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01/2014/1330/PF

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KEY:

- A
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- C
- C1
- C2
- C3
- C4
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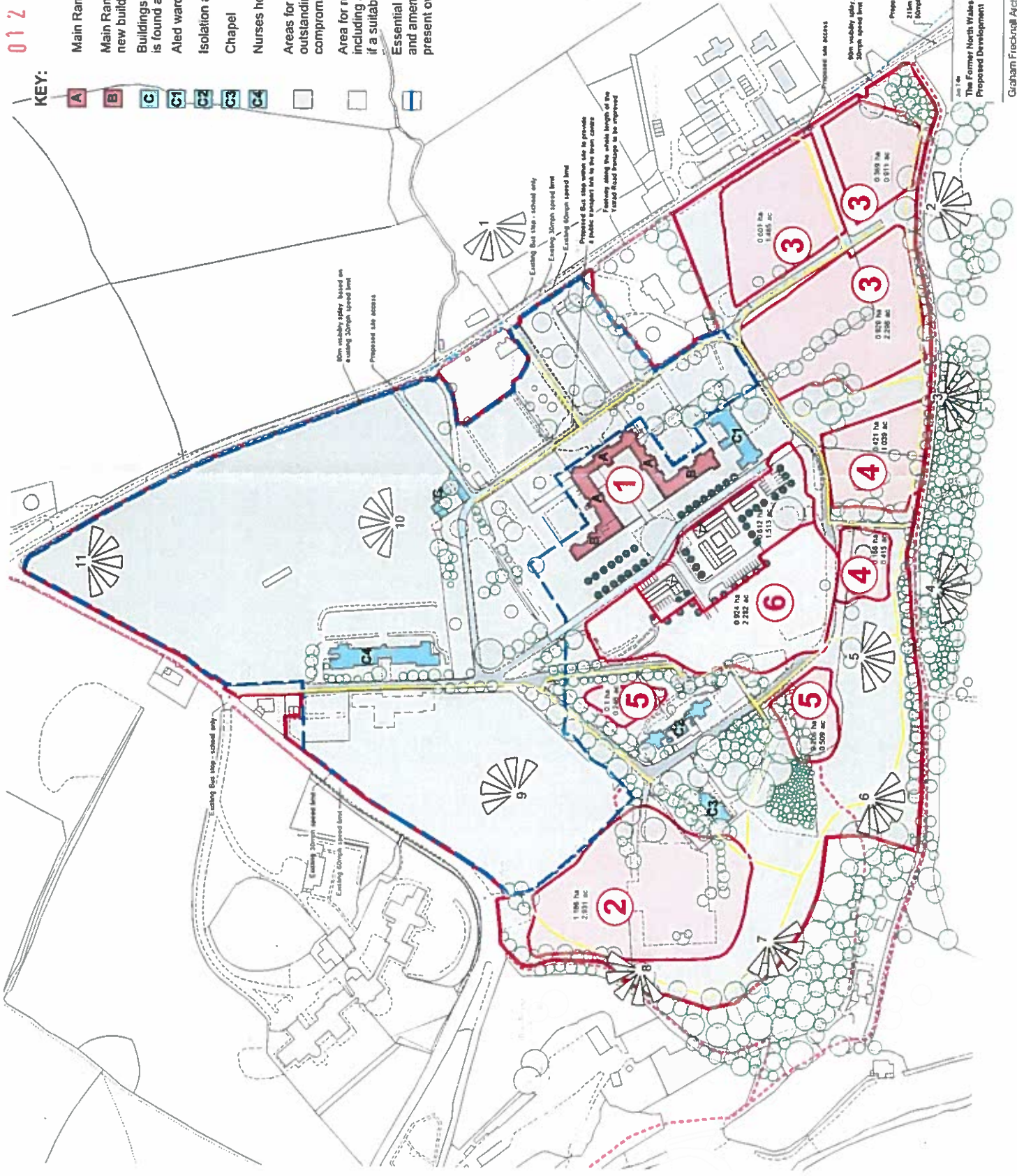
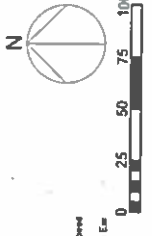
Main Range Buildings to be restored and developed  
 Main Range Buildings to have facade retention with new build behind  
 Buildings that could be retained if a suitable end use is found and viability allows  
 Aled ward  
 Isolation and mortuary  
 Chapel  
 Nurses home  
 Areas for residential development taking advantage of outstanding locations and views, without compromising the setting of the key listed buildings  
 Area for residential and mixed use development, including areas retaining certain existing buildings if a suitable end use is found and viability allows  
 Essential setting for the principal listed buildings and amenity space within the boundary of the present ownership

- Footpaths / cycle routes
- Vehicular access
- Public Footpath

- Development phases shown thus
- Trees - Existing
- Trees - Proposed

REVISED PLAN

13 APR 2015  
 DENBIGH  
 PLANNING SERVICES



Site 104  
 The Former North Wales Hospital Denbigh  
 Proposed Development

Drawn by: [Name]  
 Checked: [Name]  
 Date: 06.04.15  
 Scale: 1:2500@A3

Client number: 13114\_10  
 Project name: [Name]

Author: [Name]  
 Date: [Date]  
 Drawing number: AL.01





Other listed buildings to be subject of a further application for Listed Building Consent application for demolition

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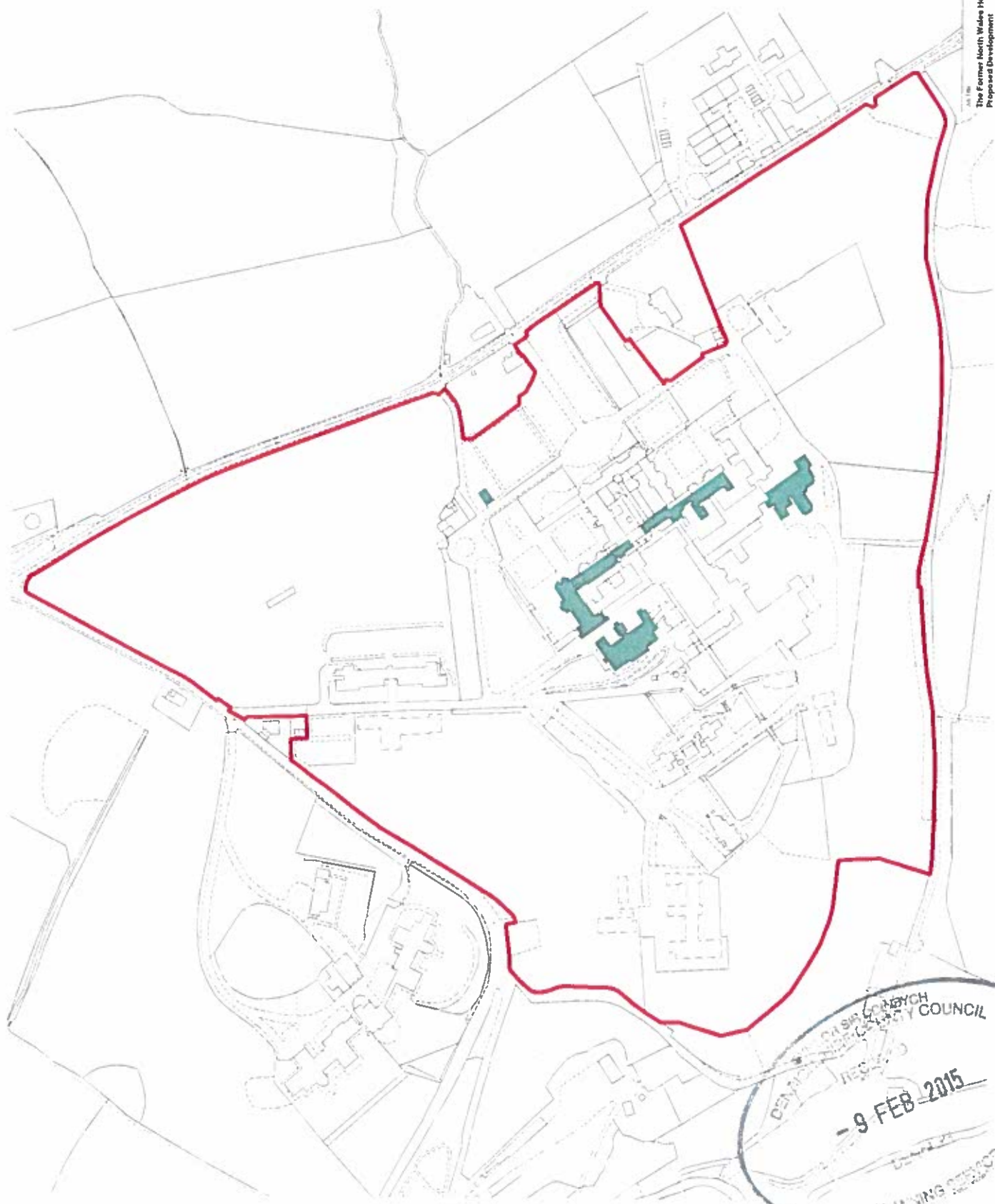


