

**Notes of a Meeting of the Performance & Finance Scrutiny Committee -
Property Investment Task & Finish Group - 10 March 2021**

Members Present:

Cllr Sashi Mylvaganam
Cllr Sharon Galliford

Cllr Shaun Garrett

In Attendance:

Liz Dovey, Montagu Evans
Alan Harris, Montagu Evans
Martin Hone, Executive Head: Finance
Adrian Peachey, Montagu Evans
Kevin White, Montagu Evans

1 Review of Montagu Evans Advice

The Task and Finish Group were provided with an overview of Montagu Evans' involvement with Camberley town centre and the acquisition by the Council of The Mall shopping centre in 2016.

The Group was informed that the shopping centre had originally been developed by Capital and Regional in the 1980's with the Council having ownership of the Main Square Car Park and the centre's ground lease. Capital and Regional subsequently bought property within the London Road Block and in 2006/7 plans to refurbish and extend the Mall were developed in partnership with the Borough Council. Following the failure of these plans, in 2012 the Council entered into a three way relationship with Capital and Regional and the John Lewis Partnership with a view to John Lewis establishing a store in Camberley. Surrey Heath Borough Council made a request for expert support on property and legal matters to the Homes and Communities Agency's Property Panel and Montagu Evans was subsequently appointed to provide property advice to the Council. In 2015, the John Lewis Partnership decided that the will to provide what they required was not present and withdrew from the partnership.

Following the collapse of the partnership with John Lewis, Capital and Regional put forward alternative plans which the Council felt did not sufficiently reflect their ambitions for Camberley. The Borough Council started to explore the possibility of regenerating the town centre themselves and asked Montagu Evans to provide support with the due diligence required. It was noted that, asking an organisation which was already providing advice to continue providing advice was standard industry practice particularly in a situation where a non-disclosure agreement was in place with one or all of the parties previously involved. It had been agreed that payment for Montagu Evans' work would be paid in three instalments, on agreement of Heads of Terms, after the completion of Due Diligence work and a success element once the project had been completed.

During negotiations, Capital and Regional had made it clear that the Mall Shopping centre would not be sold at less than the Clear Book Price, which at the time initial conversations started was £88.5million. Subsequent due diligence by Montagu Evans concluded that the total overall valuation was £82.3million with the following sub-valuations:

- The Mall shopping centre £77.85million
- London Road Development Site £1.95million
- Alders Site £2.5million

With Stamp duty payments bringing the total valuation to £86million. It was confirmed that sharing stamp duty payment was not uncommon in commercial property transactions. The Council's Land and Property Board agreed that this shared approach would occur.

It was clarified that the transaction took approximately six months to complete. A length of time that was not considered to be particularly unusual for a transaction of this nature. The purchase of the House of Fraser site had been a more urgent transaction because an offer had been received from another prospective purchaser.

Montagu Evans had provided regular updates to the Council's Land and Property Board during the build up to the purchase of the Mall and had attended a briefing for all councillors held before the Council meeting held to debate a decision on whether or not to buy the Mall.

The fall in the Mall's valuation from £79million to £48million in the six to nine months (March to December 2019) following the Council's purchase was attributed to a combination of factors including significant falls in investments generally and either tenants failing completely or renegotiating the terms of their leases and entering into Company Voluntary Arrangements. A situation that had been exacerbated by the impacts of restrictions imposed due to the Covid-19 pandemic.

Throughout the process the Council had maintained that the purchase had been pursued in order to take forward the regeneration of Camberley town centre in a holistic fashion.

The Task and Finish group thanked Montagu Evans for their input.

