POLICY, RESOURCES & GROWTH COMMITTEE	Agenda Item 111 Brighton & Hove City Council

Subject:		**Land at Plumpton Hill and Poynings**	
Date of Meeting:		**19 January 2017**	
Report of:		**Executive Director for Economy, Environment & Culture**	
Contact Officer:	**Name:**	**Angela Dymott**	**Tel: 291450**
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Ward(s) affected:		**None**	

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1 A joint amendment was presented to December 2016 Policy, Resources & Growth (PRG) Committee by the green and conservative groups requesting that an urgent report be brought to January 2017 PRG detailing alternative options in relation to the approved proposed disposals that include these 2 pieces of land referred to in Policy & Resources Committee February 2016 and that options take account of any impact affecting the Stanmer Park Heritage Lottery Fund (HLF) bid. This report is complemented by a separate report in part two of the Agenda.

2. RECOMMENDATIONS:

2.1 That Committee notes the further requested information, analysis and consequences regarding these two pieces of land and recommends that it continues with the sale of these sites to support the council's successful Stanmer HLF bid.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 The Council recognises the great importance of the City Downland Estate and its contribution to the protection of the chalk aquifer and Downland landscape, biodiversity, heritage and these environmental aspects are balanced against social and income generation aspects for the council and City. 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 and is focussed on four main areas. The overarching aim and vision is to reconnect the people of Brighton & Hove to a more biodiverse Downland with better education, improved access and a better sense of connection to the land. The four areas are defined as 1) sustainable agriculture; 2) public access and open countryside; 3) wildlife and landscape and 4) education and interpretation.

Much has been achieved over the years under each of these four areas with a particular emphasis on increasing access to the Downland Estate.

3.2 The City Downland Estate fulfils both commercial and non-commercial objectives. It will also require and continue to require capital investment if the key policy areas of the City Downland Estate Policy are to be fulfilled and the council is to meet its liabilities and responsibilities as landowner. In a time of austerity the council's ability to access capital is clearly challenging.

3.3 The council's Corporate Property Strategy & Asset Management Plan 2014-2018 agreed at December Policy & Resources Committee 2014 (published on our website) sets out how the agricultural portfolio is managed in compliance with the City Downland Estate Policy. The portfolio contains a mix of land and property asset types, many of which do not directly contribute financially or environmentally to the City Downland Estate Policy. Raising capital for investment in the Downland Estate has always been a key objective and in the absence of capital being provided from centrally held resources we have looked to the portfolio itself as a means of raising the necessary capital and specifically to those assets that are not required by the council to fulfil the City Downland Estate Policy and the council's other wider policy objectives.

3.4 As a result raising capital from the disposal of assets has always been a key objective whilst also seeking to mitigate the sensitivities associated with the appropriate selection of assets being considered for disposal. The rebalancing of the City Downland Portfolio has been paramount and the disposal of carefully selected underperforming non -core assets has been identified as an opportunity to improve income returns and release capital for reinvestment in strategically important areas of the Estate closer to the City where the value of investment has the potential to benefit the greatest number of people.

3.5 Careful scrutiny of the assets held within the portfolio under the principles of the agricultural asset strategy and asset management policy is undertaken annually in order to determine their importance to the delivery of the City Downland Estate policy and their performance in terms of financial, social and environmental contribution. Assets that fail to meet and deliver on these criteria have been categorised as non-core assets, ie they are not essential to the successful delivery of the City Downland Estate policy and as a consequence and in the right circumstances could be sold in order to generate capital for investment in the retained (core) Downland Estate. For the sake of completeness core assets are essentially the opposite of non-core assets and are vital to the delivery of the City Downland Estate Policy. In addition core assets are identified as financially strong performing assets, and/or provide social and environmental benefits to the City, are of cultural importance to the integrity and historic make-up of the Estate and of strategic importance to the City Downland.

3.6 The council approved the disposal of some identified non-core agricultural assets at Committee meetings in July 2014, February and July 2016 to support the re-investment into the Downland Estate focusing on Stanmer Park in support of the agreed HLF bid and the future sustainability of the Park and surrounding Downland Estate.

3.7 Individual assets identified as non –core first approved for disposal at July Policy & Resources 2014 Committee in support of the Stanmer HLF bid were land at Devils Dyke, Park Wall cottages, Land at Plumpton Hill , Land at Poynings and a further 2 cottages. Land at Devils Dyke, land at Plumpton Hill, land at Poynings and Park Wall Cottages have been marketed and of these sites only land at Devils Dyke has been sold. The land at Plumpton Hill and Poynings are both currently under offer, and Park Wall cottages has a preferred bidder identified who is party to an exclusivity agreement. The farm tenant is engaging with the sub -tenants of the two cottages identified for disposal who occupy under assured shorthold tenancies.

