

Brighton & Hove City Council

Cabinet

Agenda Item 16

Subject: Commercial and Residential (non HRA) Property Disposals

Date of meeting: Thursday 27 June 2024

Report of: Cabinet Member for Finance and City Regeneration

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Ward(s) affected: Kemptown; Regency; West Hill & North Laine;

Key Decision: Yes

Reason(s) Key: Expenditure which is, or the making of savings which are, significant having regard to the expenditure of the City Council's budget, namely above £1,000,000.

For general release

1. Purpose of the report and policy context

- 1.1 The Commercial Investment and Operational Property Portfolios are subject to continuous review to ensure that they are meeting the council's objectives. Three properties have been identified for potential disposal to mitigate the cost of retention to the council and achieve capital receipts to support the council's investment programme.
- 1.2 The recommendations directly support Outcome 1 of the Council Plan, that is A city to be proud of, by attracting funding to invest in and regenerate our city to grow a diverse and sustainable city economy. In addition, the income and/or capital receipts and cost savings the recommendations will deliver support Outcome 4 of the Council Plan, that is A responsive council with well-run services, by supporting good governance and financial resilience through achieving best management possible of available council resources by seeking value for money and best use of our assets.

2. Recommendations

- 2.1 Cabinet agrees in principle to the disposal of 8-11 Pavilion Buildings by way of a leasehold interest of up to 150 years and delegates authority to the Corporate Director City Services in consultation with the Assistant Director Legal and Democratic Services and the Cabinet Member for Finance & City Regeneration to negotiate the terms for the disposal and take all necessary steps to complete the transaction.
- 2.2 Cabinet agrees to the disposal of the freehold of Montague Place and to granting an option to buy the freehold of 23-24 Montague Place on the terms set out in this report.

- 2.3 Cabinet agrees to the disposal of Flat 4 Arcade Buildings by way of a long leasehold of 125 years on the terms as set out in this report.
- 2.4 Cabinet delegates authority to the Corporate Director City Services in consultation with the Assistant Director Legal and Democratic Services and the relevant Cabinet Member, to finalise the terms and take any necessary steps to facilitate recommendations 2.2 and 2.3.

3. Context and background information

- 3.1 Two reports were presented to Strategy, Finance & City Regeneration Committee on 7 December 2023 which set out a strategy for the rebalance of the Commercial Property portfolio to reduce risk and cost liability for the council, whilst also achieving capital receipts to support the council's investment programme. The reports identified tertiary higher risk commercial assets as well as surplus residential (non HRA) properties for disposal to rebalance the portfolio.
 - 3.2 The reports also recommended the provision of an annual Commercial Asset Investment Fund as part of the council's Capital Strategy to allow investment into the Commercial and Agricultural portfolios to support the delivery of council objectives including income generation.
 - 3.3 The review of the council's commercial property portfolio is a continuous process as circumstances change on both a macro and micro level providing challenges as well as opportunities. Whilst the preferred option is generally to retain properties, there are circumstances where this is not recommended and disposal is advised.
- 8-11 Pavilion Buildings
- 3.4. This property (see plan attached as Appendix 1) was previously occupied by Natwest Bank until September 2023, at which point the lease expired and the bank vacated, returning the property to the council. The building is Grade II listed and within Valley Gardens Conservation Area, occupying 5 floors and a total of 11,000 sq ft. Natwest previously paid a rent of £100,000pa for the whole building and occupied the basement ground and first floors only. Parts of the second floor was sublet and the third floor had been mothballed for many years.
 - 3.5 There is no market demand for the use of the building as a high street bank and its future occupation will require a change of use. The heritage value of the site, its internal configuration and historic construction add significantly to the cost and risk of any refurbishment.
 - 3.6 The property has been marketed by our agents Avison Young and given the complexity of the building they have been undertaking discussions with various parties interested in the property. The interest shown to date can be categorised in two ways:

- For a commercial lease for up to 20 or 25 years for a combination of the basement, ground and first floors only. The benefit of granting a commercial lease is that the council would retain the property and receive a rental income (subject to incentives and rent free periods). However, the main disadvantage is that this would sterilise occupation of the second and third floors and the council would retain responsibility for the management and maintenance of the second and third floors including all associated costs. This would reduce the net income from the property.
- For a long lease of up to 150 years, to facilitate significant investment into the building to refurbish and change the use of the building. This would allow the occupation of the whole building and will result in a capital receipt. A long leasehold will also allow the council to retain a degree of control over the future use of the building.

