

Brighton & Hove City Council

Agenda Item 85

Cabinet

Subject: 3 Moulsecoomb Way, Brighton

Date of meeting: 17 October 2024

Report of: Cabinet Member for Finance and City Regeneration

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Ward(s) affected: Moulsecoomb & Bevendean

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 council owns a Commercial Property Investment Portfolio located across the city. The subject property at 3 Moulsecoomb Way, Brighton ("the site") forms part of this generating a small income stream from two leases both with approximately 30 years remaining.
- 1.2 This report recommends entering into a conditional agreement for the surrender of the two existing leases (the "existing leases") and the grant of a new long lease of the whole of the site to facilitate its redevelopment. The initial design includes replacing the existing industrial buildings with a mixed-use development featuring modern industrial space on the ground floor and student housing above. The transaction will proceed only if a satisfactory scheme is subsequently approved by the local planning authority.
- 1.3 This report directly supports Outcome 4 of the Council Plan, that is a responsive council with well-run services. The recommendation supports good governance and financial resilience though achieving the best management possible of available council resources by seeking value for money.

2. Recommendations

- 2.1 Cabinet agrees to enter into a conditional agreement in respect of 3 Moulsecoomb Way, Brighton, for the surrender of the existing leases and the grant of a new lease for a term of up to 200 years and on the terms as set out in this Part 1 report.

2.2 Cabinet agrees to delegate authority to the Corporate Director of City Services in consultation with the Assistant Director of Legal and Democratic Services and the relevant Cabinet Member to finalise the terms then take the necessary steps to complete the transactions.

3. Context and background information

3.1 The site known as 3 Moulsecoomb Way comprises approximately 25,000 sq ft of industrial space, likely built in the 1960s. The main three-storey building, accessible from Moulsecoomb Way, features significant office and light industrial space over ground, first and second floors. At the rear, there are smaller single-story storage units with a forecourt facing onto Westergate Road.

3.2 The current buildings are outdated, do not meet modern standards, and are nearing the end of their economic lifespan. The lack of substantive investment has contributed to their decline and deterioration.

3.3 The council owns the freehold interest of the site which is subject to two long leasehold interests originally granted in December 2005 for 50 years, leaving approximately 30 years remaining. These leases are owned by a private company, who subsequently sub-let the space to individuals and private businesses as part of their investment portfolio albeit the site is largely derelict at the time of reporting.

3.4 A third party, a property developer has approached the council to discuss their intention to acquire these existing leases and become the council tenant. They are seeking to conditionally surrender the existing leases and the grant of a new lease for a term of up to 200 years to facilitate the site's redevelopment.

3.5 The developer has already secured a separate agreement with the council's tenant to acquire their interest. The surrender of the existing leases and grant of the new lease will be subject to that assignment having taken place.

3.6 The intention is to replace the current buildings with modern industrial units on the ground floor and with student accommodation above. To proceed, the proposed developer requires the council's agreement to grant a new lease for a term of up to 200 years, which is necessary for securing and managing the funding for construction to proceed.

3.7 The possible benefits to the council of enabling redevelopment, include;

- It would provide modern commercial units that meet current market demands, replacing the existing buildings that are substantively vacant. This modernisation would occur without the need for capital investment from the council.
- There is potential to alleviate pressure on the number of licensed local Houses of Multiple Occupation (HMOs) in the Bevendean and Moulsecoomb occupied by students, potentially freeing up these properties for family housing.

- The developer is in discussions with Sussex and Brighton universities and have identified strong demand for additional student housing, particularly given the site's advantageous proximity to university campuses.
 - The proposal includes discounted student spaces for disadvantaged, local, or underrepresented students. This allocation would be maintained in perpetuity, not limited to a single academic year.
 - There is a commitment to offering a significant portion of the commercial space at below-market rates, allowing local businesses to reoccupy the site and remain in the area rather than relocating further from the city center.
 - The council would receive a Capital Receipt contributing to the council's corporate capital strategy and supporting the sustainable management of its property assets.
 - A portion of the Capital Receipt would be allocated specifically to further support the local housing community through the Housing Revenue Account (HRA) buyback programme.
- 3.8 Initial discussions with the developer suggest that there is potential for a successful redevelopment, though planning risks such as the site's Employment Zone designation, access, transportation, and use class restrictions must be addressed.
- 3.9 Council officers are close to concluding negotiations with the developer. Whilst not finalised, the transaction will be in line with the terms as set out in this Part 1 report and the Part 2 report.
- 3.10 If an agreement is reached with the developer an agreement for surrender of the existing leases and the grant of a new lease will be entered into by conditional on planning and on the terms set out in the Part 2 report. The developer would subsequently seek planning permission, a process expected to take 12-18 months, after which the surrender of the existing leases and the and grant of the new lease would be completed.