3.8 The land at part of Devils Dyke Farm was sold in 2014 for £25,000. The field extends to circa 6 acres of permanent pasture and contained a private reservoir supplying water to Devils Dyke Farm which included a farmhouse, two cottages and agricultural buildings. The reservoir was in need of repair and an annual maintenance regime to ensure water quality was maintained. Liability for the work and the quality of the water to Devils Dyke Farm rested with the council. The current owners of Devils Dyke Farm were the tenants of the land and successful purchasers. The land continues to be farmed in the same way as when the council owned the property. In advance of the sale the council agreed a missing bridleway along the verge and satisfied the specific aims for improved public access at this property. No further public access or land management opportunities were possible at the property due to the secure agricultural tenancy, there are no statutory designations (other than the SDNP designation) on this land and it does not form part of the public open space and heritage site referred to recently in the press by campaigners.

3.9 The two parcels of off lying land at Plumpton Hill and Poynings under offer form 92 acres of the 112 acres of land identified for disposal. See map at Appendix 1.

- **Land at Plumpton Hill.** (67 acres)This is permanent pasture let to Plumpton College under a secure Company Agricultural Tenancy which will run in perpetuity. As a result of the council's actions and in the fulfilment of the City Downland Policy the land is subject to statutory open access designation under the Countryside & Rights of Way Act 2000 (CRoW Act). This voluntary designation was successfully agreed by the council with Plumpton College. The land has been managed by Plumpton College since the tenancy was granted in 1953 and is subject to Site of Special Scientific Interest (SSSI) status due to its Lowland Calcareous Grassland Habitat. The land forms part of a much larger SSSI and is managed and protected by Natural England who has recorded its condition as "unfavourable recovering" status. Progress on the continuing recovery of the condition status is monitored by Natural England. It also has a scheduled ancient monument archaeological designation managed and protected by Historic England. The land will continue to be farmed by the college post sale and public access is fixed in perpetuity in accordance with the statutory designation. The proposed sale is to a local resident and the land will continue to be farmed by the college in accordance with their tenancy agreement post sale. Our agents are currently discussing the inclusion of a covenant restricting use subject to agricultural and grazing use only. Public access is fixed in perpetuity in accordance with the statutory designation. The council's continued ownership will not facilitate increased open access and the statutory designations will be managed and protected by Natural England and Historic England respectively and in accordance with their statutory responsibilities.

- **Land at Poynings.** The land extends to 25 acres and is off lying from the Downland Estate and has been in continuous arable rotation for a considerable time. The council has not commissioned any form of formal archaeological survey as the site has no statutory designations and Savills the council's agents are not aware of any fossils, ammonites, nautiloids, crustaceans, gastropods and bivalve molluscs recently referred to by campaigners in the press and suspect this is unlikely given its current arable cropping regime. The site is not in a SSSI and is not recognised to have significant ecological or archaeological features. Due to its farming use the agricultural tenant will not permit public access. The land is under offer to the son of the existing tenant farmer and he does not intend on changing the way the land is farmed. The marketing details contain an overage requirement that should planning permission be granted on the land for any other use than agriculture, equestrian or garden use the council will retain the right to receive 50% of the resulting uplift in value for a period of 50 years when planning permission is granted.

3.10 The successful HLF Parks for People grant of £3.78m has an approved council match funding requirement of £1.42m; the £0.627m remainder of match funding is from other partners. Committee agreed that 50% of the capital receipts realised from the disposal of these identified agricultural non-core assets would be split with 50% supporting the council's capital investment strategy and 50% supporting the Stanmer HLF bid.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 £1.250m is 50% of the anticipated amount of capital receipts that is anticipated from the approved disposals identified at 3.6 for the Stanmer HLF match funding requirement. To date the council has raised £0.025m in support of the Stanmer HLF bid, with 50% of this ie £0.013m earmarked for the match funding.

4.2 The majority of the anticipated capital receipt is at risk due to it being raised from the sale of Park Wall cottages redevelopment site on which we have a conditional offer subject to planning. The preferred bidder is currently in commercially sensitive negotiations and an exclusivity agreement liaising with the planners and assessing the risks. If the preferred bidder decides to go ahead there will be a transfer conditional on planning consent being granted which could take over a year to achieve. Failure to achieve the desired planning consent could result in the sale falling through or the proposed premium being reduced significantly.