3.8 At this stage it is not yet known whether a shorter commercial lease or long lease is recommended. In order to invite offers from all the interested parties, which will be analysed and evaluated to secure the best outcome for the council, it is recommended that Cabinet agree in principle to the disposal of the property by way of a long lease. This will enable discussions to continue with the interested parties and offers invited with confidence. Officers will seek the best outcome for the council and for the heritage asset.

Montague Place

- 3.9 The council's ownership is illustrated on the plan attached as Appendix 2. The ownership is as follows:
- (1) The subject property. The building was previously occupied as a Pupil Referral Unit (PRU), though it's original use was as a weights and measures office. The building has been vacant since 2013. Part of the land is let to the neighbouring vehicle repair garage and used as car parking.
 - (2). 23 Montague Place and the forecourt of 24 Montague Place. Council owned land leased as part of a vehicle repair garage. Leased by way of two 10 commercial leases expiring 2029, both with security of tenure.
 - (3). 24 Montague Place. Land the freehold of which is owned by the tenant of (2) and occupied as a vehicle repair garage.
 - (4). Remaining council owned land and buildings. Leased to various tenants, one building occupying approximately half of the site is Grade II listed.
- 3.10 The council has for many years, in consultation with the owners of the neighbouring vehicle repair garage, pursued development of the wider site encompassing the subject property (1), the council owned land leased as a vehicle repair garage (2) and the land owned by the vehicle repair garage (3). The remaining council owned land (4) was not considered part of the

wider development site as the main building occupying almost half the footprint is listed.

- 3.11 The complexity of the land interests has thwarted progress, not least because the owners of the vehicle repair garage require their business to be relocated or accommodated as part of the development. More recently they considered relocating to the Grade II listed building (also occupied as a vehicle repair workshop) however that transaction did not proceed.
- 3.12 Given the lack of meaningful progress and the costs of retaining the vacant building it is recommended that the subject property (1) be sold by way of freehold for development for residential development and an option to buy the freehold of 23 Montague Place and the forecourt of 24 Montague Place (2) also be offered for a period of 5 years, such freehold disposal to be at market value. This would allow a purchaser to work with garage owners, should they choose to, to deliver a larger development on the wider site.
- 3.13 Housing and the Estates Regeneration Team have been consulted on this site but do not consider it viable for development of affordable housing as the site is constrained and there is concern that amenity would be impacted by the adjacent businesses. There is also concern that the potential conversion of the building would not achieve required quality standards.
- 3.14 In 2021 the council commissioned a detailed planning appraisal of various schemes proposed for the site. The appraisal included an assessment of value at that time. We have not re-commissioned a development appraisal of the site. We would consider offers both conditional and unconditional upon planning to secure the highest capital receipt for the council.

Flat 4 Arcade Buildings

- 3.15 The council owns the buildings to the south of Imperial Arcade which includes the retail units occupied by O2, Santander, Caffè Nero, EE and Three, identified on the plan attached as Appendix 3. Above the retail units are eight residential flats, six of which have been sold on long leases expiring in 2114 (90 years unexpired), one is let on a secure tenancy and one (Flat 4) is now vacant. It is proposed that Flat 4 is sold on a long residential lease for a term of 125 years.
- 3.16 A number of defects have been identified within the property and as a consequence the value of the property reduced to reflect its condition. Housing have reviewed the property and do not wish to acquire it, because of the level of investment required to refurbish, complications of ensuring ongoing compliance as a single unit and concern regarding the resource required to acquire, improve and maintain the property, given it is a single isolated unit.

4. Analysis and consideration of alternative options

8-11 Pavilion Buildings

- 4.1 In response to the current marketing interest has been shown in both a commercial lease of the basement, ground and first floors and a long lease

of the whole building. Discussions are ongoing with interested parties and all will be invited to submit offers which will be evaluated, analysed and considered in detail before identifying the preferred offer to take forward.