Questions put to Montagu Evans

- 1. Prior to the acquisitions, what had been the business relationship between ME and the Council?**
- 2. How were ME appointed to handle the acquisitions? [i.e., how was the work tendered and awarded to ME.]**
- 3. How did the fee structure for payment by the Council to ME for work relating to acquisition operate?**
- 4. How did ME assist in the agreement of the purchase prices? [i.e., base data, tenancies, rent forecasts, marriage value, future investment required, etc.]**
- 5. At the time of acquisition, were ME aware of any alternative interested parties that might wish to purchase The Square, etc? Who were the advisors for C & R? (Valuers, Lawyers etc.)**
- 6. If so at what was the asking price? can we have their sales brochures, adverts, correspondence etc...**
- 7. At the time of acquisition, how pro-active were the Council in pressing for the deal(s) to be done?**
- 8. Can we have the presentation documentation such as slides / papers etc done to the officers & the Full council? Who from ME did the presentation?**
- 9. ME Team involved in this acquisition.**
- 10. Was a survey done? If ME arranged, it do they have a copy? Was advice given regarding this? If so, can we have copies of the advice?**
- 11. Why was it decided that the acquisitions should be retained in a JPUT (or transferred into it in the case of the HoF)?**
- 12. Who were the managing agents of JPUT for C&R?**
- 13. Was any of the JPUT directors / employees associated with any of the parties involved in the transaction? i.e., Council, C&R & Valuers, and other professional advisors?**
- 14. Did ME assist in the calculation of the 'affordability' for the Council in the purchase arrangements [NB: The calculation of the minimum revenue**

provision needed each year to service the loan (interest and principal) from future rent income.]

- 15. What would ME recommend for the future development of the assets under their management to improve revenue income?**
- 16. What is ME's view of the future of the Town Centre (i.e., retail, residential, office, alternatives) given their forecast of future demand?**

**Notes of a Meeting of the Performance & Finance Scrutiny Committee -
Property Investment Task & Finish Group
22 February 2021**

Members Present:

Cllr Sashi Mylvaganam
Cllr Sharon Galliford

Cllr Shaun Garrett

In Attendance : Robert Baldwin, Avison Young,
Martin Hone, Interim Head of Finance

1 Acquisition of House of Fraser and the Squ.

Robert Baldwin, Avison Young, reported on the outcomes of the desktop review of Surrey Heath Borough Council's acquisition of the Squ shopping centre in Camberley in 2016.

It was reported that at the time of the Council's 2016 purchase there had been a significant volume of positive news around the future of the House of Fraser Group following its sale to Sanpower, a Chinese conglomerate, and subsequent announcements that new stores would be opened and the existing store network upgraded. The vote to leave the EU in July 2016 had caused turbulence in the UK's property markets for several months however Material Uncertainty Clauses placed on valuations had been removed by the end of September 2016.

Key findings of the review had included:

- Although the Council had purchased the shopping centre at the top end of the range expected for an acquisition of its type and size **it had not paid over the odds.**
- The reports used to set out the case for purchasing the shopping centre had lacked the level of detail expected for an acquisition of this size.
- No substantive evidence had been provided to support the urgency with which the decision was made.
- There was no evidence to suggest that the Council had been bidding for the shopping centre in a competitive market. A factor which meant that there had been little in the way of competitive tension in the bidding process.
- It was not clear whether the decision had been based on the HM Treasury Five Case Model; a methodology which if used would have enabled the Council to make its decision based on value for money and the following five factors:
 - Strategic Case
 - Economic Case
 - Financial Case
 - Commercial Case
 - Management case
- The reports provided were not supported by detailed evidence which demonstrated the case for public investment purposes, the Council's desired outcomes and objectives in purchasing the property or how the purchase fitted with the Council's strategic aims.
- Whilst the decision report made reference to further expenditure being necessary to refurbish the building the level of additional investment or what might be achieved with this investment was not explicit.
- Section 3.3 of the original report from Montagu Evans made it clear that the Council had not instructed them to conduct a building survey at the time the purchase was being considered.

It was noted that at the time the purchase had been made, the Public Works Loan Board (PWLB) did not routinely question the reasons why a local authority wanted to borrow money. Consequently there were fewer impediments for a local authority wanting to borrow money than there would be for a private organisation which could not access the PWLB. The Group acknowledged these findings.

