

Brighton & Hove City Council

Policy & Resources Committee

Agenda Item 79

Subject: 8-9 Kings Road, Brighton

Date of meeting: 1 December 2022

Report of: Executive Director Economy, Environment & Culture

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Ward(s) affected: Regency

For general release

1. Purpose of the report and policy context

- 1.1 To seek approval for the disposal of this mixed-use commercial property. The previous tenancy ended January 2018 and proposals to refurbish the property for operational use have proven unsuccessful.
- 1.2 The disposal will generate a net capital receipt for investment in the remaining commercial portfolio to meet the council's repair liability. The Council does not have a maintenance or improvement fund for its commercial properties. This constrains the investment made into a property portfolio which in turn generates income to support council's core services.

2. Recommendations

- 2.1 That Committee agrees to the disposal of the freehold of this property and that delegated powers be given the Executive Director Economy, Environment and Culture and the Assistant Director Legal and Democratic Services to approve terms and take any necessary steps to facilitate this recommendation.
- 2.2 That the net capital receipt be invested in the existing commercial portfolio to reduce inherent risk and secure revenue streams by funding landlords repair liability and reducing obsolescence.

3. Background

- 3.1 8-9 King Road is a commercial property previously occupied as a restaurant on the ground floor with residential use on the first, second and third floors. The property was re-possessed in January 2018 as the tenant had ceased trading and defaulted on their rental payments. At that time a dilapidations schedule was prepared and costed at circa £70,000. The rent prior to repossession was £20,000pa.

- 3.2 The location of the property is considered tertiary, lacking prominence and a reletting of the property would have likely attracted a tenant of low covenant strength with further risk of default. In addition, the investment required by an ingoing tenant would have required substantial investment, necessitating a rent free period of up to 5 years. Given the risks identified, on a commercial investment basis only, the property was declared surplus and recommended for disposal.
- 3.3 Consultation with Housing and Health and Adult Social Care (HASC) colleagues identified a service requirement for a Hub and Night Shelter Accommodation to support Homeless Services. Grant funding was obtained to provide a contribution towards the cost of converting the property. Survey, technical investigations and design work were completed and a planning application submitted. Proposals were prepared to tender the service to be provided.
- 3.4 In advance of commencing the conversion the grant funding for the night shelter and hub was withdrawn as it was no longer considered viable as it was no longer considered acceptable to provide shared sleeping space due to Covid. An alternative model was therefore considered to include single room accommodation.
- 3.5 Design work was completed on the alternative proposed model with single room accommodation and alternative funding sources were explored including a charitable donation. The service proposal was also adapted to fit the proposals for the building. Planning consent for the revised scheme was obtained. The budget for the refurbishment was estimated to be in excess of £500,000. Discussions regarding a lease to the service provider were commenced.
- 3.6 In the intervening period HASC had retendered the service provision and a new service provider appointed. The homeless commissioning service transferred from HASC to Housing. Lease terms were agreed with the newly appointed service provider and solicitors instructed to draft the lease. Contracts were drawn up for the refurbishment to commence and final investigative surveys completed.
- 3.7 The budget for the project transferred from HASC to Housing which with the additional charitable donation represented the total funding available for the scheme. This was insufficient to fund the estimated cost of the revised scheme which had increased to £635,000. Given the project was unable to proceed the charitable donation was withdrawn. Housing confirmed they did not wish to proceed with the project as it no longer met their location requirements. Emergency structural works were completed to the bay window.
- 3.8 Given the property has now been vacant for 5 years and despite best efforts it has not been possible to convert the property to operational use it is now recommended that the property be disposed of and the net capital receipt estimated to be £400,000 invested in the existing commercial portfolio to address outstanding landlord's repair liabilities and secure ongoing revenue from those properties.
- 3.9 12-13 Pavilion Buildings and 5 Palace Place consists of two ground floor and basement retail properties with offices above. The retail units are

currently occupied by a short term 'meanwhile' use and the office space above had been the home of Brighton Dome and Festival (BDBF) for many years. BDBF also accommodated small third sector creative and cultural organisations at this location, to support resilience and growth. BDBF moved out in June 2022 because of increasing deterioration in the building. It is intended that, following repair, the upper floors would be again let to one or more organisations in the creative and cultural sectors within the city.

