

Taunton Deane Borough Council

Executive – 14 September 2011

Goodland Gardens Public Conveniences, Taunton

Report of the Asset Planning Manager, Southwest One, Property and FM
(This matter is the responsibility of Executive Councillor Norman Cavill)

1. Executive Summary

<p>This report considers options for the Council owned redundant public conveniences at Goodland Gardens, including use as a café/retail unit. It also includes the recommendation from the Community Scrutiny Committee.</p>

2. Background

The Borough Council own the freehold interest of the redundant public toilets at Goodland Gardens shown hatched on the plan in Appendix 1. The toilet was closed on 31st March 2008. The Council also own the adjoining Public Open Space.

To the rear of the toilets is a narrow gated open area used by Parks for the storage of barrows.

Swan Paul have been appointed by Project Taunton and the Council as landscape architects for the planning and design of various projects along the Tone. The latest project is the enhancement of the riverside walk and the eastern part of Goodland Gardens.

Due to budget constraints, it is likely we will be left with a newly landscaped area, but a redundant toilet block. The planning application includes for an unspecified change of use of the building.

It is hoped for a contractor to be instructed for the works to start on site in August. The contract will last 3 to 4 months.

3. The Present Position

There is currently unsolicited interest in the toilet block from:

- a firm of caterers regarding a possible cafe use;

- the Goodlands family trust who have a property portfolio in the area;
- a Devon builder/developer Murray Homes;
- a potential river punting operator for use as a ticket booth and café.

The Council's Development Management Team thinks, in principle, a change of use to a cafe is likely to be acceptable.

Project Taunton consider a cafe could be a positive asset for the improved landscape area. This has been achieved at Somerset Square with a cafe and bike shop.

Options for the toilet block, not including reopening as a public toilet, are:

1. Do nothing apart from external decoration works
2. Demolish and landscape the site

Options 1 – 2 will ensure land is retained to maximise any Debenhams extension (note the comments in 'Links to Corporate Aims' below) in the future

3. TDBC to secure a planning permission for change of use to a café, renovate at the expense of the Council or Project Taunton, then rent out.
4. Grant a leasehold for a medium term, say 15 – 30 years, with an obligation for the tenant to pay for and execute the renovation works.
5. Sell by way of a long lease, say 125 years at a premium, with nominal rent thereafter
6. Sell the freehold

If Members wish to pursue either of options 3 - 6, consideration may want to be given to when the chosen option is implemented. There may be more market demand and therefore extra financial value secured if the Council held off for say a year before going out to tender. This would hopefully be when the success of the landscaping scheme is more widely recognised. A disadvantage of this would be that a relatively unsightly toilet block is detracting from a newly created landscape area. The immediate impact we may want for the area would therefore be prejudiced.

See Appendix 2 for the financial comments, pros and cons of each option.

4. Finance Comments

See Appendix 2.

5. Legal Comments

The deeds to the property say that the purchaser cannot erect any building without the consent of the Vendors.

Due to financial constraints it's unlikely the Council will want to use capital funds

to refurbish the property and then subsequently find a tenant, despite a reasonable return. That doesn't rule out entering into a Building Agreement/Agreement for lease with a long enough term and appropriate rents to make it attractive for a potential tenant/developer.

A Building Agreement/Agreement for lease gives the Council the ability to agree with the tenant items such as the design of the café, the timing of its completion and its ultimate use. There is a strong case to say that unless a lease of circa 125 years is granted with an upfront premium paid with subsequent nominal rent, there is a risk the market may not be interested in any other lease option that requires the tenant to fund the renovation project.

The inclusion of option 4 could therefore prove difficult to achieve. Option 4 is included as a compromise that gets the café delivered and doesn't commit the Council to any funds. It also doesn't totally prejudice the possibility that Debenhams (see Corporate Aims section below), or whoever might succeed Debenhams as the occupier of the building to the immediate east of the toilet block, might want to maximise their extension possibilities onto the land. It should be noted that the occupier of the building could still extend onto a sizeable area to the north of the toilet block if they so require.