4.3 The land at Plumpton Hill and Poynings are under offer and with 50% to be set aside for the Stanmer HLF match funding provides approx. £0.180m capital receipt.

4.4 Option 1 – Identify an alternative non-core agricultural residential asset for sale. The shortfall could be replaced by identifying a further non-core agricultural asset for sale. Our agents Savills have suggested identified urban areas of land used as paddocks and other areas of land on the urban fringe that are unlikely to come forward for development which could be sold subject to covenants or overage. These sites are not used as farmland but are small amenity sites of approximately 2-3 acres. Such sites, which would carry less risk, would be subject to a slight rental loss that would need to be compensated in budget terms.

4.5 Option 2 – Agree a revised percentage split of the capital receipt currently at 50% of the net proceeds for these two assets. The percentage of proceeds directed towards the Capital Investment Strategy could be altered to accommodate the shortfall. Contributions toward the Capital Investment Strategy supports both the Integrated Service & Financial Plans plus future corporate capital funds such as the Asset Management Fund, Strategic Investment Fund and the ICT Fund. There is a risk that any reduction in contributions would create and pass on the shortfall to the Capital Investment Programme and further assets would still need to be identified to make up the shortfall in capital receipts.

4.6 Option 3 – If an overachievement of a capital receipt is received potentially through the disposal of Park Wall cottages this could be used to offset the short fall. This strategy carries high risk as the disposal is dependent on successful commercially sensitive negotiations subject to achieving planning consent for the proposed development of the site being obtained, which could be in approximately 12 months time. If the short fall was not achieved the fall back position of disposing of these two land sites would then have to be implemented by which time land prices may have changed. This may present a financial risk to the capital investment programme that will require the use of alternative capital resources.

4.7 Option 4 – Progress with the sale of Poynings only. The reasons for a private individual wanting to purchase the Plumpton site have been challenged in terms of the rationale of a purchaser wanting to invest in buying the land if there is little that they can do with it due to its agricultural tenancy. The prospective purchasers live locally and wish to purchase the land for personal reasons to protect and control their view and their use of the land for riding and dog walking. Plumpton college were initially approached to see if they were interested in purchasing the land prior to it going on the market in March 2016.At this point in time they were not interested in a purchase. When the site was marketed some months later Plumpton College did put in a bid but it was not the highest bid received. If Plumpton College surrendered their tenancy in the future the land would be protected from inappropriate development through current SDNPA planning policy that prevents development of greenfield sites and the land itself is very steep and may not be developable. The council is looking to negotiate a restrictive covenant on its use. The land also has its designated protections through its SSSI status and statutory access under the CRoW Act that remains in perpetuity. It can be seen that the site has full protection through its designations and there is little to be gained by not selling the site for a capital receipt. If we were to proceed with sale of Poynings only and the Plumpton site was not sold we would still have to identify an alternative site with a comparable capital receipt to ensure the Stanmer Park HLF match funding and would probably have to identify a piece of non-core amenity land as discussed previously under option 1.

4.8 Option 5 - Progress with the sales. The assets identified have been approved for disposal, meet the current policy by virtue of their off lying location and poor performance and represent best consideration reasonably achieved. Isolated land units cannot by definition further contribute to improving access and connectivity to the City particularly when this objective has already been maximised. For the same reason social aims are difficult to achieve and the environmental status of the land does not necessitate council ownership as there are statutory bodies charged with these designated statutory responsibilities. In terms of the financial assessment the identified assets are considered to have poor performance when judged by income return on capital. Current performance indicates that these assets yield an income return of approximately 1% or less. The assessment of assets and the decision over which assets to dispose of needs also to consider how to maximise capital from disposal of the fewest number of assets. There is little rationale therefore to justify the retention of these assets and they will contribute to the agreed and required match funding for the Stanmer HLF grant and the councils Capital Investment Programme and Medium Term Financial Strategy to support service delivery and the modernisation agenda.

4.9 Risks: It can be seen that the consequences of halting the sale of these two pieces of land carries a number of risks the main one being to the match funding of the successful Stanmer HLF grant both in terms of timing of capital and source. There will be a funding gap that could impact on the conditions of the grant and will need to be made up by identifying and obtaining alternative capital receipts speedily. There are risks to the council's Capital Investment Strategy and Integrated Service & Financial Plans and again further capital receipts will need to be identified. Relying on the potential of overachievement of capital receipts currently under offer carries high risk as it is subject to planning and conditions that are currently under commercially sensitive negotiations, with a fall back position of providing the shortfall of the capital receipt through the identification of alternative sites and carrying the risks highlighted above. There are also the reputational risks and possible abortive fees involved in the sales that are currently under offer.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Engagement has been carried out with stakeholders including famers, farm tenants, conservation bodies, the National Trust, South Downs National Park, and individual campaigners to include Chris Todd, and Dave Bangs by telephone with a further opportunity for a meeting being refused.