**BUILDINGS TO BE DEMOLISHED**  
01 2 014 / 1330 / P F



0 25 50 75 100 M

**ADDITIONAL PLAN**



Site Plan: as Existing -  
Additional buildings to be demolished

1314.10

Garleam Fritcham Architecture & Design

AL.12

DEMONSTRATION PLAN  
DENBIGH COUNTY COUNCIL  
PLANNING DEPARTMENT  
- 9 FEB 2015



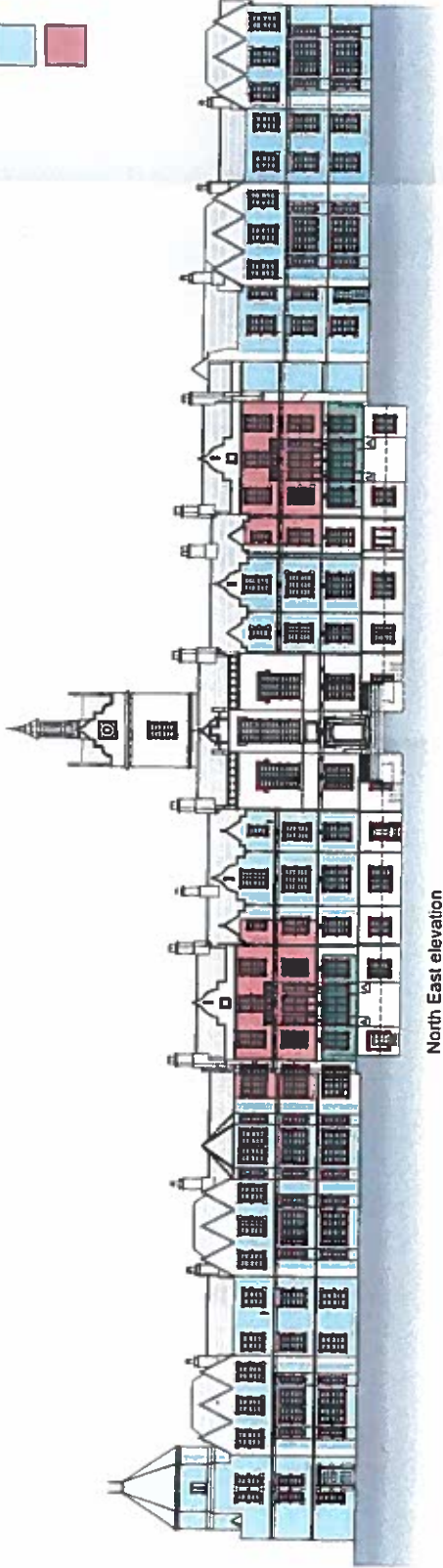
01 2014/1330/PF

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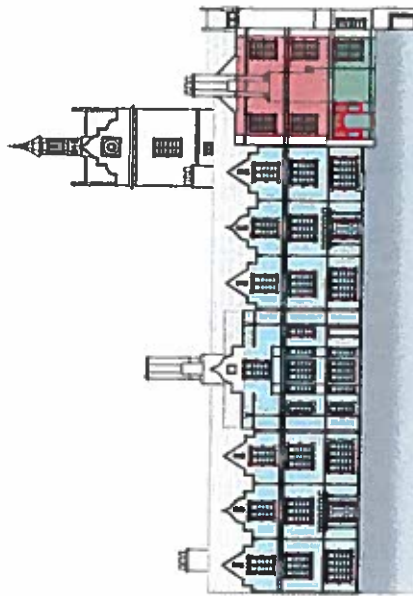
1/2 Bed Flat

3/4 Bed Town House

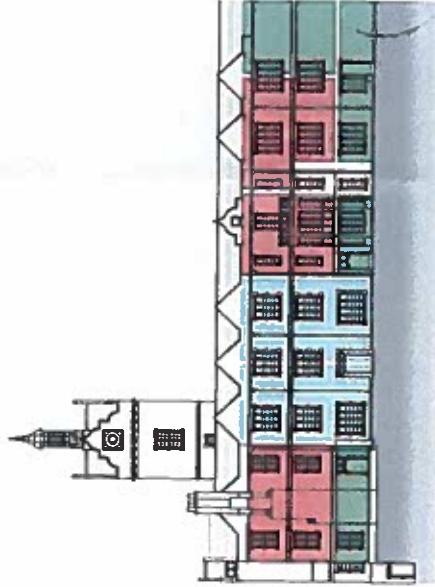
1/2 / 3 Bed Maisonette



North East elevation



South East elevation



North West elevation

MAIN LISTED BUILDING  
PROPOSED ELEVATIONS - FRONT SIDES

27 NOV 2014  
CITY COUNCIL  
PLANNING SERVICES

Job Title

The Former North Wales Hospital Denbigh  
Proposed Development

Drawing Title

Elevations; as Proposed -  
Main Listed Building

Drawn

ID

Date

Scale

Work Stage

Rev

Checked

Job Number

1314.10

1:4000A3

1-4000A3

(-)

Graham Frecknall Architecture & Design

9 Agricorn Street, Normanton, Northamptonshire NN23 3QZ

141 01 600 714518 Fax 01600 714527 E-mail gfrecknall@ac.uk

AL-0.114

Notes

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01 2014 / 1330 / PF

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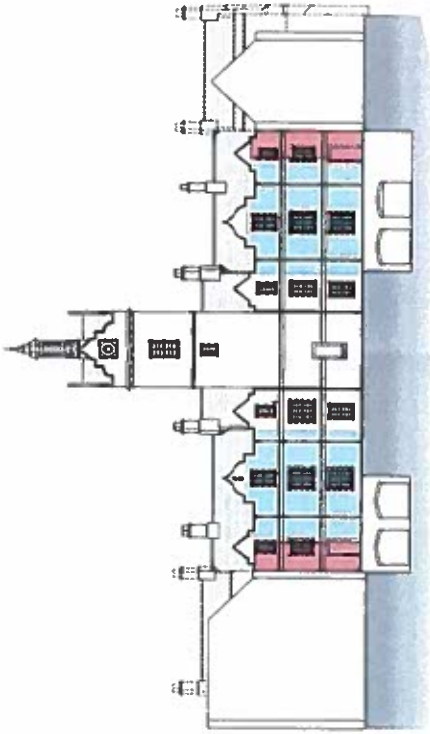
1 / 2 Bed Flat



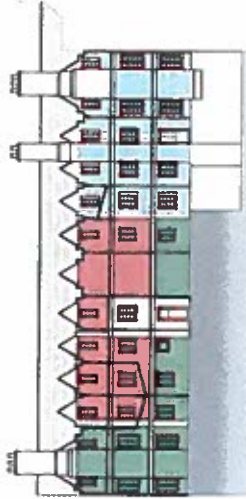
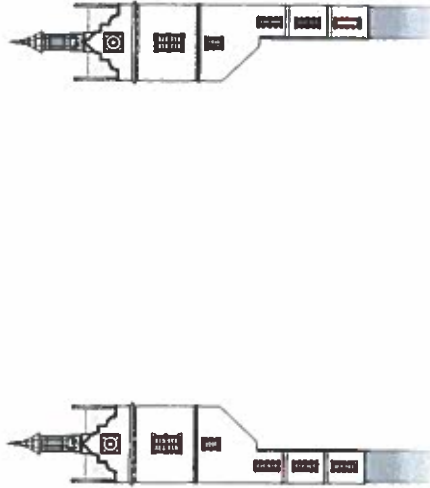
3 / 4 Bed Town House