Next Steps

- The draft report for the Performance and Finance Scrutiny Committee would be considered at the Group's next meeting
- Montagu Evans would be invited to talk to the Group.

**Notes of a Meeting of the Performance & Finance Scrutiny Committee -
Property Investment Task & Finish Group
26 November 2020**

Members Present:

Cllr Sashi Mylvaganam
Cllr Sharon Galliford

Cllr Shaun Garrett

In attendance:

Robert Baldwin, Avison Young
Martin Hone, (Interim) Executive Head: Finance

1 Acquisition of Mall Shopping Centre Draft Report

The Group considered the draft report from Avison Young on the Council's acquisition of the Mall Shopping Centre in Camberley.

The Group was informed that the market for commercial property had in 2015 been particularly buoyant however markets had stalled in the run up to the Brexit referendum in 2016. During this time period there had been very few sale of shopping centres and the primary purchasers of those that were sold had been local authorities who were as a general rule paying the full asking price.

It was noted that the Council had approached Capital and Regional to buy the Mall, a move which it was acknowledged meant that the Council had lost a degree of leverage over any potential price negotiations at the time. Analysis of the data available showed that at the time of the purchase Montagu Evans had valued the Mall in line with what would have been expected. In addition, whilst the price paid by the Council had been at the top end of the expected price range there had been no evidence to suggest that the price range had been manipulated.

Avison Young's analysis of the documents available to them about the Council's acquisition of the Mall had concluded that the reports provided to make the decision did not contain a level of detail on the options, benefits and risks that would have been expected of an acquisition of this size, had the Treasury's Five Case Model methodology been followed, and the decision making processes had not been particularly coherent for example it would ordinarily have been expected that an Acquisition Report setting out a property's cash flow, how long it was proposed to hold the property for, what would need to be spent on the property in the short to medium term and the sum that might be realised if and when the property was sold. Instead the decision appeared to have been based on a Valuation Report which provided a snapshot in time and assumed that a property was being acquired primarily for income generation purposes.

Arising from the Group's questions and comments the following points were noted:

- It would normally be expected that a risk assessment including a summary of what you have, benchmarking of the proposed acquisition against the portfolio already held and projected cash flows, identified risks and any mitigating actions to reduce the impact of these risks would be produced prior to a significant property acquisition.
- Whilst there may have been a long term vision for the future of the Mall this was not articulated in the decision report.
- A commercial property transaction would normally take between four and six weeks to complete, a factor which can put pressure on local authorities'; decision making

processes particularly where a local authority lacked the necessary expertise to make an informed decision.

- If the Council had purchased the Mall without the Jersey Property Unit Trust (JPUT) then it would have been liable to pay the full Stamp Duty Tax on the purchase.
- Delays in progressing the regeneration of the London Road Block was impacting on the Mall's regeneration and it was expected that this situation would continue in the short to medium term.

Agreed Actions

- Details of current vacancy rate and rental income received today and compared to 2016 to be provided.
- Intervening values of Montagu Evans to be forwarded to Avison Young.
- Dates that the agenda and associated reports was published to be provided.
- First draft of report to be developed.

Notes of a Meeting of the Performance & Finance Scrutiny Committee - Task & Finish Group - 4 November 2020

Members Present:

Cllr Sashi Mylvaganam
Cllr Sharon Galliford

Cllr Shaun Garrett

Officers: Martin Hone

External Presenters: David Green (Arlingclose)

1 Presentation and Update from Arlingclose

The Group was joined by David Green, Strategic Director at Arling Close.

It was explained that in the role of the Council's Treasury Management advisor, Arlingclose gave detailed feedback and advice in respect of the codes of practice for local authority finance, on surplus investment and deficit strategies and on financial performance reporting.