- 3.10 Structural defects have been identified and works required in advance of long-term occupation estimated to be in the region of £150,000 - £250,000. To secure the continued and long-term occupation of these important buildings by organisations that contribute significantly to the community wealth of the city, as well as generating revenue for the council, the net capital receipt from the sale of 8-9 Kings Road would fund the necessary works, with any surplus retained for further re-investment in the commercial portfolio.
- 3.11 Vacant possession of 12-13 Pavilion Buildings would be required in order to completed the structural repairs to all floors. In advance of commencing the structural repairs the structural surveys would be updated, design work completed, specification drafted, Listed Building Consent obtained, and contracts procured. This would take up to a year to complete.

4. Analysis and consideration of alternative options

- 4.1 Identify a further operational use
- No further operational requirement for 8-9 Kings Road has been identified. Housing, Neighbourhoods and Communities (HNC) have confirmed that the property has been considered for general needs and temporary accommodation, however concerns were raised regarding:
- Access issues both for construction & residents
 - Higher fire safety risks.
 - Construction cost would be high with difficulty to achieve the quality & volume of homes to make development viable for the HRA and the properties would need to be self-contained.
 - The ground floor would likely still need to be used for commercial/office purposes thereby limiting housing options.
 - The environment would not be compatible with any council residential client groups (shops/restaurants). The main entrance is by the bins to four shop units to the rear.
 - Planning permission has been granted for another purpose which is not suitable for council general needs housing. There is a risk that planning would not be granted for an alternative use and lengthens the timeline for bringing this property back into use.
 - The location is challenging for the service proposed. It would not be recommended to site low level supported accommodation for this vulnerable client group in this location, given the potential for anti-social behaviour, street related activity and cuckooing; and the resultant impact this would have on the local community and businesses, as well as the vulnerable young people accommodated there.
 - The maintenance costs for this construction are considered too high.

- 4.2 Relet for commercial use
Given the property's tertiary location and its condition a letting would attract a tenant of poor covenant strength. The level of investment required by an ingoing tenant would necessitate the grant of a rent free period of up to 5 years.
- 4.3 Dispose and reinvest the capital receipt - recommended
Disposal would provide a net capital receipt for investment in the commercial portfolio to fulfill landlord repair liabilities and secure continued and longterm occupation of those properties and revenue for the council to fund services.

5. Community engagement and consultation

- 5.1 Consultation has been undertaken with HASC and HNC as well as the potential service providers. Wider public consultation was undertaken as part of the planning application process.

6. Conclusion

- 6.1 The property has been vacant for 5 years and is not required for operational use. It is not recommended for retention within the commercial portfolio given its tertiary location and poor condition. It is recommended for disposal marketed via local agents or auctioneers to achieve a net capital receipt for investment into the existing commercial portfolio to fulfill landlords repair liabilities.

7. Financial implications

- 7.1 The councils agreed capital strategy includes the requirement that the net proceeds from the disposal of surplus or underperforming assets are used for reinvestment in the capital programme, support modernisation or repay debt across the Medium Term Financial Planning period. This means that the net proceeds of general fund property disposals such as 8-9 Kings Road would be held corporately and applied in line with this strategy.
- 7.2 The expected receipt is £0.400m. In this instance it is proposed to use these resources to fund the council's repair liability within its existing commercial portfolio to reduce risk and secure income long term and the report identifies the investment required for 12-13 Pavilion Buildings as the first call on these resources.
- 7.3 The commercial portfolio does not have a dedicated investment resource however it is acknowledged that without further investment, the portfolio's net income will decline.
- 7.4 As the freehold of the site is being disposed of with no development restrictions this will ensure that the best market value price will be obtained.
- 7.5 The rental income when last let of £20,000 pa has not been received since the property became vacant 4.5 years ago and has been mitigated within the existing service revenue budget. There should therefore be no further effect on the revenue TBM position for the service.

Name of finance officer consulted: Rob Allen Date consulted: (18/10/22)

8. Legal implications

- 8.1 With reference to recommendation 2.1, Section 123 of the Local Government Act 1972 enables a local authority to dispose of land provided it achieves the best consideration reasonably obtainable.

Name of lawyer consulted: Joanne Dunyaglo Date consulted: 21/10/22

9. Equalities implications

- 9.1 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.

10. Sustainability implications

- 10.1 It is foreseeable that a purchaser would wish to complete improvements to the property and any future investment would likely include improvements to the energy efficiency of the property.

11. Social Value implications

- 11.1 Since the property became vacant in January 2018 efforts have been made to convert and refurbish the property to provide a hub and night shelter to support the homeless service provision. However despite these efforts it has proven unsuccessful to identify funding to complete the adaptations required and the service commissioners no longer believe the location to be suitable.

Supporting Documentation

1. Appendices

1. Location Plan