1 / 2 / 3 Bed Maisonette

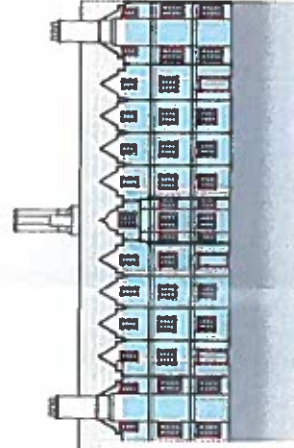


South West elevation



South East elevation

MAIN LISTED BUILDINGS  
PROPOSED ELEVATIONS - REAR



North West elevation

27 NOV 2014



Job Title

The Former North Wales Hospital Denbigh  
Proposed Development

Drawing Title

Elevations, as Proposed -  
Main Listed Building

Job Number

1314.10

Revision ID

06.01.14

Revisions

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Work Stage

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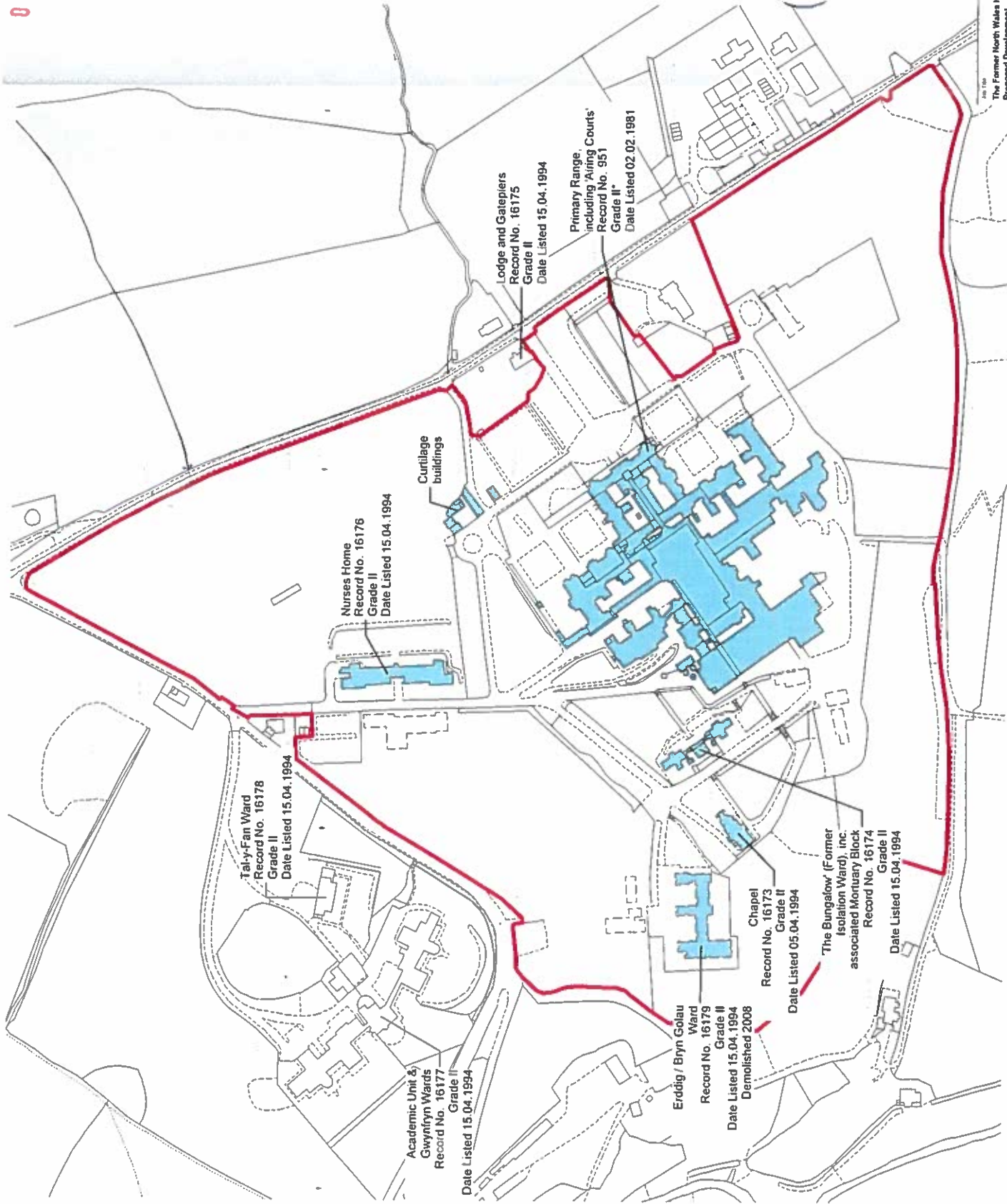
KEY:



Listed buildings

# SITE PLAN SHOWING LISTED BUILDINGS AS EXISTING

27 NOV 2014



Taly-Fan Ward  
Record No. 16178  
Grade II  
Date Listed 15.04.1994

Nurses Home  
Record No. 16176  
Grade II  
Date Listed 15.04.1994

Curtilage buildings

Lodge and Gatepiers  
Record No. 16175  
Grade II  
Date Listed 15.04.1994

Primary Range,  
including Aiming Courts  
Record No. 951  
Grade II\*  
Date Listed 02.02.1981

Erdig / Bryn Golau  
Ward  
Record No. 16179  
Grade II  
Date Listed 15.04.1994  
Demolished 2006

Chapel  
Record No. 16173  
Grade II  
Date Listed 05.04.1994

The Bungalow (Former  
Isolation Ward), inc.  
associated Mortuary Block  
Record No. 16174  
Grade II  
Date Listed 15.04.1994

Academic Unit &  
Gwynfryn Wards  
Record No. 16177  
Grade II  
Date Listed 15.04.1994

Site Plan for  
**The Former North Wales Hospital Demolish  
Listed Buildings**  
Prepared Development

Client: **1314.10**

Drawn by: **AL.02**

Checked: **08.01.14**

Scale: **1:2500**

Drawn by: **Graham Frockwell Architecture & Design**

9 Sghyller Street, Darnley, Merthyr Tydfil, CF47 9DZ, Wales

01493 716117 • 01603 714377 • [info@grahamfrockwell.co.uk](mailto:info@grahamfrockwell.co.uk)



**WARD :** Denbigh Upper / Henllan

**WARD MEMBERS:** Councillors Colin Hughes and Geraint Lloyd Williams

**APPLICATION NO:** 01/2014/1330/ PF

**PROPOSAL:** Conversion, restoration, part demolition and adaptation of main range of listed buildings to residential use (34 dwellings), and development of land within the hospital grounds for mixed uses as enabling development, including up to 200 no. residential units and up to 1114 square metres of business units, access and associated works

**LOCATION:** Former North Wales Hospital Denbigh

**APPLICANT:** Prince's Regeneration Trust

**CONSTRAINTS:** Listed Buildings

**PUBLICITY UNDERTAKEN:** Site Notice – Yes  
Press Notice – Yes  
Neighbour letters - Yes

**REASON(S) APPLICATION REPORTED TO COMMITTEE:**

Scheme of Delegation Part 2

- Referral by Development Manager

**CONSULTATION RESPONSES:**

DENBIGH TOWN COUNCIL

“The Town Council does not wish to raise any objection to the application”

DENBIGH CIVIC SOCIETY

No response received

DENBIGHSHIRE HISTORIC SOCIETY

No response received

NATURAL RESOURCES WALES

Original response:

NRW originally objected to the issue of consent unless additional information could show the proposal would not have adverse effects. This included specific reference to impacts on bats using the buildings, protected species and biosecurity; and the need for a Flood Consequence Assessment / Surface Water Drainage Strategy.

The applicants submitted additional information in early February 2015 in the form of a Bat Mitigation document and a Flood Consequences Assessment and Surface Water Drainage Strategy. NRW were reconsulted on this information.

### Second response:

NRW do not object to the principle of the proposal, provided detailed points are addressed.

- In relation to Protected Species:

Is satisfied at the details in relation to Reasonable Avoidance Measures, and mitigation and compensation arrangements for the loss of any roosts identified. Advise that specific mitigation / compensation roosts should be implemented in advance of demolition, and conditions / agreements should be included in relation to external lighting schemes, post project monitoring schemes, a long term site management and maintenance scheme and wardening, and implementation of recommendations in the Bat Strategy document.

- In relation to the Natural Environment and Rural Communities Act:

Defer to the Council's ecological adviser or other conservation organisations.

- In relation to flood risk:

Acknowledge the difficulties in accessing the site to establish the method of drainage. Have concerns over any proposals to drain to the Afon Ystrad or other watercourses in terms of increasing flood risk downstream. Note Dwr Cymru Welsh Water agree in principle to connection of surface water to the combined sewer network, although they should confirm the acceptability of this approach.

Whilst suggesting determination of the application should be delayed until the existing drainage arrangements can be established so a viable drainage strategy can be developed, if the Authority are to seek a determination, request imposition of a planning condition requiring the approval and implementation of a surface water regulation system.

- In relation to Environment Management

Are aware of the presence of asbestos within buildings, and draw attention to the need to follow relevant regulations for treatment and disposal of waste.

### Third response (April 2015) following challenge to conclusions on the adequacy of protected species information –

Do not wish to modify or amend previously expressed comments. Reiterate need to ensure planning conditions and obligations effectively consider statutory nature conservation issues during and post construction and in the short and long term.

