

<b>Subject:</b>	<b>Voluntary Dedication of Land under the CRoW Act</b>		
<b>Date of Meeting:</b>	<b>11 October 2012</b>		
<b>Report of:</b>	<b>Strategic Director Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jessica Hamilton</b>	<b>Tel: 291461</b>
	<b>Email:</b>	<b>Jessica.hamilton@brighton-hove.gov.uk</b>	
	<b>Name:</b>	<b>Angela Dymott</b>	
	<b>Email:</b>	<b>Angela.dymott@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>Patcham and Hollingdean &amp; Stanmer</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Council's Corporate Plan aims to create a more sustainable City and protect and enhance the City's natural environment promoting the City's Downland Estate to enable a healthier City, encourage adult participation in sport and active recreation and support ecotourism. The State of the Local Environment – Summary Report 2011, reported that according to future population estimates the city will need to increase the amount of open space by approximately 215 hectares by 2026 (to meet recommended standards). The current provision of natural & semi-natural green space is relatively good, however the majority of this space is located on the edges of the city. These areas play a key role in wildlife conservation & biodiversity within the city & also offer important recreational opportunities. By maintaining the current level of provision, a significant amount of additional natural & semi-natural green space would be required by 2026, to keep up with the projected increase in population. In addition the City Downland Estate Policy promotes expansion of the amount of access land adjacent to the urban areas of Brighton & Hove for citizens and visitors to enjoy and experience. The Council has considerably increased its amount of open access land over the years and this proposal continues with that achievement.
- 1.2 To help meet these objectives the council's managing agents for the City Downland Estate, Smiths Gore, have recently negotiated terms for 3 new Farm Business Tenancies to include permissive open access rights where previously there were none, thus increasing substantially the amount of open access land available on the council's City Downland Estate in urban fringe locations for the benefit of residents and visitors to the city. In order to ensure the access rights are protected it is proposed the land be dedicated as public access land under procedures set out in the Countryside and Rights of Way Act 2000 (The CRoW Act), which will ensure the land is retained as public access into perpetuity.
- 1.3 In addition there is a desire to dedicate land at Plumpton as public access land under the CRoW Act procedures as this land, leased to Plumpton College, is

adjacent to existing CRoW Act land and is currently accessed as if it were public access land.

- 1.4 Officers have delegated powers to undertake the management of land and the report is being brought for Committee approval due to the rights under the CRoW Act being dedicated in perpetuity.

## **2. RECOMMENDATIONS:**

- 2.1 That Committee authorises the dedication of land identified below as public access land into perpetuity under procedures set out in the CRoW Act:

- 1. Land at Ditchling Road (37.07 hectares)
- 2. Patcham Court (Patcham Court Valley) (96.32 hectares)
- 3. Patcham Court (Scare Hill & Tegdown North) (178.58 hectares)
- 4. Land at Plumpton (27.29 hectares)

Please refer to Appendix 1 for plans identifying each of these areas 1-4.

## **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Downland Initiative originally commissioned in 2005 by the Council, Property & Design in conjunction with the Countryside Agency (now Natural England) and the South Downs Joint Committee (now South Downs National Park Authority) examined the feasibility of securing more sustainable management of the Downland surrounding the city so that it delivers greater social and environmental benefits. The Downland Initiative has recently been revised to ensure its fit with the council's priorities and Biosphere project and has been renamed as the City Downland Estate Policy. Its overarching aim is to: -

*Sustain natural resources provided by the council's downland estate by working in partnership with relevant stakeholders and potential beneficiaries and pursuing an economically sustainable approach for the council and its tenant farmers.*

Detailed aims and the recommendations of the study include public access, recreation and understanding and one of its aims is to increase and improve public access on the council's City Downland Estate.