Montague Place

- 4.2 This site has long been considered for development as part of a wider site in collaboration with the neighbouring vehicle repair garage. However little meaningful progress has been made and it is recognised that the objectives of the two land owners are not completely aligned.
- 4.3 Redevelopment of the site in isolation has been reviewed by Housing and the Estates Regeneration Team but is not considered viable for 100% affordable housing.
- 4.4 Refurbishment has also been considered, with the intention of providing lower cost office accommodation to support community and third sector organisations. However the take up of newly refurbished office space on Western Road, targeted to community and third sector organisations has been very slow and this is now considered a high risk strategy with uncertainty of securing a tenant or tenants following investment and refurbishment.
- 4.5 Ongoing retention of the property is costing the council in terms of security costs, maintenance and compliance. Longer term retention is not considered appropriate use of council resources.

Flat 4 Arcade Buildings

- 4.6 Housing have considered acquisition of the property but have confirmed it does not meet their requirements.

5. Community engagement and consultation

- 5.1 Previous consultation has been carried out with the adjacent land owner and tenant of the vehicle repair workshop in relation to the development of land at Montague Place though not in relation to the proposed disposal.
- 5.2 Consultation has been undertaken with the Housing and Estates Regeneration Teams to investigate whether these properties provide viable opportunities for refurbishment or redevelopment to create affordable housing.

6. Financial implications

- 6.1 The net receipt of the commercial properties 8-11 Pavilion Buildings and Montague Place, less any disposal costs and reimbursement of loss of rent, will be used to support the Commercial Asset Investment Fund which is incorporated into the Council's Capital Investment Programme.
- 6.2 The net receipt from the residential property, less any disposal costs, will support the capital strategy in delivering the corporate capital funds including Asset Management Fund, IT&D Fund and the Strategic Investment Fund.

- 6.3 The disposal of these assets will help minimise ongoing revenue costs such as security, maintenance and utilities incurred in holding the vacant buildings.

Name of finance officer consulted: Rob Allen Date consulted: 16/05/24

7. Legal implications

- 7.1 With reference to recommendations 2.1, 2.2 and 2.3 of this report, 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. In exercising the delegated authority to dispose of the properties set out in this report, the Corporate Director City Services will need to be satisfied that the requirements of section 123 of the Local Government 1972 are met.

Name of lawyer consulted: Hannah Bassett Date consulted: 16/05/24

8. Equalities implications

- 8.1 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 the disposals are marketed openly through local agents to ensure transparency and equity.

9. Sustainability implications

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

10. Health and Wellbeing Implications:

- 10.1 The disposal of the properties listed in this report will allow them to be refurbished or redeveloped and put back into occupation as housing or commercial space supporting employment, therefore contributing in a small way to the wider factors influencing health and well being.

11. Conclusion

- 11.1 Interest has been shown in 8-11 Pavilion Buildings for both a commercial lease of up to 25 years to occupy part of the building or for a long lease of the whole building. The council's agents are inviting offers from the interested parties and will review the proposals submitted in advance of making a recommendation. In order to invite offers in confidence it is recommended that Cabinet authorises in principle the disposal of the property by way of a long lease.
- 11.2 Montague Place was previously occupied as an operational building but has long been identified as surplus and considered for redevelopment as part of

a larger site, working in partnership with the adjacent land owner and tenant of council owned land and building. However this proposal has not proceeded it is recommended instead that the property be sold for development, refurbishment or occupation. It is also recommended that an option to buy the freehold at market value be offered for the adjacent council owned tenanted property to allow development of the wider site should a purchaser have greater success in negotiating a way forward with the adjacent land owner and tenant.

- 11.3 Flat 4 Arcade Buildings was previously occupied under a secure tenancy, however the property is now vacant. It is recommended that the property be sold by way of a long residential lease. Six of the eight flats at Arcade Buildings are already sold on long leases.

Supporting Documentation

1. Appendices

1. Plan of 8-11 Pavilion Buildings
2. Plan of Montague Place
3. Plan of Arcade Buildings