### In relation to additional Bat Survey document submitted by the applicants in September 2016 –

NRW advise that comments relate to Protected Species (Bats) only and that comments made previously on other matters still remain valid.

Recommend that planning permission should only be granted if conditions are attached to address concerns identified:

- 1: Submission of conservation plan for all species identified roosting
- 2: Implementation of all bat mitigation and compensation measures
- 3: Bats Condition – Light spillage scheme
- 4: The submission and implementation of proposals that facilitate long term bat surveillance/monitoring, habitat management and wardening;
- 5: Submission of NRW licence before works commence

The NRW response sets out the legislation relevant to consideration of proposals affecting European Protected Species. It confirms the proposal has the potential to cause disturbance to bats and/or loss or damage to their resting places, and that the Regulations allow the approval of development that would be likely to result in disturbance or harm to bats, but only if they satisfy an appropriate Habitats Directive derogation purpose and two tests before a licence can be issued from Natural Resources Wales. In the case of development, the applicable derogation purpose is:

“Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.”

Furthermore, the licence can only be issued by NRW on condition that there is:

“no satisfactory alternative”, and that

“the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

NRW point out that Paragraph 6.3.7 of TAN5 states that a Local Planning Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, that an appropriate derogation purpose and the two conditions for the eventual grant of a licence are likely to be satisfied.

In this case, NRW note that the bat report concludes that the proposal is likely to impact adversely on the bats present at this site and, therefore implementation of the proposal will be subject a European protected species derogation licence. The report outlines the approaches to be used to conserve each species of bat including the provision of a dedicated structure(s) to be used as compensatory bat roost(s) and the inclusion of features that could be used or function as bat roosts within other structures. The report does not however, provide the detail of avoidance, mitigation or compensation measures required during and post construction; details of future surveillance; management wardening and tenure of compensation; or other offsetting measures associated with conserving bats at this site.

Having regard to the submissions, NRW consider that, in principle, the development is not likely to be detrimental to the maintenance of the favourable conservation status of each of the populations of bat affected by the proposal provided that any subsequent consent is subject to the imposition of the suggested planning conditions or obligations. NRW also request that any consent includes the imposition of a condition that requires the submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the Local Planning Authority.

Finally, in relation to biosecurity matters, NRW draw attention to invasive non- native species (INNS) and diseases and advise that any consent includes a condition requiring the submission and implementation of a Biosecurity Risk Assessment, to include appropriate measures to control any INNS on site and measures or actions that aim to prevent INNS.

#### DWR CYMRU WELSH WATER

Request the inclusion of conditions and advisory notes on any permission.

In relation to sewerage – separation of foul, surface water, and land drainage discharges, connection of foul flows to the combined sewer, details of the comprehensive and integrated drainage for the site.

In relation to sewage treatment – no problems envisaged with the waste water treatment works for the treatment of domestic discharges from the site

In relation to water supply – supply can be made available to serve this proposed development.

#### CLWYD POWYS ARCHAEOLOGICAL TRUST (CPAT)

Advises that prior archaeological assessment has been completed by CPAT for the historic buildings at the site in relation to the 2004 planning application. Additional work will be necessary to bring the basic level of recording up to standard in relation to buildings to be demolished and those for which there was no internal access.

Following clarification of plans, note that the former gasworks are now part of the potentially retained group of buildings marked as C and C 1-4 on the revised site development plan and this is welcomed. There should be a presumption in favour of the retention of these buildings with a suitable end use which seeks to retain their original architectural character and layout. Suggests inclusion of a condition on any permission to secure the appropriate level of recording for the buildings.

#### WELSH HISTORIC GARDENS TRUST

Confirm the site is not within the landscape registered in the CADW/ICOMOS Register of Parks and Gardens of Special Historic Interest in Wales and little of the Victorian Gardens remain. The tree lined approach to the main buildings should be regarded as the setting to the Grade II\* listed building. Surrounding parkland setting is attractive and would be enhanced by preserving as much as possible, and future landscaping should be sympathetic to the period of the listed buildings.

#### BRITISH TELECOM

No response received

#### WALES AND WEST UTILITIES

Advise there is no mains gas apparatus in the area of the site.

#### SCOTTISH POWER

No response received

#### NORTH WALES FIRE AND RESCUE SERVICE

No response received

#### NORTH WALES POLICE

No response received

#### CADW (ANCIENT MONUMENTS ADMINISTRATION)

No response received

#### BETSI CADWALADR UNIVERSITY HEALTH BOARD

Referred to the possible value of a Health Impact Assessment with the proposal, and suggested that detailed timescales and phasing of development are agreed, and that the results are used to assess demand on health services and the adoption of an agreement to meet the needs of the new population.

#### DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Head of Highways and Infrastructure

##### Highways Officer

No objection to the application subject to inclusion of standard conditions requiring approval of full details of highway works, internal estate roads and associated infrastructure, construction method statement(s), and improvement of cycle and pedestrian links with the town. Suggests contributions will be required to improve the rights of way network, public transport provision, and the cycle and walking links to the town.

##### Footpaths Officer

Notes Public Footpath 46 abuts the site and requests conditions / notes on any permission to safeguard the right of way (no storage of building materials, no diminution of width, no barriers to be placed across)

##### Countryside Access Officer

Requests consideration be given to a contribution towards upgrading the footway from the site into Denbigh to create an ideal recreational link for residents, and for improvements to a number of stiles on public footpaths in the locality.

##### Pollution Control Officer

No objection to the above proposal in principle. Will need to see a more detailed assessment for the different uses on the site at a later stage.



### Conservation Architect

In summary, has no objections to the proposals, but requests any permission is conditioned to ensure capital released from the enabling development is tied to the repair of the targeted listed building, and to approve further details of the development. Refers to the difficult history and the poor condition of the buildings. Suggests the application follows similar principles to the previously consented scheme, but that it recognises that it is not possible to save as much of the listed building stock because of their condition, albeit that the proposals reserve buildings to be saved should the project prove to be sufficiently successful. Suggests the tests for the acceptability of enabling development in English Heritage guidance, Development Plan policy VOE4, and the adopted Site Development Brief are explained and addressed satisfactorily in the submission, and that the enabling development is discretely located so as not to impact detrimentally on the setting of the main listed building. Considers the indicative proposals for adaptation of the main building are well considered and allow for the retention of much of the north east elevation.

### Biodiversity Officer

#### First response

Acknowledges this is a complex site with a number of issues.

#### - In relation to bats

Notes the constraints in accessing buildings in respect of access and safety, and that it has not been possible to undertake up to date surveys. However, in this instance has considered it possible to make an assessment under Article 16 of the Habitats Directive based on previous survey information, knowledge that the site has deteriorated for bats in recent years, and the proposed mitigation and compensation measures. The Article 16 Assessment is provided with the consultation response, and concludes that the proposals satisfy the three tests. It is suggested that planning conditions / obligations should be attached to ensure implementation of mitigation and compensation measures, including a Biodiversity Method Statement, Demolition Protocol, implementation of measures in the Bat Mitigation Report and details of an external lighting scheme.

#### - In relation to reptiles, badgers, and nesting birds

Pre-commencement conditions requiring surveys and Reasonable Avoidance Measures need to be attached to any permission.

Trees should be retained and protected during development as a number have been identified as supporting bat roosts, and where works are proposed relevant surveys would be required with proposals for avoidance, mitigation and compensation measures.

#### In relation to additional Bat Survey document submitted by the applicants in September 2016 –

Is satisfied that the latest surveys and assessment were undertaken to a satisfactory standard to inform the decision-making process, in combination with the previous surveys for the site. There were a number of limitations affecting the surveys, however these are acknowledged in the report, and it is of the opinion that the information provided gives additional backing to the Article 16 Assessment undertaken in February 2015 by the Authority.

Explains that in order for planning permission to be granted, the Authority must be satisfied that the development meets one of the derogation purposes set out in the Habitats Directive, along with the two conditions upon which the grant of an NRW licence rests. States that the derogation purpose applicable for this development is

“Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.”

The Biodiversity Officer’s view is that this derogation purpose is satisfied on the following grounds:

- Benefitting public safety though bringing unused, unsafe buildings into use
- Providing residential dwellings in line with LDP housing requirements
- Providing employment through construction jobs and in the proposed business units
- Securing roosting opportunities for bats in the long-term, since dereliction would decrease suitability over time.

The two conditions on which the grant of an NRW licence rests are:

- There is no satisfactory alternative
- The development will not be detrimental to the maintenance of the population of the species concerned at a Favourable Conservation Status (FCS) in their natural range.

