POLICY, RESOURCES & GROWTH COMMITTEE	Agenda Item 14 Brighton & Hove City Council

Subject:		**Disposal of 28 York Place**	
Date of Meeting:		**9 June 2016**	
Report of:		**Acting Executive for Director Economy, Environment & Culture**	
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Ward(s) affected:		**St Peter's & North Laine**	

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 To seek agreement for the disposal of 28 York Place to provide capital funding for reinvestment to generate additional revenue funding streams to support the council's Corporate Property Strategy & Asset Management Plan 2014-18, Corporate Plan and Medium Term Financial Strategy.

2. RECOMMENDATIONS:

2.1 That Committee authorises the Acting Executive Director for Environment, Development & Housing, Assistant Director Property & Design and Head of Legal Services to approve terms for the freehold disposal of 28 York Place by Informal Tender on the open market at best consideration to be recommended by the agents appointed.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Brighton & Hove City Council has a substantial investment portfolio producing a rental income in the region of £10m per annum, which helps fund the provision of services. The Council's Corporate Property Strategy & Asset Management Plan 2014-18 sets out the property context for the city and the council's property holdings and functions linking these to the corporate plan, priorities and strategic goals. It outlines the agreed rebalancing strategy for the council's urban portfolio as only a small proportion of the portfolio is primary investment stock with most of it consisting of ageing secondary and tertiary properties with a limited ability to continue to achieve increasing rents and income for the council.

3.2 The strategy aims to rebalance the portfolio by identifying under-performing assets for disposal and ring fencing receipts for reinvestment, focusing on the disposal of secondary and tertiary properties to improve returns medium and long term and reduce liabilities and risk for the council.

3.3 Owing to current market conditions, the council is in the process of accumulating a fund for re-investment to enable the council to act in time with the market when investment opportunities present themselves. The council is working to identify further assets that are underperforming to contribute towards this fund and working on an investment strategy for the identification and reinvestment of funds.

3.4 The Council has already disposed of 18 Market Street, Brighton, and ring-fenced the receipt for investment in higher grade investment properties.

3.5 The Capital Investment Strategy detailed within the Medium Term Financial Strategy states that all capital resources, including capital receipts, are available to the council for investment in assets. Capital receipts play an important role in helping to achieve the council's Corporate Plan priorities. The council's Capital Strategy outlines the process for the prioritisation and evaluation of capital investment projects.

The strategy aims to generate capital receipts from the disposal of surplus or under-performing assets and to deploy the proceeds from the sale of capital assets:

i) for reinvestment in the capital investment programme, or;
ii) for repayment of debt or for investment, for example, to offset any loss of rental income in the revenue budget, or;
iii) for reinvestment from under-performing assets back into more commercially viable assets as part of the rationalisation of the property portfolio.

3.6 28 York Place comprises of three storey commercial property to the south of London Road and has been identified as an under-performing asset. The property is currently used as an artist studio and workshops and is edged red on the plan in Appendix 1. The site is considered tertiary and the property is in need of ongoing maintenance. There is little prospect for future rental or capital growth without significant investment.

3.7 The property was originally acquired under the Highways Act 1980 for road improvements schemes, and was purchased from Trinity College Cambridge for £77,500 in September 1983. The property was acquired under the threat of Compulsory Purchase, for a London Road traffic improvement scheme. Because the property was acquired more than 25 years ago, it is considered that Crichel Down Rules do not apply. This means that the Council does not have to offer the property back to the original owner from whom it was purchased because of the amount of time that has passed.
Due to its possible likelihood of demolition pending road widening schemes historically there has been little investment in the property and short term leases granted, supressing rent levels. Prior to the current tenancy, the property was vulnerable to squatters and owing to the general dereliction of the site and adjoining properties, it suffered badly from damp and numerous break-ins. The current tenant has occupied under a justifiably low rent owing to the amount of work required just to make the site habitable and the lack of security offered under the lease which contains a rolling break clause. The site was originally

leased to this tenant in a dilapidated state for a peppercorn rent in 1997 who then undertook various improvements to the site over the years.

3.8 Consideration was given to selling the site in 2002 when adjoining properties were developed, however this was not progressed due to the Traffic Management Scheme and London Road Relief Plan Stage 3 being considered at this time.

3.9 The Highways' band of interest which affected this property was rescinded by committee report in 2014 and the scheme aborted. Consequently the property is no longer required for highway purposes. This was the trigger for the Property Estates Team to assess the property and complete options appraisals for the site.

3.10 Under the Council's Corporate Property Strategy & Asset Management Plan 2014-18, the property has been identified as forming part of the portfolio that is not fit for purpose. The current condition of the property has been identified in the property Performance Review as underperforming and surplus as it does not meet the investment portfolios core aims. The council's Property Estates Team has undertaken a review of the property in accordance with Appendix 4 of the AMP 2014-18 and confirm the building is surplus by virtue of the three criteria – it is in poor condition, is not required for future service delivery and it is an ageing tertiary property. The quality of the building is in decline and there is little prospect for growth without significant capital investment. Disposal will achieve a capital receipt and avoid escalating expenditure on inadequate buildings.

3.11 To the south of the site is a row of similar terraced properties which have recently been renovated and extended to provide improved ground floor commercial space and self-contained residential upper parts. Access to the site is from the A23 which is a busy dual lane one way road, eventually leading to the main London Road.

