

Audit and Risk Assurance Committee

17 August 2017

Restrictions placed on the sale of the Public Toilets

1. Summary Statement

- 1.1 This report, which was requested by the Committee following its interview with Councillor Ian Jones at its meeting on 15 December 2016, provides details on the restrictions placed on the sale of the public toilets, following Councillor Jones's comments that such restrictions would have resulted in a reduction of their value.

2. Recommendations

- 2.1 That the Audit and Risk Assurance Committee considers these restrictions in order to gain an understanding on any reduction in the value of the public toilets this may have resulted in.

Darren Carter
Executive Director - Resources

Contact Officer:
Peter Farrow
Audit Services Manager
0121 569 3656

3. Strategic Resource Implications

- 3.1 There are no direct resource implications arising from the recommendations in this report.

4. Legal and Statutory Implications

- 4.1 Legal and statutory implications have been taken into account in producing this report.

5. Implications for the Council's Scorecard Priorities

- 5.1 The Audit and Risk Assurance Committee helps strengthen the risk, governance and internal control environment.

6. Background Details

- 6.1 The following restrictions were placed on the sale of the public toilets:

Clause

- 16 The Purchaser hereby Covenants with the Council as follows:

(a) to forthwith apply for and within six months of the date hereof to obtain relevant planning consents for the Properties.

(b) In the event that the Purchaser does not either apply for or is refused a relevant planning consent for the Properties or for any part or parts of the Properties the Purchaser shall (at his own expense) demolish the Properties or such part of the Properties for which planning consent has not been applied for or which planning consent was refused save that the Purchaser shall not under any circumstances whatsoever demolish that part of the Properties known as the Shambles Wednesbury.

- 17 It is hereby agreed and declared between the Council and the Purchaser that in the event that the Purchaser is in breach of any or all of the covenants contained in Clause 16 of this Agreement the Council will have the right to enter upon the properties or any part of parts thereof and demolish the same at the expense of the Purchaser.

18 The Purchaser also covenants with the Council that in the event the Purchaser is in breach of all or any of the covenants contained in Clause 16 hereinbefore contained the Purchaser shall upon written notice from the Council to the Purchaser to that effect transfer the Properties or any part or parts of the Properties to the Council for the Purchase Price apportioned as the case may be in the sums as set out in the Fourth Schedule hereto less first the costs incurred by the Council In demolishing the Properties or any part or parts thereof and secondly the Council's legal costs and surveyors fees reasonably incurred in the transfer of the Properties or part or parts thereof by the Purchaser back to the Council.

6.2 Savills (UK) provided an independent expert opinion upon the value of the land at the time of the sale, and valued the total package at £130,000. The Director at Savills (UK) has also commented:

“Whilst I note that the covenants may have put some potential buyers off, I do not believe that this is material or would have affected the value of the properties. To support my valuations, I relied upon comparable sales evidence, and the fact that all of the toilets were sold, not for the purpose of remaining as toilet blocks, but on the basis of the sites requiring planning permission for development or change of use, which is the focus of the covenants. As such giving due consideration to the covenants I confirm that my original valuation remains reasonable and I do not believe that the covenants placed on the sale of the toilets would have affected the value of them”.

6.3 With regards to clause 16 - it is understood that these restrictions were not met by the Purchaser.

6.4 With regards to clauses 17 and 18 - it is understood that the Council, has to date, not taken up the options these clauses provide on the remaining two toilet blocks.

6.5 One of the toilet blocks (the Shambles, Wednesbury) was subsequently sold on by the Purchaser. As can be seen above, one of the restrictions in clause 16 stated “*the Purchaser shall not under any circumstances whatsoever demolish that part of the Properties known as the Shambles Wednesbury*”. It is understood that the toilet block was considered to be ‘an integral part of a conservation area, hence the reason for the restriction not allowing it to be demolished. However, the new Purchaser subsequently submitted a planning application in May 2016 for the demolition of the toilet block because of poor ground condition and access to the site, in order to construct three apartments.

This planning application was approved by the council with the understanding that as the building was within a conservation area, that the ground floor of the building be rebuilt to be as close as possible to its existing form. The toilet block has since been demolished and the new apartment block is now under construction.