6. Links to Corporate Aims

In the adopted Taunton Town Centre Area Action Plan (TTCAAP) the toilet block and other land to the rear of Debenhams is

“...identified as being available to construct a low extension/pavilion up to two storeys in height and to a maximum total floorspace of 650 square metres (gross). This should be designed to create an active frontage along the promenade and improve natural surveillance to the Gardens. Development of this building will be required to incorporate replacement public toilets that will need to be removed from their existing location to the rear of Debenhams...”.

The Council's Development Management Team consider that if the toilets are no longer required then some short term use of the building would be of benefit. Any development therefore should not be such as to prevent any extension proposal from the occupiers of the current Debenhams building happening in the future. There would be concern therefore if the intention is to sell the land to a party who could prevent the Plan being implemented. This should be borne in mind if the intention is to sell the land concerned.

Debenhams rent their premises from a superior landlord for a term expiring in 2034. They benefit from an option to renew this lease for a further 25 years. Enquiries have been made with Debenhams Estates section. They said there are no plans to extend their store and were unaware of the TTCAAP proposal. Debenhams said the fact they are leaseholders lessens even more the likelihood they would want to extend as their landlord would need to agree to pay for extension works. They said that refits are the normal process for the creation of

more space before the expensive option of an extension is considered.

The Council's Development Management Team stress that Debenhams could assign their lease and a new occupier may have different expansion strategies.

Other Corporate Aims reflected are:

Income generation initiatives will assist in the delivery of corporate aims.

Delivering a project that will assist in the regeneration of Goodland Gardens.

7. Environmental and Community Safety Implications

The property is within a flood plain. As the property is of a substantial build quality, the Environment Agency (EA) would not oppose a change of use to a café. If the proposal was for a new build the EA may have a different opinion.

The DLO Works Manager thinks the proposal is a very good idea in principle and something that has been thought of since the toilets were closed but put on hold because of the proposed upgrading of the gardens. There are no plans that he is aware of to reopen the toilets.

As regards the narrow gated open area at the back of the toilets used by the DLO for barrow storage, this may not fit in with a café use. Although the barrows are relatively clean he wonders whether they are best stored away from a food outlet. It is suggested a store comprising a small compound with ideally a medium size shed to store bags, etc. somewhere within that area but not necessarily in the immediate vicinity would be preferable.

The Council's Environmental Health Lead considers that if the barrows were particularly smelly or were not emptied daily there is the potential to attract rodents and insects. A combination of regular nightly emptying and occasional jet washing/ steam cleaning could be implemented. In such a scenario there is no reason why the barrows would cause any problem to a food business. Also, the business would need somewhere suitable to store food waste and packaging so it would make sense to locate both within the secure area.

The DLO Manager raises a concern regarding the servicing and deliveries to a café. This would need to be thought through with regard to what sort of surface is going to be laid taking into account vehicle turning and movements. He would also want it written in to any agreement that the business is responsible for litter in that area. Ideally a toilet open to the public maintained by the business would be a huge bonus but it is realised that this may not be achievable or would have too significant effect on the receipt secured.

8. Equalities Impact

Not applicable.

9. Risk Management

The risks are as follows:

1. Limiting the Council to only wanting to lease the property, with the tenant funding the renovation costs is probably going to limit the market and therefore the ultimate receipt.
2. It seems probable that Debenhams would not ultimately require the land for store extension. Any compromises the Council make to accommodate Debenhams may therefore not have been worthwhile if Debenhams remain the tenant of the building.
3. If we continue with a disposal (Option 5 and 6) for café/small retail use, any extension to the Debenhams building, although appearing unlikely with Debenhams as the occupier, could be prejudiced and the occupier could decide to relocate. Furthermore the Council may have forfeited the opportunity of a greater capital receipt from the occupier of the Debenhams building. NB: The location of the toilets is at one end of the proposed extension area. The occupier of the current Debenhams building could still undergo a reasonable extension if the toilet block was excluded.
4. The original vendors might consider refurbishment to be an 'erection' (wrongly in the opinion of Legal Services) and seek compensation.
5. A café facility is due to open in the nearby Museum in late September 2011. The facility will overlook the courtyard. The proximity of the café might affect demand for the TDBC asset.