3.12 The site is currently tenanted with a lease in place until July 2017 however this lease can be brought to an end by 6 months' written notice at any time. Its upper floors are non-self-contained and as such the full income potential is not currently being achieved from the site. Works to the property would require a full planning permission and the associated cost of the works are unlikely to be considered cost effective for the Council to undertake.3.13 It is recommended that the property is disposed for best consideration reasonably obtainable and the capital receipt used for reinvestment from under- into more commercially viable assets as part of the rationalisation of the property portfolio in support of the MTFS.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Option 1 Do nothing

Retaining the property will leave the Council with a continued income stream; however the income currently being achieved is low and eroded by inflation. The site will continue to be a maintenance liability as the tenant is only obligated to keep the property 'Wind and Water Tight'.

4.2 Option 2 Council to refurbish the property

The council looked at developing the site itself and sought advice from Architecture, Regeneration and Housing colleagues as to potential retention of the site to meet corporate goals. High level feasibilities have also been undertaken to look at increasing the return on the council's investment, however this site does not meet the current objectives in terms of deliverability and outcomes. Retaining the property for the council to extend and refurbish will require significant investment to provide a separate commercial unit on the ground floor and 4/5 bed maisonette on the upper floors. Return on investment would be less than for a private developer as rental income on the maisonette would be below market rents. If the council was to seek to dispose of the property, post refurbishment, the council is unlikely to see any return over the capital invested. If the council retained the property post-refurbishment, the council would have to manage the 2 separate tenancies and retain responsibility for the structural and external repairs which would be managed through a service charge. In addition any residential tenancy would obtain security. Because the property is tertiary in location and isolated from other landholdings, there are few economies of scale in management and development costs and would erode any investment. Such responsibilities would be more onerous for the council to manage than for a local property developer who may self-finance the development and let out the residential unit on an Assured Shorthold Tenancy, producing a greater return.

4.3 Option 3 Joint Venture

If the council was to seek to partner with an RSL or other development partner it is unlikely that the project would be financially viable owing to the capital requirements and likely returns. The size of the project is also unlikely to make the site attractive to partners who are likely to be put off by the risks associated with such a small site.

4.4 Option 4 Council to dispose of the property in current form

This is the recommended option, likely to give a modest receipt for reinvestment whilst removing a tertiary asset from the current investment portfolio, where the cost to realise more income from a stronger covenant is not beneficial. This will enable the council to realise capital in a timely manner and is recommended by officers in the pro-active management of an investment portfolio. Marketing this property on the open market may well garner interest and ensure a capital receipt representing market value and therefore best consideration is achieved from the disposal.

5 COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The current tenant is aware that the council is reviewing its options for the property and that should the property be made available for purchase, the tenant could submit an offer through the councils appointed agents along with other interested parties.

5.2 Once a decision has been made to dispose of the property, further engagement with the tenant will be undertaken to ensure that they are fully appraised of any disposal process and to give them ample time to consider purchase, or relocation.

5.3 Any sale will be subject to the existing lease remaining in place with the current terms unaffected.

6. CONCLUSION

6.1 The recommendation is to dispose of the freehold interest in the site by informal tender, exposing the property widely to the market to ensure best consideration.

6.2 The capital receipt of the disposal to be used for reinvestment in line with the council's rebalancing strategy providing an ongoing income stream to support the council's Corporate Plan and Medium Term Financial Strategy investing in new income streams with better growth potential.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 28 York Place is currently occupied but generates a low return of rental income and is therefore considered to be underperforming financially. The disposal of the site will generate a capital receipt less any disposal costs. The net receipt is proposed to be reinvested back into the property portfolio pending the outcome of the property review. The disposal may result in reduced income for the Council's property portfolio but this will be a negligible amount for the remainder of the financial year.

7.2 The disposal will remove the need for investment in ongoing maintenance or one off capital maintenance investment.

7.3 Further details of the disposal of the property are shown in appendix 2 to the report which are exempt from disclosure under paragraph 3 of Schedule 12(A) of the Local Government Act 1972.

Finance Officer Consulted: Rob Allen Date: 04/05/16

7.4 Legal Implications:

Section 123 of the Local Government Act 1972 enables the Council to dispose of this property provided that the best consideration reasonably obtainable is achieved. There is currently a two year lease in place in respect of the property, if the sale were to take place before 8th July 2017 then the Council does have the option to exercise the break clause in its favour contained in clause 5.9 of the lease. As mentioned earlier on in the report, the property was originally acquired in 1983 using compulsory purchase powers under the Highways Act 1980. The Crichel Down rules (Rules) are non- statutory rules that relate to land acquired compulsorily and its future disposal. Rule 10 provides that if a property becomes surplus to requirements and is to be disposed of it should first be offered to the former owners at the current market value. The obligation to offer the property back to the former owners does not however apply to land, which becomes surplus and available for disposal more than 25 years after the date of the conveyance, transfer or vesting declaration (Rule 14(3)). It is not considered that any individual Human Rights Act rights would be adversely affected by the recommendations in this report.

Lawyer Consulted: *Joanne Dougnaglo* *Date: 05/05/16*

<u>Equalities Implications:</u>

There are none

<u>Sustainability Implications:</u>

There are none

<u>Any Other Significant Implications:</u>

None

SUPPORTING DOCUMENTATION

Appendices:

1. Plan of the site

Documents in Members' Rooms

None

Background Documents

None