- 3.2 The land on either side of Ditchling Road previously formed part of Home Farm and the majority of it remained vacant when the farm tenancy was surrendered in 2005. More recently the land has been fenced to include several gates and a water supply reconnected to allow the land to be grazed. The land will be let on terms to include permissive open access. (See Plan 1, Appendix 1).
- 3.3 The council's managing agents for the City Downland Estate, Smiths Gore, have recently negotiated terms for 2 Farm Business Tenancies on land that formed part of Patcham Court Farm, to include permissive open access where previously there was none, thus increasing substantially the amount of open access land available on the council's Downland Estate. (See Plans 2 and 3 Appendix 1)

- 3.4 As part of the lease negotiations for open access land the council and tenant farmers have worked together to agree locations for new gates, which will be funded and maintained by City Parks. (See Appendix 2 which provides a plan illustrating the locations of the new gates to be installed). This land is adjacent to the open access land at Stanmer (to the West of the Ditchling Road) and as part of the South Downs National Park provides a substantial additional space for residents and visitors to the City to enjoy.
- 3.5 The land at Plumpton Hill is let to Plumpton College and whilst the tenancy does not include a requirement for the tenant to allow open access, the land is currently accessed by the public and is adjacent to land, controlled by Plumpton College (not in the council's ownership) which is dedicated as public access land under the CRoW Act. (See Plan 4, Appendix 1).
- 3.6 The CRoW Act was introduced to, amongst other things, provide a new right of public access on foot to areas of open land comprising mountain, moor, heath, down, and registered common land, and contains provisions for extending the right to coastal land. Under the Act landowners may dedicate land voluntarily under the CRoW Act, the result of which is the protection of the dedication into perpetuity and is irrevocable.
- 3.7 Under the CRoW Act, the public can walk freely without having to stick to paths and can enjoy activities carried out on foot, including walking, sightseeing, bird watching, climbing and running, but there are some common sense restrictions in place which limit where people can walk or take a dog. The rights granted do not include camping, cycling, horse riding or driving a vehicle (except mobility scooters and buggies), hang-gliding or paragliding, use of a metal detector, taking part in organised games or commercial activities, swimming; or removing anything from the area – including stones or fallen wood. However, existing rights such as riding a horse on a public bridleway are not affected.
- 3.8 The introduction of permissive open access on the land at Patcham Court Farm will have a detrimental affect on the rental value of the land. The total rent reduction for the two Patcham Court Farm tenancies will be approx £7200 pa, that includes a slight increase in the residential rental income and the loss of ESA grant to be replaced with HLS, which pays less grant. The introduction CRoW Act dedication will have no further detrimental impact on the rental value of the land than permissive open access. The dedication will have an impact on the capital value of the land but as the council has no intention of selling the land a reduced capital receipt will not be realised. It is difficult to quantify the effect of such a dedication, as comparable land with a dedication is not common, and the advice is that it could be in the region of 30-50%.
- 3.9 In addition to the 2 tenancies at Patcham Court Farm a third tenancy (box hatched on Plan 3, Appendix 1), farmed as arable, has been negotiated to include access routes through the land and the introduction of additional measures, funded by the tenant farmer, supported by Natural England through the Higher Level Stewardship Scheme, to support biodiversity in the area, including: -

- Beetle bank
- Bird plot
- Grass field margin

It is an agreed approach amongst the organisations and agencies responsible for the protection and promotion of wildlife (including DEFRA, RSPB, SDNPA, Natural England and B&HCC) that improved biodiversity is best supported through the provision of a range of habitats and so the retention of arable within the swathe of chalk grassland is a beneficial feature for biodiversity in the area and will be further supported through the introduction of the additional features.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 Consultations have been carried out with the tenants, internal teams and relevant third parties on these proposals.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The process for negotiating the open access to the four areas of land was undertaken by the Council's managing agents as part of their contract with the council and any ongoing costs such as installation and maintenance of gates etc are being met from existing budgets within City Parks. The effect of introducing permissive access on the land will result in a lower rental value being achieved. It is estimated the rents for the sites at Patcham will reduce whilst the land at Ditchling Road is a new lease and the land at Plumpton has a fixed lease. However dedication under the CROW Act will have no further affect on rental value. Dedication under the CROW Act will result in a lower capital values being achieved should the land ever be considered to be sold in the future of approximately 30%-50%.