10. Partnership Implications

The landscaping of Goodlands Gardens is in partnership with Project Taunton.

11. Recommendation of the Community Scrutiny Committee

At its meeting on 2 August 2011, Scrutiny agreed to recommend to Executive to seek unrestricted expressions of interest for the toilet block for a maximum period of 9 months. Any expressions of interest would then be considered by the Committee.

If there was insufficient interest in the property at the expiry of 9 months then funds should be found to demolish the property and landscape accordingly.

11. Recommendation

Members are asked to consider the recommendation of the Community Scrutiny Committee in regard to the future of Goodland Garden Public Convenience

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APPENDIX 2: Pros, Cons and Finance implications of each Option

Option	Proposal	PROS	CONS	FINANCE
1)	Do nothing apart from external decoration works	Securing all future options	Building remains a blot in the area Rates liability. Maintenance liability	Income: £0 Costs: Rates £2165, Maintenance say £250
2)	Demolition and landscape the site	Securing option of accommodating any Debenhams extension Removal of unattractive structure Avoidance of rates liability	Cost of demolition and reinstatement. Letting opportunity removed.	Savings: Rates bill of £2165 pa Costs: tbc say £10,000
3)	Renovate at the expense of the Council, then rent out to café operator	Rental income Avoidance of rates liability once let. Likelihood of securing a break clause in lease for purposes of enabling any Debenhams extension. Café enhances the area. Possibility of incorporating public toilet within premises, although this would affect rental income. Would suit Planners' aspirations. Council in more control than options 4 – 6.	Cost of renovation. Renovation may not be to operator's preferred specification	Income: say £10,000 pa. Savings: Rates bill of £2165 pa Costs: tbc say £40,000
4)	Grant a Building Agreement and a lease for say 15 – 30 years with an obligation for the tenant to pay for and execute the renovation works.	Long term future of site not prejudiced. Council avoids any expenditure. Deferred rental income, although not as high as Option 3. Building Agreement gives Council control on the design of the café. Café enhances the area. Avoidance of empty rates. Would suit Planners' aspirations especially if a break clause inserted (after say 10 years of term), to be triggered if occupiers of Debenhams building wish to acquire land for extension.	Market would be limited, extremely so if break clauses requested for benefit of any Debenhams extension. Significant rental incentives need to be offered	Income: say £10,000 pa after up to a 10 year rent free period. Savings: Rates bill of £2165 pa
5)	Sell by way of a Building	Capital receipt secured. Building Agreement gives Council control on the	A piecemeal freehold disposal of part of a larger	Capital Receipt: say £80,000.

	Agreement and long lease, say 125 years at a premium, with nominal rent thereafter	<p>design of the café and the timing of construction activities to create a cafe.</p> <p>In such a sensitive/public area the Council may want greater control of what goes on and covenants in a lease may be more enforceable than those in a freehold disposal.</p> <p>Café enhances the area.</p> <p>Avoidance of empty rates.</p> <p>Debenhams could still extend onto apx 75% of the area allocated to them in the TTCAAP.</p>	land ownership is generally not a good estate management thing to do – prejudicing future development (e.g.Debenhams), control of the area.	Savings: Rates bill of £2165 pa
6)	Sell the freehold	<p>Capital receipt secured.</p> <p>Café enhances the area.</p> <p>Avoidance of empty rates.</p> <p>Debenhams could still extend onto apx 75% of the area allocated to them in the TTCAAP.</p>	<p>Council loses the most control on activities on this site with this option.</p> <p>A piecemeal disposal of part of a larger land ownership is generally not a good estate management thing to do – prejudicing future development (e.g.Debenhams), control of the area</p>	<p>Capital Receipt: say £85,000</p> <p>Savings: Rates bill of £2165 pa</p>