The Group discussed the processes prior to the purchases of the Mall and the House of Fraser building in 2016. The Group were informed that Arlingclose did not have sight of the business plans for the acquisitions and it was their understanding that the properties were to be acquired primarily for the purposes of regeneration and service delivery. It was emphasised that if the acquisitions had been primarily for investment purposes, Arlingclose would have taken a different stance and pushed for view of the business cases prior to acquisition.

On the requesting of advice from Arlingclose prior to the acquisition of the Mall and associated properties, the Council were recommended that the costs of the acquisition should be proportioned so that a quarter of the debt was variable short term loans, a quarter was of a fixed rate loan from the Public Works Loan Board and half was from forward starting loans.

Officers and Arlingclose met frequently to review the Council's loan and investment portfolio and it was noted that as it was largely forecasted for interest rates to remain low partly due to central government quantitative easing measures, it was advised that the Council continued to roll over its short term loans. Whilst it was expected for the price of loans to drop, it was noted that historically loans from the Public Works Loan Board had been expensive.

The Group were advised that if the Council were to make acquisitions purely for income generation purposes the purchases would be subject to Minimum Revenue Production (MRP). Members were informed that the MRP for acquisitions were calculated aggregately and were assessed against all the Council's revenue streams. However there was an appetite amongst the Group to assess the Council's acquisitions on a property by property basis and whether they would have met the MRP individually and it was agreed to produce a schedule for all the Council's acquisitions since 2016 and whether they met the MRP. It was agreed that all the Council's acquisitions would also have their aggregate MRP calculated and the schedule would be included in the final report to be reported back to the Performance and Finance Scrutiny Committee.

It was highlighted that the Council's external auditors, BDO, had classified The Mall as an investment asset, as opposed to a purely fixed asset, as it was classified by the Council's former auditors, KPMG. Moreover this had been reflected in this year's and last year's financial statements. Emanating from the discussion, it was stressed and agreed that a significant part of the report to be reported back to the Performance and Finance Scrutiny

Committee would highlight that the Mall had in fact been acquired for a mixture of both regeneration and investment purposes.

The Group thanked David Green for attending the meeting, and noted that the service and advice provided by Arlingclose was invaluable and that a similar service, if it were to be provided in house, would be significantly more expensive.

Agreed Actions

- All the Council's recent property acquisitions since 2016 have their individual MRPs calculated and the schedule of which would be included in the final report to be reported back to the Performance and Finance Scrutiny Committee.
- The aggregate MRP for the acquisitions (against all the Council's revenue streams) also be provided

2 Update on the Independent Investigation

The Group were updated in respect of the progress relating to the appointment of the independent investigator to specifically look at the valuation of the Mall during its purchase in 2016. There were set to be at least 2 different offers from different firms to undertake the investigation. However it was acknowledged by all members of the Group that the completed investigation and resulting report were unlikely to be completed for full reporting to the Performance and Finance Scrutiny Committee at its meeting on 25 November 2020. It was also agreed that any evidence held by the Council in relation to the investigation would also be circulated to members of the Group.

Agreed Action

- Any electronic or physical evidence relating to the investigation of the valuation of the Mall in 2016, be circulated amongst the group whilst taking into account relevant information governance procedures.

**Notes of a Meeting of the Performance & Finance Scrutiny Committee
Property Investment Task & Finish Group
26 October 2020**

Members Present:

Cllr Sashi Mylvaganam
Cllr Sharon Galliford

Cllr Shaun Garrett

Officers: Martin Hone

1 Notes of Previous Meeting

The Group received the notes of the previous meeting of the Property Investment Task and Finish Group.

2 External Expertise

It was reported that four out of the five companies which had been approached about the possibility of conducting a desk top audit of the Council's property acquisitions since 2016 had declined the opportunity.

It was agreed that the Royal Institute of Chartered Surveyors would be approached for advice on potential audit companies.

3 Investment Properties - Schedule of Income

The Group received a spreadsheet summarising the income that the Council's investment properties had been projected to raise comparing it to the actual income received.