*Finance Officer Consulted: Rob Allen*

*Date: 22/08/12*

##### Legal Implications:

- 5.2 The Council has the power as landowner to dedicate land as "access land" under section 16 of the Countryside and Rights of Way Act 2000. Dedication creates a statutory right of access on foot. The act of dedication is irrevocable and binds successive owners and occupiers of the land (and others with an interest in that land) so that the right of access is protected for all time.

The Council will need to make a Deed of Dedication in accordance with the relevant procedure regulations and the right of access will come into effect six months later.

*Lawyer Consulted: Carl Hearsom*

*Date: 16/08/2012*

##### Equalities Implications:

- 5.3 An Equalities Impact Assessment has not been undertaken as the introduction of the recommendation set out in 2.1 is not considered to have a negative impact.

When considering the locations for the new gates on the land that previously formed part of Patcham Court farm, in addition to a number of other factors, consideration was given to the topography of the land to ensure access is available to as many people as possible.

#### Sustainability Implications:

- 5.4 The additional features to be introduced by the tenant farmer of the arable land at Patcham Court Farm (box hatched area Plan 3 Appendix 1) will improve wildlife habitats in the area.

#### Crime & Disorder Implications:

- 5.5 It is hoped that with increased public access on the land there will be fewer incidences of crime and disorder (such as motorbikes, traveller incursions, fly tipping etc). Whilst the CRoW Act requires dogs to be kept on a lead of no more than 2m long between 1st March and 31st July (the main breeding period for ground-nesting birds) or at any time of year when you are near livestock, this is difficult to police and one cause for concern is the increased potential for dogs not under control to cause distress, injury or death to livestock. This issue forms part of a wider discussion on responsible access of the countryside and public education.

#### Risk and Opportunity Management Implications:

- 5.6 The main risk identified is of people not following basic countryside rules to respect the environment and the farmers' crops and livestock. Should issues of this nature arise, the council and tenants will work in partnership to address these.

#### Public Health Implications:

- 5.7 Increasing land available for public access and protecting that designation into perpetuity directly supports and promotes an active lifestyle for the inhabitants and visitors to the city thus encouraging a healthy standard of living.

#### Corporate / Citywide Implications:

- 5.8 Increasing land available for public access and protecting that designation into perpetuity directly supports and promotes the aim of the Corporate Plan and the Council's City Downland Estate Policy.

### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 It is possible for the land identified to remain as permissive open access land without the CRoW Act dedication. This would allow the public access to be restricted in the future should new policies support a different approach.

### **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 Under the council's City Downland Estate Policy it is the aim to significantly expand the amount of access land adjacent to the urban areas of Brighton &

Hove. This supports the corporate plan and the council's priorities for a sustainable City protecting and enhancing the City's natural environment through the promotion of the City's Downland Estate to enable a healthier City, encourage adult participation in sport and active recreation and support ecotourism. In addition the City Downland Estate Policy promotes expansion of the amount of access land adjacent to the urban areas of Brighton & Hove for citizens and visitors to enjoy and experience. The council's managing agents, Smiths Gore have negotiated terms for 3 new leases (totalling 311.97 hectares) to include public open access. In addition open access is being permitted on land held under an existing lease by Plumpton College (27.29 hectares).

- 7.2 In order to protect the public rights of access into perpetuity it is recommended that the land identified in part 2.1 of this report be dedicated voluntarily under the provisions of the CRoW Act.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Plans identifying land to be dedicated under the CRoW Act
2. Plan identifying location of the proposed new gates on land previously forming part of Patcham Court Farm

### **Documents in Members' Rooms**

None

### **Background Documents**

None