It is considered that in terms of 'no satisfactory alternative', the previously consented scheme on the site is no longer a viable option, and in any case planning permission has now expired. The only other alternative is that of 'doing nothing'. This is not satisfactory, since the Grade II\* listed buildings would fall into an increasing state of dereliction and eventually reach a point where they would need to be demolished. The site would become increasingly unsafe and an eyesore and the benefits for housing and employment would not be realised. The option of doing nothing would also be unsatisfactory for bats, since the increasing dereliction would reduce the suitability of the buildings for bats. In the long-term, roosting opportunities would be lost and the site would not provide functionality for roosting bats.

Favourable Conservation Status is complicated by the number of species on the site and incomplete survey data. Without avoidance, mitigation and compensation measures, the proposed development is likely to be detrimental to the maintenance of FCS for the populations of bats on site. However, the Biodiversity Officer is satisfied that through planning conditions and obligations that the development can proceed in a manner which is not detrimental to the maintenance of FCS.

The Biodiversity Officer suggests the inclusion of a number of conditions requiring submission, approval, and implementation of details relating to bats, trees, invasive non-native species, reptiles and badgers.

#### Local Housing Strategy and Development Officer

Supports the proposed development despite the lack of affordable housing provision. Advises identified housing need in Denbigh is significant and mainly for smaller dwellings, but is sympathetic to the fact that there are abnormal building costs to the development and listed building considerations.

#### Minerals Officer

Confirms the site is underlain by glaciofluvial sand and gravel which extends to the east of the site. The deposit appears relatively small and isolated, and is already partly sterilised by the North Wales hospital itself and the road to the east of the site. Given the listed status of the existing buildings within the site and the need to ensure that any surrounding development retains any historic interest, considers it unlikely to be desirable to require any prior extraction in this instance. Given the small size of the site, any loss of sand and gravel is likely to be minimal and outweighed by the need to ensure the preservation of the listed buildings. Suggests that the proposal meets criteria (i) of PSE 15, i.e. that it can be demonstrated that the need for the development outweighs the need to protect the mineral resource in this instance.

#### Strategic Planning and Housing

Do not object to the application.

Welcome the submission of an application aiming at restoring these important historic buildings with a view to bringing them back into use. Note the site is outside the development boundary but that it is designated under Local Development Plan Policy VOE4 which allows for development which may not normally be acceptable in planning terms as a means of securing the future of a heritage asset at risk. Considers residential development is not an inappropriate form of enabling development and that it is identified as the optimum viable use of the land to fund future works to the key buildings. Denbigh is a lower growth town in the development plan which indicates it has a range of services and facilities so it can accommodate levels of growth. The Council has adopted the site Development Brief 'Former North Wales Hospital Denbigh' in May 2014 to guide the process, design and quality of development coming forward on the site, and the application is

broadly aligned to the brief, with the exception of the new entrance to the north east of the main buildings, which is not objected to.

## **RESPONSE TO PUBLICITY:**

### Private individuals

#### In objection

Representations received from:

K. Dear, 3 Hen Gapel, Trefnant, Denbigh

A. Moulden, 75 Vale Street, Denbigh

E. and J. Raine, 32 Love Lane, Denbigh

Summary of planning based representations in objection:

Highways

Inadequate highway network / additional car journeys / difficulties for safe passage for pedestrians / lack of clarity of proposals for new roads and traffic controls / congestion not properly researched / impact on Love Lane as main access, as even with weight restrictions HGVs have been unable to pass parked vehicles.

Impact on local infrastructure

Ability of local schools, doctors, hospitals, social, community and family services to cope with and fund increase in demand on services

Need for development

Question over need for additional housing given allocations for Denbigh, St Asaph, and Bodelwyddan / how have figures for enabling development been arrived at / housing should be for affordable needs

Impact on setting of site

Effect of housing on heritage site setting

Other matters raised:

Application should be called in by Welsh Government / place has unhappy memories for many / inadequate consultation process / opposes Compulsory Purchase Order / other options exist for the site

#### In support

Representations received from:

R. Jarvis, Castan Manor, Prion Road, Denbigh

Rebecca Chapman, Bryn Euryn, Ruthin Road, Denbigh.

Summary of planning based representations in support:

Scheme would save part of Denbigh's heritage / any development should be encouraged, profit making or not, to preserve anything that can be saved on the site.

Hospital holds huge sentimental value

Scheme is feasible as management would rest with a non-profit Trust with experience of such projects

Inward investment to Denbigh would be enormous (jobs, housing, trade skills/local businesses etc)

Representations have been sent on behalf of the site owners. These consist of :

- From Alban P. Cassidy, Cassidy and Ashton Group Ltd, 7 East Cliff, Preston, Lancashire,
  - o A 10 page letter on behalf of Freemont (Denbigh) Ltd [FDL] (who it is understood are the owners of the site) and Northern Estates Ltd , who the letter states hold a first charge across the site (December 2014)
  - o A 1 page email (April 2015)

- A 4 page email from Mr Ayub Bhailok, Bhailok Fielding Solicitors, Clayton Hall, Harris Park, 253 Garstang Road, Preston, Lancashire
- A 2 page email from Mr Ayub Bhailok, with an attached Development Appraisal from Eckersley Chartered Surveyors, based on the Strutt & Parker Development Appraisal.
- A 4 page objection, with appendix, from Jason Reynolds, Simply Ecology, Office 7-2-7, Cameron House, White Cross South Road, Lancaster

Members will appreciate that it is not possible within the confines of a Committee report to append the full contents of documents of the size and detail submitted, so what follows is a summary of the main points they raise in relation to the planning application. As always, all representations are available for inspection on the application file. Any additional representations received between the completion of the Officer report and the day before Committee will be referred to as normal in the late information sheets.

The initial representations from Cassidy and Ashton and Mr Ayub Bhailok reserved the right to comment further on matters considered relevant to the application. This included detailed information in Appendices attached to the Development Appraisal which were not accessible online at the time of submission of the comments, additional information requested in relation to elements of the submission, the Review of the Development Appraisal undertaken by an independent consultant on behalf of the Council, and responses from consultees. The April 2015 email from Cassidy and Ashton following a reconsultation on the application confirmed the previously raised concerns remain outstanding, adding further points in relation to the viability assessment and that the issue of ecological surveys has not progressed further.

Main points raised in these representations of relevance to the planning application –

#### Principle of development

Support the principle of development but object to the applications principally on the basis of a lack of viability which would prevent the scheme moving forward. See little purpose in granting development that is unlikely to be realised for reasons pertaining to viability as this is the very reason why development has not taken place in the past when planning permission was granted, as economic circumstances at that time made the development unviable.

#### Level of information and inconsistencies within submission

The planning application is referred to on the web site as being in full when it is in fact a hybrid application / original submission did not contain all of the necessary information in order to make a robust decision on the application (protected species information) / inconsistencies between documents referring to the amount of enabling land / confusing reference to releasing enabling development over 5-10 years yet there is the expectation of some units (as they become available) being occupied on the site when a substantial part of the remainder of the building would remain in a state of disrepair and unoccupied / an Essential Setting Boundary Line for the listed building has been set out on the drawings but there is no clear justification for this and it contradicts the Council's previous position when granting reserved matters approval for the previous scheme in May 2009 which remained live until May 2011.

#### Review of background history

The representations make reference to the recent planning history, referring to the basis of the 2006 permission and the Section 106 Agreement which accompanied it; attempts to satisfy conditions imposed on the permission; the effects of the economic crisis in late 2007/ 2008 on the housing market, bank funding and interest in developing the site; indications of signs of recovery in the housing market and the potential for development to take place as part of an enabling scheme to secure the retention of key buildings.

#### Viability issues

The representations in the first Cassidy and Ashton response and the first response from Mr Bhailok offer detailed comments on the Strutt and Parker Development Appraisal and question whether this establishes a case for granting permission, suggesting the scheme has not been thought through, and is deficient in many areas, not taking account of the condition of the buildings and related costs, abnormal costs, the value of the site, issues of borrowing and funding, risks, preliminaries, and uses questionable

assumptions on marketing and sales, costs of dealing with contamination, acceptable developer profit, infrastructure costs, relying on a zero purchase cost for the site (which is challenged as it is considered the value is in excess of the £1.9m figure suggested by the VOA in 2012).