6. CONCLUSION

6.1 The alternatives have been looked at through the above options and their respective benefits and dis-benefits. It can be seen that option 5 - progress with the sales of the sites - offers protection to the sites through the relevant statutory designations, agricultural tenancies, proposed restrictive covenants and overage negotiations and provides the necessary capital receipts to support the Stanmer HLF match funding and the council's Capital Investment Strategy. Other options will require alternative capital receipts and funding for the Stanmer HLF and the council's investment strategy or carry high risks of being potentially undeliverable in time for the match funding subject to planning consent.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

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7.1 The Stanmer Park Programme estimated at £5.833m of capital investment is being funded from a combination of resources including Heritage Lottery Funding of £3.786m, contributions from partners, volunteer time and new revenue of £0.627m of plus council match funding of £1.420m of which £1.250m will come from the net proceeds from capital receipts. The proposed disposal of both the land at Plumpton Hill and the land at Poynings will contribute toward the council's match funding target. In the event that this match funding is not realised then additional capital resources will need to be identified. Approval was sought from Policy & Resources Committee to dispose of these assets in 2014 and revised in July & October 2016 along with a number of other assets. 50% of the net disposals contribute toward the Stanmer Park Programme and the remaining 50% will meet future corporate capital investment priorities including supporting investment into the Integrated Service & Financial Plans plus corporate funds such as the Asset Management Plan, Strategic Investment Fund and future ICT Fund investment. This has been factored into the Council's 10-year Capital Investment Strategy. It was estimated that these two parcels of land will generate a total of circa £0.360m towards the council targets of which £0180m will support the Stanmer Park Programme. Any reduction in this sum will require further capital resources to be identified not just for the Stanmer Park Programme but also for the 50% element toward the capital corporate funds.

7.2 Alternative funding options to meet the shortfall for the Stanmer Park Programme have been identified above in paragraphs 4.4 to 4.6 and include identifying alterative non-core agricultural residential asset for sale, increasing the percentage contribution of the remaining assets from 50% or earmarking any extra receipts generated from the disposal of assets already identified. These options are dependent upon the market conditions associated with the disposal of assets and as such may fluctuate. No alternative funding options have been identified to meet the reduction in the contribution toward the corporate capital investment. In the event that no further capital receipts are generated the cost of substituting £0.360m through borrowing would equate to a revenue cost to the council of circa £0.030m pa over 20 years and would need to be met from additional savings or budget reductions.

7.3 The rental income from these two pieces of land is poor and the return on capital is between 0.83% to 1.15% for both. The loss of this rent has been factored into the disposal costs set aside for this project and will not affect current revenue budgets.

Finance Officer Consulted: Rob Allen *Date: 20/12/16*

Legal Implications:

7.4 With reference to the recommendation that these two pieces of land be disposed of; the Council has general powers to dispose of land under section 123 of the Local Government Act 1972 and provided it does so for the best price reasonably obtainable then no special consents are needed. The Land at Plumpton will be sold subject to the Agricultural Holdings Act tenancy with Plumpton College dated 5th January 1953 and as noted in paragraph 3.9 of this report, there are current discussions underway to include a covenant in the freehold transfer restricting use to agricultural and grazing use only. With regards to the Land at Poynings, the land will be sold subject to an overage requirement, thus ensuring that the Council will be able to benefit from any uplift in value for a period of 50 years if there is a proposed change of use from agriculture, equestrian or garden use.

Lawyer Consulted: Joanne Dougnaglo *Date: 03/01/17*

Equalities Implications:

7.5 The report has been explicit about the open public access obtained through negotiations that is protected in perpetuity under the CRoW Act 2000.

Sustainability Implications:

7.6 Environmental and access benefits are protected through the relevant statutory designations and Acts through the relevant statutory bodies under their responsibilities and further protection is offered under the South Downs National Park status.

Corporate and Citywide objectives / Implications:

7.7 The sales will support the successful Stanmer HLF grant match-funding Requirement, the council’s Capital Investment Programme in the Medium Term Financial Strategy, the Integrated Service and Financial Plans and the corporate objectives under the council’s City Downland Estate Policy.

SUPPORTING DOCUMENTATION

Appendices:

1. Map of Land at Plumpton and Poynings.