4. Analysis and consideration of alternative options

- 4.1 The following options were considered during the course of discussions.
- Retain Existing Leases (Not Engage)
- 4.2 The council is under no obligation to engage with the developer. The existing leaseholders will retain control of the site for another 30 years, during which time the council will continue to receive a small income as part of its investment portfolio.
- 4.3 The terms of the existing leases also restrict the council from freely redeveloping the site, requiring a commercial settlement for the surrender of the leases. The sum required for such a settlement would be substantial, making redevelopment unviable from a financial standpoint.

- 4.4 Upon the expiry of the leases, the existing buildings will almost certainly require significant investment. At that point, the council would need to explore future development options once it regains full control of the site.

Affordable Housing

- 4.5 The introduction of affordable housing within the developer's scheme was considered with the support of and in consultation with Hyde Housing, the council's joint venture partner.
- 4.6 It was identified that planning restrictions on the site as an Employment Zone prohibit its use solely for housing. Therefore, any proposed scheme must retain or enhance the existing employment space, adding complexity to the design and increasing build costs.
- 4.7 A viability assessment was commissioned to determine whether the value affordable housing could support the wider redevelopment of the site, however the receipts weren't sufficient for a scheme to be taken forward by the joint venture.
- 4.8 Investigations went further to address whether it was possible to incorporate a mix of affordable housing and student housing (which has a higher land value) albeit this also fell below the threshold for financial feasibility.
- 4.9 In summary the council faces the option whether to engage in discussions for a student-led scheme, which has the financial viability to cover wider redevelopment costs with the resultant capital receipt for the grant of the new lease, or to retain the existing leases for the purpose generating an income stream.

5. Community engagement and consultation

- 5.1 In reaching these conclusions, the council consulted Hyde Housing about the potential of using a joint venture vehicle for the development, supported by development appraisals and sensitivity analyses from property professionals with suitable experience and knowledge in the field.

6. Financial implications

- 6.1 This agreement to extend the existing leases and permit the redevelopment of the site will yield a net capital receipt, which will support the council's corporate capital investment strategy. Any costs associated with the transaction will be netted off from the final receipt.

Name of finance officer consulted: John Lack Date consulted: 19/09/24

7. Legal implications

- 7.1 The Council has the power to dispose of land pursuant to section 123 of the Local Government Act 1972. In exercising the delegated authority to enter into the transactions proposed by this report the Corporate Director City Services will need to be satisfied that the requirements of section 123 are met. In entering into the transactions proposed by this report the Council may also rely on its general power of competence under 11 the Localism Act

2011. Section 1 of the Act lays down the basic principle that the Council has power to do anything that an individual generally may do, subject to the restrictions and limitations which are specified in the Act. The proposed transactions will be subject to the necessary legal due diligence to ensure compliance with all statutory requirements.

Name of lawyer consulted: Siobhan Fry Date consulted: 19/09/24

8. Equalities implications

- 8.1 The proposal is not expected to negatively impact any group regarding their protected characteristics, so no equalities implications have been identified.

9. Sustainability implications

- 9.1 Any development would be required to follow the latest construction methodologies and adhere to guidance from local planning authorities. If approved, the new commercial space is expected to significantly improve upon the sustainability credentials of the existing 1960s buildings.

10. Health and Wellbeing Implications:

- 10.1 The proposal is not expected to have any negative Health and Wellbeing implications to the community.

11. Conclusion

- 11.1 The proposal involves negotiations between the developer, the council (as freeholder), and the leaseholder with control over the site for the foreseeable future.
- 11.2 This offer presents an opportunity for the council to achieve a net capital receipt on a subject-to-planning basis, with the developer assuming the risks of agreeing terms, obtaining consents, and financing the project.
- 11.3 The provisional terms represent the best consideration, and it is recommended that the transaction be approved to potentially secure the net capital receipt.

Supporting Documentation

1. Appendices

1. Location Plan