It is questioned whether the extent of enabling development is sufficient to make a viable scheme that will realise a reasonable profit for a developer, to attract the necessary interest from housebuilders / the masterplan shows only about 2/3 of the previously approved area for residential development and a consequential reduction in income generation for the site / the housing market in North Wales is not at such a level that the returns per unit will be higher than when planning permission was previously granted / the scheme as proposed is not viable and therefore will not result in the very repairs and restoration that the enabling development is intended to promote / values given to the land are contrary to the basis upon which successful enabling development is undertaken./ what was previously accepted in granting the previous planning permission on the site relied heavily on the English Heritage approach which has subsequently been enshrined within Policy VOE4 of the adopted Core Strategy / there is a lack of allowance for development finance which is a standard element of any viability proposal / a number of the financial assumptions are either inconsistent or not clarified and include £500,000 allocated for landscape and upgrading the existing road without justification and reference in the Strutt and Parker Report to the Council holding in one section £1m to be utilised towards the buildings and in another section suggesting the figure is £650,000.00/ the assumption in the Strutt and Parker development appraisal that the site has a nil value is not accepted as value can only truly be the market value that a willing buyer is prepared to pay to a willing seller on a particular date, hence with regard to the potential for enabling development the site is considered to hold substantial value, which should be factored into any appraisal.

It is suggested the development Appraisal fails to take many factors into account / it indicates that without the sale of enabling development there is a potential shortfall of £3.75m, which is speculative bearing in mind it is based on various assumptions that have been made and full costings for the proposal are still required /If full costings are required and those costings indicate a very substantial disparity, the level of enabling development is likely to be far higher and the level of demolition required is potentially likely to increase / no allowance is made for circumstances if for example there is no market or if the proceeds of sale are far less than that anticipated, which would automatically affect the viability of the scheme from the very early stages / the feasibility is based on current market requirements and it should be noted that these could change and therefore an allowance needs to be made for them to be kept under review / the potential availability of grants and other funding from the Welsh Government is purely speculative and is a general comment and there is no indication of any kind whatsoever that that will be forthcoming / Office and industrial space on the site given the low value of rents and value of land for such uses and also the little demand will not assist in the viability of the development / valuation of land values need to be scrutinised as areas allocated and available elsewhere in the Vale of Clwyd may be more attractive.

In summary it is suggested the applications as proposed will not result in a viable scheme and will therefore not provide the funding required to retain and restore the key buildings on the site.

The second response from Mr Bhailok provides commentary on the Eckersley Development Appraisal, which it is explained is based solely on figures provided in the Strutt & Parker Appraisal and material supporting the planning application. It states that Freemont nor its advisors agree on the various parameters and assumed factors contained in the Strutt & Parker report, but for the purposes of the exercise the assumed facts in that report have been used in the appraisal (using the same software as Strutt & Parker). The main conclusions are –

- Assuming a nil figure for purchase, and a 20% profit on GDV, a negative residual price of £5,094,128 is achieved
- Based on the Strutt & Parker assumed price per acre of £300,000, this requires 17 acres of enabling development. The Strutt & Parker appraisal suggests 11 acres of enabling provides for a loss of £880,297.
- Strutt & Parker's construction costs, infrastructure costs and contingency figures seem light. Demolition costs are very low considering the works likely to be involved
- Marketing fees applied are very low, and disposal fees and finance costs are challenged.

- 30% profit on GDV is considered more realistic and sustainable
- There are other assumed factors in the Strutt & Parker Appraisal which are very much uncertain
- Strutt & Parker completely fail to take into consideration other factors relevant to construction costs, how values will be realised, costs associated with mothballing buildings

The concluding remarks repeat the contention that the planning application supported by the Strutt & Parker feasibility is clearly flawed and unsustainable and it is stated that it is engineered in pursuit of an agenda to Compulsorily Purchase the site at minimal values.

The second response from Cassidy and Ashton suggests it has become evident from the Compulsory Purchase Inquiry that there are additional concerns in respect to the viability assessment, in particular failure to include landscaping costs, repairs and final fit out of the basement, phasing of the sale of enabling development, and additional infrastructure costs, and there is no proper costing of the communal areas. It is also suggested that the Rees Straw review of the appraisal for the Council substantiates the point that additional enabling development is highly likely.

#### Ecology issues

The March 2015 objection related to the conservation of bats, a group of European Protected Species.

- Grossly inadequate survey and assessment of the buildings on the site in relation to bats by the applicant's consultants. Avoidance of harm to bats and their roosts cannot be confidently predicted. Based on the age and complexity of the buildings and the availability of excellent local habitat around the site, neither the applicant nor the planning authority is in possession of the required information in order to determine any likely impacts on this European protected Species.
- The presence of protected species is a material planning consideration which must be fully considered by the planning authority if it is to discharge its statutory duties as a competent authority. Until such time as adequate survey, assessment and understanding of any impacts on bats can be submitted by the applicant, the authority is not in receipt of the necessary information and should not determine the application.
- If the County Council is minded to grant permission based on the inadequate information in relation to European Protected Species, then the decision would be challenged.
- The April 2015 email from Cassidy and Ashton supports the stance that the application should not be determined as it stands.

No response has been received on behalf of the owners at the time of completing this report in relation to the reconsultation in late September 2016, following receipt of the additional ecological information in the form of the Enfy's Bat Emergence Surveys document.

#### Other matters

Reference to funding issues relating to the Section 106 Agreement attached to the 2006 permission / there is a potential for a commercially viable scheme and hence no need for transfer to a Trust / a plea is made for the respective financial consultants to meet to determine what would be a viable scheme having regard to the level of enabling development and demolition necessary/ it is suggested that the application has been submitted intentionally to ensure that the value of the site is minimised to assist the Compulsory Purchase Order process, and not with a view to putting forward a credible, viable, and sustainable scheme that will provide a long term solution for the site / Strutt & Parker's assumption of nil value for the site is at odds with the actions of the Council's Officers in the lead up to the CPO.

**EXPIRY DATE OF APPLICATION:** 21/01/2015

**REASONS FOR DELAY IN DECISION** (where applicable):

- timing of receipt of representations
- need for reconsultation and receipt of key response(s)
- additional information required from applicant

- awaiting consideration by Committee

## **PLANNING ASSESSMENT:**

### **1. THE PROPOSAL:**

#### 1.1 Summary of proposals

- 1.1.1 This planning application is the latest proposing developments at the former North Wales Hospital site, following its phased closure between 1987 and 1995, and subsequent sale by Clwyd Health Authority.
- 1.1.2 It proposes works on the main range of listed buildings in connection with conversion to 34 apartments, demolition of a number of buildings, and the development of land within the grounds for residential and commercial use, as enabling development to fund the restoration of the main range and possibly other buildings.
- 1.1.3 There is a parallel Listed Building Consent application relating to the demolition works, which is the subject of the next report on the agenda, under Code no. 01/2014/1331/LB.
- 1.1.4 The planning and listed building applications are submitted by a planning consultancy, Asbri Planning Ltd., as agents acting on behalf of the Prince's Regeneration Trust. The application documents confirm that the relevant notices have been served on the owner(s) of the site, Freemont (Denbigh) Ltd. The background to the submission is explained later in the report, which describes the main elements of the developments proposed, and what are considered to be the relevant planning issues, having regard to responses to consultation and current planning policy and guidance.
- 1.1.5 The application was submitted at the end of November 2014, and has been supplemented with additional information, including in September 2016 in the form of further ecological information. It comprises the following documents :
- a Development Brief incorporating a Design and Access Statement and Listed Building justification Statement
  - a Development Appraisal
  - a Statement of Community Consultation
  - a Transport Assessment
  - a Landscape and Visual Impact Assessment
  - an Extended Phase 1 Habitat Survey
  - a Conservation Statement
  - an Arboricultural Statement
  - a Community and Linguistic Assessment
  - an Extended Phase 1 Habitat Survey; a Bat Mitigation document and a Bat Emergence Survey document
  - an Equality Impact Assessment
  - a Flood Consequences Assessment and Surface Water Drainage Strategy
  - the application forms, ownership certificate, and a range of plans showing the Main Range of buildings and others to be demolished, plans of the restoration of the Main Listed Building and the proposed 'enabling' development

The Development Plan submitted with the application, and elevation and floor plans showing the proposals for the Main Range of buildings are attached at the front of the report.

- 1.1.6 The proposals are submitted in the form of a 'hybrid' application similar to the one previously lodged in 2004 on behalf of Acebench Investments Ltd, which was granted permission in September 2006 following completion of a Section 106 Obligation. In this instance, the application involves the change of use and conversion of the main front block

to apartments, and the development of land within the grounds for residential and commercial purposes, hence in effect being in part for full planning permission and in part for outline permission. In terms of the details as set out in the application documents:

What are referred to in the submission as the 'full application elements' of the development include the following:

- *Repair and Conversion of existing main range of listed building to provide 34 no. residential units comprising townhouses, flats and duplex units*
- *Provision of 3,280square foot of community spaces in the central area of the building*
- *Construction of 2 no. vehicular access points*
- *Associated works*

What are referred to in the submission as the 'outline application' elements of the development include the following:

- *Outline Application with all matters reserved apart from access:*
- *Development of up to 200 units on 5.516 hectares of land for residential development and associated development*
- *Development of up to 1114 square metres of commercial floorspace and associated development*
- *Provision and retention of open space and parkland*

#### 1.1.7 Details of the proposals

The submitted Development Plan is copied at the head of the report and needs to be read in conjunction with the supporting documents to fully understand the proposals for the phases of the development, which are numbered 1-6 on the Plan.

