged by waiting for committee decisions, as often opportunities disappear faster than the committee cycle completes. In order to mitigate this, some councils have set up companies with delegated powers to carry out this activity, to avoid the time delays

2.7 Meeting Four – Public Evidence Gathering Meeting – 07.04.17

2.7.1 The final panel meeting returned to the management of the rural estate and was an opportunity for panel members to hear the views of a variety of experts. The meeting was held in public. Witnesses were asked to consider four key questions that the panel put to them:

- i. What is the social and economic value of the Downlands Estate?
- ii. What is the effectiveness of the protections and designations of the land in the Estate e.g. tenancy arrangements
- iii. What resources are available to enforce these protections and designations e.g. SSSIs
- iv. What impact is the current political uncertainty likely to have on the Downlands Estate. e.g The Water Framework Directive

2.7.2 Key themes from the meeting

The evidence to the panel at this meeting emphasised the:

- Importance of public ownership of rural assets
- Social and economic and environmental value of our rural assets
- Uncertainty and Risks (and potential as yet unidentified opportunities) of Brexit – subsidies and trade
- Need for investment in rural assets
- Location in the South Downs National Park
- Importance of partnerships to maximise the benefits of these assets
- Harnessing volunteers

- Value of nature to health & wellbeing

2.7.3 Summary of witnesses

Name	Organisation
James Osman	National Farmers Union
Maureen Holt	Campaign to Protect Rural England
Antony Whitbread	Sussex Wildlife Trust
David Bangs	Keep Our Downs Public
Vicky Lawrence & Andrew Lee	South Downs National Park
Neil Ravenscroft	Brighton University

2.7.4 Summary of Evidence, Findings and Key Themes

- 2.7.4.1 Written submissions were encouraged, and submitted to the panel by the witnesses. Copies of these submissions are available as Appendix 2 to the committee report.
- 2.7.4.2 A copy of the minutes taken from the public evidence gathering meeting are available through the council's [committee website](#).

3. Conclusions

3.1 Agricultural Portfolio

Impact of Brexit

Many of the themes relating to the council's agricultural portfolio related to how the council and its partners face the challenges and questions of leaving the EU and the consequential changes. The driving force behind this uncertainty is Brexit.

- What is the best way to exercise control over future use of rural land?
- What local policy and national legislation needs to be considered when managing the rural estate?
- What opportunities are there to improve the management of the rural estate?
- What opportunities are there to improve the asset base e.g. viability, stock conditions
- What are the market uncertainties?
- How is social value quantified and evaluated?

The impact of removing EU legislation on the council's agricultural tenancies is hard to predict. In order to properly manage this change, provide political oversight, and respond swiftly to emerging national policy, the Panel felt that the establishment of a cross-party Asset Management Board was a sound recommendation. Managing and

navigating the current uncertainty should be an objective within the Board's Terms of Reference.

Social Value

Another recurring theme throughout the meetings relating to the council's agricultural portfolio was the importance of considering the social value of land when considering a disposal. There is an ongoing national debate about the best way of quantifying and evaluating social value, but current trends suggest these tend to translate to ascribing financial value to less tangible benefits, such as public access, education, and improvements in health and wellbeing.

The Panel believe that the recommended Asset Management Board should review and agree on the council's approach to determining social value, and include this in any future strategy. It is suggested by the panel that this forms one of the objectives of the Asset Management Board's Terms of Reference.

Disposals - Poynings & Plumpton

Having heard evidence from a broad range of experts and witnesses, the Panel issued an interim recommendation, which halted the sale of the land at Poynings and Plumpton Hill, accepting the risk to the HLF Stanmer Programme on the advice of council officers due to anticipated capital receipts estimates being potentially surpassed. In light of this decision, the Panel agreed that the capital receipt programme for the Stanmer HLF and Traditional Agricultural Buildings be reviewed and monitored to ensure variations are within the required funding support to both projects and that any changes are reported to Policy, Resources & Growth as necessary. It was also agreed that the circumstances under which land can be considered for release should be reviewed in general and the Panel recommends that this review be one of the objectives of the Asset Management Board's Terms of Reference. This review may also wish to be completed alongside a wider review of the agricultural strategy in the council's Asset Management Plan (AMP) and consider the definitions of agricultural core and non-core property.

3.2 Urban Portfolio

Having reviewed the performance of the council's Urban portfolio and heard evidence and recommendations from Cluttons, the Panel acknowledged and agreed with the strategic priority of rebalancing the portfolio to reduce its latent risks and the proposed asset investment strategy. The detail of how this rebalancing is managed, including consideration of thresholds within the Scheme of Delegation, could be a matter for the recommended Asset Management Board to consider, and included as an objective within their Terms of Reference.

The Panel supported Clutton's recommendation regarding the asset investment strategy that the urban portfolio be diversified so that it is less reliant on retail property and instead invests more in commercial office space and small industrial

units. There is significant demand for more office space within the city and investing in property of this type would support the council's priority of encouraging inward investment and supporting local businesses. The management and timescale for this diversification is important if the council is to take advantage of the current market buoyancy. Therefore it is a recommendation of the Panel that the asset investment strategy and approach of diversifying the council's urban portfolio are an objective within the proposed Asset Management Board's Terms of Reference.

4. Panel's Recommendations

4.1 Based on the conclusions of the panel, the following recommendations have been made:

- A. Remove Poynings and Plumpton Hill from the list of non-core assets identified to match-fund the Heritage Lottery Fund bid, and closely monitor the sale of remaining agricultural non-core assets for both Stanmer projects to ensure that required funds are achieved
- B. Establish a cross-party Asset Management Board to review, monitor and provide political oversight of the strategy, policy and governance relating to the management of the council's urban and rural estates
- C. Include the following objectives in The Asset Management Board's Terms of Reference:
 - i. Manage and navigate the current uncertainty associated with Brexit
 - ii. Agree an approach to define and measure social value in relation to the council's rural and urban estates
 - iii. Review the circumstances under which agricultural land can be identified for release, alongside a wider review of the agricultural strategy in the council's Asset Management Plan (AMP) and consider the definitions of agricultural core and non-core property.
 - iv. Review the existing thresholds of the Scheme of Delegations that determine when the sale of property and land should be referred to committee.
 - v. Agree an approach and asset investment strategy for rebalancing the council's urban portfolio to reduce its latent risks and consolidate its current high performance, which will include considering options of diversification, redevelopment and economic growth.