It was noted that whilst the industrial and commercial properties had performed well against their projected incomes the retail investments had consistently raised less income than had been projected even though the projected incomes had been revised downwards each year. It was stressed that this pattern was not unique to Surrey Heath and retail property investments were currently performing poorly nationally.

It was questioned how many of the businesses occupying Council owned property paid their rent on the dates scheduled. It was agreed that this information would be shared.

It was noted that the Group would need to clarify whether the loans received to buy the investment properties had been taken out for regeneration purposes or investment purposes. It was agreed that the Group would need to have sight of the correspondence between Arlingclose, the Council's financial advisors, and the Council in the run up to the purchase of the Squ. It was agreed that Arlingclose would be invited to the Group's next meeting to discuss the financial advice that was provided in relation to the investments

Agreed Actions

- The names of the agents responsible for marketing the commercial and industrial properties to the Council would be provided.
- Information relating to late payment of rents to be provided.
- Arlingclose to be invited to the Group's next meeting.
- Correspondence between the Council and Arlingclose relating to property acquisitions since 2016 to be circulated.
- Questions for Arlingclose to be drafted and circulated.

Performance & Finance Scrutiny Committee
Property Investment Task & Finish Group
14 October 2020

Members Present:

Cllr Sashi Mylvaganam
Cllr Sharon Galliford

Cllr Shaun Garrett

Officers: Martin Hone

1 Appointment of Chairman

It was agreed that Councillor Mylvaganam would be Chairman of the Property Investment Task and Finish Group.

2 Introduction and Terms of Reference

At its meeting on 9th September 2020 the Performance & Finance Scrutiny Committee had established the Property Investment Task and Finish Group to explore a number of concerns relating to the Council's acquisition of property since 2016 and in particular the decision making processes that were followed which led to the Council's purchase of the Squ. shopping centre in Camberley town centre.

It was questioned whether the decision making processes surrounding the purchase of industrial/commercial sites since 2016 should be included in the review's scope. It was agreed that if the legal advice on those purchases was from the same source as that given in relation to the Squ then they should be included in the review.

The Group was informed that the Head of Legal was carrying out a piece of work on the use of urgent actions to purchase property and the outcomes of this would be shared.

It was questioned whether members had been provided with an overview of the projected income that would be received from the Squ at the time its purchase was being considered and if the income received subsequently met these projections. It was agreed that income figures received from the Squ to the end of the 2019/20 financial year would be provided.

In addition to the above, it was agreed that the following information would need to be reviewed as part of the process:

- The strategic rationale that guided all the purchases made since 2016
- The financial advice received from Arlingclose on each property
- The Council's tender purchasing policy
- The paper trail for each acquisition
- The Land and Property Board's terms of reference and the decision making authority delegated to the board.
- The recording of the confidential part of the Council meeting when the decision was made to purchase the Squ.

3 Project Structure

It was agreed that Montagu Evans and Arlingclose would be invited to attend a future meeting of the Task and Finish Group.

It was agreed that in order to get the most out of the meeting, the questions would be shared with both organisations in advance.

4 External Expertise

It was agreed that an external auditor should be appointed as soon as possible. It was stressed that to ensure objectivity the appointed individual should have not had any previous involvement with the Council and that the appointment would be made by Martin Hone.

5 Task and Finish Group - Membership and Support

It was noted that Martin Hone, Executive Head: Finance had been appointed by CMT to act as the Task and Finish Group's lead officer. CMT had also agreed that any requests for additional support would be supported where appropriate.

It was agreed that the appointed substitutes would be able to attend the Task and Finish Group's meetings.

6 Timetable of Review

It was noted that the Task and Finish Group would present its findings to the Performance and Finance Scrutiny Committee at its meeting on 25th November 2020. Any recommendations would then be forwarded to Council for consideration on 9th December 2020.

The Group's next meeting would take place on Monday 26th October at 9am.