In summary –

The Development Brief states the Phase 1 proposals involve the restoration of the main range Listed Buildings and wider parkland setting, and that the delivery of this element of **Phase 1** will be staggered throughout all phases of the development, with the delivery of the residential units within the buildings being anticipated in Phases 2, 3, and 4.

Each of the phases of residential development is linked to restoration works on the main range of listed buildings, funded from the capital receipts from the sale of land.

The **Phase 2** proposals involve the development of a 1.1 ha parcel of land to the north west of the chapel. The capital receipt from the sale of this land for residential development would go towards funding the most urgent works to the listed buildings, initial infrastructure, landscaping, and demolition works. The indicative number of dwellings on this area is 38.

The **Phase 3** proposals involve the development of 3 parcels of land totalling some 1.6 ha, in the south east corner of the site, fronting Pont Ystrad Road. The capital receipts from the sale of this land would fund the restoration and conversion of residential dwellings in the main range listed buildings. The indicative number of dwellings on this area is 66.

The **Phase 4** proposals involve the development of 2 parcels of land totalling some 0.55 ha, between the main buildings and the southern boundary of the site. The capital receipts from the sale of this land and the funds received from the partial restoration and conversion of the listed buildings would fund the rest of the restoration and conversion of the main range listed buildings. Surplus funds would be used to further improve infrastructure and carry out any remaining demolition, and possibly to match fund grants which may be secured to provide business units (subject to phase 6). The indicative number of dwellings on this area is 20.



The **Phase 5** proposals involve the development of 2 parcels of land totalling some 0.36 ha, to the north and south of the mortuary / isolation ward buildings. It is indicated that the capital receipts from the sale of the land would fund the development of the business units and any outstanding works to the main listed buildings, completion of infrastructure, landscaping, walkways, cycleways, and open space provision within the site. The indicative number of dwellings on this area is 26.

The **Phase 6** proposals involve the development of a single parcel of land totalling 0.9 ha, immediately to the rear of the main block. It is stated the development of this phase will very much depend on grant aid and the economics at the time, the idea being to provide business units, live/work units, and residential units. The funds could potentially be match funded by grants to facilitate restoration of other important listed buildings on site including the Nurses Home, Chapel, Isolation Ward and Mortuary. Surplus money from the overall development would go towards funding on –site community benefits including recreational features and possibly a visitor centre to celebrate the site’s history. The indicative number of dwellings on this area is 41.

There are no specific proposals in the application in relation to the Nurses Home, the Chapel, Mortuary or Aled Ward buildings, which are indicated as ‘buildings that could be retained if a suitable end use is found and viability allows’.

The business uses are indicated in the area immediately to the rear of the Main Range buildings to be retained / adapted.

The intention is to demolish the rear walls of the Main Range buildings and to reconstruct them in accordance with details to be agreed.

A new main site access is proposed off Pont Ystrad Road, some 90 metres to the north west of the existing main entrance, with a secondary access to serve proposed residential areas some 120 metres to the south east of this existing entrance, opposite Pennant Farm outbuildings. It is intended that an existing access off the Nantglyn Road is used as a one way route into the site.

The notation on the plan indicates the intention to make the existing access in front of the Main Range buildings into a footway / cycleway only, and it shows the provision of a bus stop / route within the site, to improve pedestrian and cycle links, and to relocate the 30mph speed limit signs further south along Ystrad Road in conjunction with the project along with improvements to the footway along the whole length of Ystrad Road.

Indicative ideas for the access, amount, scale, layout, the appearance and materials for the different areas / phases of development are provided in the Design Objectives section of the Development Brief.

- 1.1.8 A basic summary of the contents of the supporting documents follows. These are all public documents available for inspection:

The Development Brief incorporating a Design and Access Statement and Listed Building Justification Statement

This is a lengthy document produced by Asbri Planning for the Prince’s Regeneration Trust, and was revised in early February 2015. It is split into 8 sections, including an introduction and conclusion, with detailed assessment of the context, history of the site, site description, opportunities and constraints, a planning strategy and justification section, and design objectives.

The Vision Statement at the start of the Brief emphasises this is an exceptional group of historic buildings which has fallen into severe decay but has the potential to be

transformed into a highly desirable place to live and work. It refers to the history of the building and its architectural value, and to the collaboration between the County Council, The North Wales Building Preservation Trust, and The Prince's Regeneration Trust in putting together a vision for an exemplar regeneration project to rescue the Hospital. It argues the delivery of the project will not just benefit the town and the locality, but set a standard for heritage regeneration across Wales. It outlines the proposals to restore the key listed buildings and the parkland setting through being brought into appropriate new uses; the intention to deliver a number of phases of new build development, including residential, employment, and community uses, all taking account of the setting of the listed buildings and the constraints of the site, in order to create the highest standard of development.

The document goes into considerable detail in its 8 sections on the background to the current submission, including a review of the application granted permission in 2006, the 2008 listed building consent, and developments since that time, including the service of an Urgent Works Notice and Dangerous Buildings Notice by the Council in 2011, a Repairs Notice in 2013, and a Compulsory Purchase Order Notice in June 2014. It outlines the proposed phases of development and the links to restoration works on the main buildings, as set out in 1.1.6 above. It offers detailed guidance on design principles to be adopted in relation to the proposed phases of development. The brief argues the proposals are compliant with the thrust of national and local planning policy and guidance.

The Justification Statement of Demolition and the protection of the setting of the main range of listed buildings suggests certain demolition is unavoidable as a consequence of the deterioration of a number of the buildings and the constraint they impose on viable redevelopment of the site. It is argued that the extent of demolition is required to facilitate the redevelopment, in order to secure the most important historic assets, identified as the main range of the original hospital buildings. There is reference to this principle being accepted in the handling of the 2004 planning application. The statement contains Aesthetic and Economic justification for the demolition and alludes to previous conclusions reached on the case for demolition in studies for previous owners and the Council, concluding that the approach to demolition is supported by Welsh Office Circular 61/96 and the Council's Development Brief adopted in May 2014.

The Concluding section of the brief reiterates the background to the proposals and the reasons for the promotion of the planning and listed building consent applications to facilitate the preservation of the Hospital, involving funding via enabling works within the grounds. It is argued that the extent of development required to fund restoration works on the main listed buildings is determined by the Development Appraisal and is the minimum required to secure the funds to preserve these buildings; that the principle of the developments is acceptable in relation to planning policy, and has been consented to previously; that the provision of additional residential land will benefit the County Council in light of the shortfall in its housing land supply; and that the local impacts of the developments would not be unacceptable. The final paragraph states –  
“The DB (Development Brief) demonstrates the proposed development will secure the long term future of the North Wales Hospital, which is an important Heritage asset, whilst also meeting the necessary planning policy requirements and providing economic and social benefit to the local community”.

#### The Development Appraisal

This is a 21 page document with appendices prepared by Strutt and Parker, providing advice on the viability of the proposed development for the regeneration of the former Denbigh Hospital.

The Executive Summary indicates that the report offers opinion on the potential revenue from the conversion of the Grade II\* Building into residential units, the potential revenue from the sale of enabling land to generate funds towards the restoration of the Grade II\*

building and the proposed business units, in the context of the policies of the Local Development Plan.

The summary of the findings in relation to the following is :

**Income**

Potential revenue from the sale of converted units within the Grade II\* building - £7.975m  
Potential revenue from the sale of ancillary properties (morgue, nurses home, surplus land - £350,000

Phased sale of Enabling land - £3.5m

Total £11.825m

**Costs**

Taking an average 'build cost' including finance and development profit - £12.443m

Less savings due to remedial works already done - £235,000

Total £12.208m

The commentary notes that without the sale of Enabling Land, there is a potential shortfall of £3.74m. The report provides further commentary on the assumptions which underpin the appraisal, which it is accepted could affect different values / costings.

The Summary and Conclusions section contains the following statement –  
“Our conclusions suggests that the proposed scheme, including the revenue from the sale of Enabling Development land is marginal and will need some outside funding to support the infrastructure and possibly the building of the commercial units”.

The appraisal suggests that on the information available, the best case scenario is break even assuming no further grant funding. It stresses that any analysis is sensitive to small fluctuations in sales prices, costs, and timescales, and that with the whole scheme being marginal, it is important that these are as accurate as possible. It stresses the need for a comprehensive appraisal of likely infrastructure costs which could have a considerable bearing in the viability of the project.

#### 1.1.9 Statement of Community Consultation

This report prepared by Asbri Planning provides information on a consultation exercise undertaken in November 2014 in the form of a public exhibition of the proposals in Denbigh Library.

It suggests the exercise was successful in engaging with the local community in communicating the plans, and that the proposals are largely supported to ensure an important part of Denbigh's history is saved. The exhibition was attended by 78 persons, 16 completed a response form; 12 in favour of the development, 3 against and 2 neither for nor against. The points of concern were the need for residential development, traffic generated along Love Lane, and proximity to a private dwelling.

#### 1.1.10 The Transport Assessment

This 39 page assessment by Asbri Transport provides a review of the development against transport policies and the impact on the transport network within Denbigh. In relation to vehicle movements, the report suggests the peak hour flows would be significantly less than that which could have been generated by the uses of the site as a hospital; the development will have a marginal impact on the operation of the existing / proposed highway network, and that existing junctions have sufficient capacity to accommodate the likely volumes of traffic in peak periods in 2025. The conclusions are that the development is in accord with relevant policies and would have a marginal impact on the town's transport network. The information submitted in clarification of elements of the application in February 2015 advises that the Assessment was based on an initial scoping letter which assumed a maximum density of 325 dwellings in order to provide an 'overly robust' assessment, and it is suggested that the Assessment confirms the existing

transport network has sufficient capacity to accept the scale of development.

#### 1.1.11 The Landscape and Visual Impact Assessment

This report was prepared by Anthony Jellard Associates and advises its assessment is in accordance with nationally agreed best practice standards for addressing impacts, including at and after construction stage, and when mitigation planting becomes established.

The conclusions are that while the landscape character of the site itself will significantly change, the overall effects on the surrounding landscape will not be significant; that there will only be limited and localised changes to topography; the indicative masterplan will create a strong landscape structure for the development; the essential setting of the listed buildings will be maintained; there are no significant residual visual significant effects identified for residential receptors, road users, or Public Rights of Way around the site; no cumulative landscape and visual effects have been identified; and no designated landscapes have been identified as being affected. It suggests the proposal complies with applicable policies relating to landscape and that the regeneration proposals would bring this fine collection of listed buildings back into positive use within a high quality landscape setting.

#### 1.1.12 Ecological information.

There have been 3 separate documents submitted in the course of the application:

##### The Extended Phase 1 Habitat Survey

The survey by Enfys Ecology provides baseline data on species and habitats, potential constraints to development, and recommendations on mitigation / compensation strategies in relation to the undeveloped parts of the site. It identifies the major feature of ecological value to be the mature trees, which are the subject of a separate survey, but suggests works affecting the trees should ideally be avoided. Potential works to other areas are considered likely to have limited ecological impact, other than on reptile species which may be using the site. Recommendations are made for mitigation of impact through good working practices / protocols, and for further survey work if trees are to be removed and scrub land is to be disturbed.

(The Development Brief confirms it was not possible to survey the buildings due to their dangerous condition, hence in relation to bats the proposals rely on the Council's previous consultation, but it is accepted a strategy for protection will need to be agreed during the life of the planning application).

##### The Bat Mitigation document

This Enfys Ecology report contains sections collating existing bat information, a strategy for protecting ecological features including bats during and post development, and long term maintenance proposals.

##### The Bat Emergence Surveys document

This September 2016 Enfys Ecology report refers to Bat Emergence Surveys conducted following access being allowed to the site in August and September 2015. It summarises the findings of the surveys and outlines mitigation measures and recommendations, and an overview of legislation pertinent to protected species.

##### The Conservation Statement

This 55 page Statement, with appendices, provides a detailed review of the significance of the Listed buildings, and includes a summary of their history and analysis of their architectural character; the vulnerabilities and conservation issues, and provides a guide for the emerging project in best protecting the significance of the buildings. It sets out the Denbigh Hospital Steering Group's vision for the site (to retain the key listed buildings and their parkland setting into appropriate new uses, and to protect views into and out of the site especially from the town).

The conclusions suggest Denbigh Hospital has a high level of significance but is in a

critical condition and at risk of being lost for ever if further action is not taken to bring it back into use. It is suggested that it is capable of adaptive reuse to a viable future that will celebrate its heritage; including primarily residential, but also commercial and community uses; that tight controls are necessary over work on the buildings and their setting, in order to preserve the key historic character. The final section highlights the fact that there are few places in the UK which illustrate this type of Victorian institution, and the relative completeness and architectural quality stand as a key example of how previous generations cared for the sick. It states the hospital is of immense importance to the history of Denbigh and features in the memories of many, and that the proposals offer a chance to rescue important buildings but also to deliver high quality heritage led regeneration for the benefit of the town.

#### The Arboricultural Statement

The Cheshire Woodlands Statement provides an assessment of trees on the site in the context of the development proposals, in accordance with best practice guidelines. It suggests the proposals involve the removal of several low or moderate quality trees which would have only a minor impact on amenity and can be mitigated by new trees and landscaping, and the protection of retained trees and hedges can be achieved through planning conditions. It is concluded that the proposals are sustainable in arboricultural terms.

#### The Community and Linguistic Assessment

The Asbri Planning Assessment reviews the potential impacts of the development and concludes that it would have an overall positive impact on the Welsh language and its future in the locality, including the retention of Welsh speakers. It suggests a series of measures for maximising the benefits of the scheme.

#### The Equality Impact Assessment

The Asbri Planning Assessment reviews a range of accessibility issues including those relating to parking, public transport, footways, and environmental and physical barriers, which have been taken into account in relation to the proposals.

#### The Flood Consequences Assessment and Surface Water Drainage Strategy

This document from Cambria Constructive Thinking confirms the site is at no risk of flooding from the Afon Ystrad, and is protected from inundation from off- site surface water run-off. It indicates that appropriate attenuation and SUDS enhancements will demonstrate net benefits and reduce flood risk to neighbouring / downstream properties. Associated mitigation measures would mean residual flood risk is low and impact localised.

- 1.1.13 It is understood that if the project is able to proceed, the North Wales Building Preservation Trust would be responsible for managing it and would access funding through the disposal of enabling development land and from a range of potential funding bodies. The Trust would also be responsible for engaging the relevant consultants, securing the statutory consents, overseeing development to ensure compliance with quality standards, including the repair of the listed buildings, and would seek to find end user(s).
- 1.1.14 The application has been the subject of two main consultation exercises, one on receipt of the application in late 2014, and one in April 2015. The publicity has been by way of a Press Notice, site notices, and notification to owner / occupiers of properties in the vicinity of the site. A range of consultation bodies have been notified of the application at the same time. Further consultation was necessary with specialist consultees in relation to ecological information submitted in September 2016. Representations received up to the time of drafting this report are referred to in the Consultation Responses and Response to Publicity sections earlier in the report.

## 1.2 Description of site and surroundings

- 1.2.1 The application site is roughly triangular in shape and is located immediately to the south of the town of Denbigh, lying between the Nantglyn Road (B4501) on the north west side, Ystrad Road on the north east side, with its southern boundary defined by the track from Ystrad Road to the dwellings at Kingsmills Cottages.
- 1.2.2 The site is in an attractive open setting surrounded by fields and scattered agricultural buildings and detached dwellings.
- 1.2.3 In the immediate vicinity are buildings to the north west which formed part of the old hospital complex, but have been in use as a regional centre for children with autism; open land to the north and north east between the site and residential development at Ael y Bryn and the grounds of Denbigh castle; buildings at Pennant Farm on the opposite side of Ystrad Road, which were formerly in use for agricultural purposes in connection with the hospital use, but now converted to residential use; land to the south which formed the old sports fields associated with the hospital; and to the south west, private properties at Kingsmills and at Cai Dai. The ruins of Denbigh Castle are approximately 600 metres to the north of the main range of buildings at the hospital.

## 1.3 Relevant planning constraints/considerations

- 1.3.1 In relation to the Local Development Plan, the site is outside the development boundary of the town of Denbigh, which runs along the southern boundaries of existing housing development at Ael y Bryn, Llewelyn's Estate and Bryn Stanley to the north.
- 1.3.2 With the exception of one field parcel which runs south from the junction of the B5401 (Nantglyn Road) and Ystrad Road, the site is annotated as being the subject of Policy VOE 4 of the Local Development Plan, which relates to Enabling Development (see later paragraphs of the report). The field parcel referred to is annotated as part of a Green Barrier, being subject to policy RD2 of the Development Plan.
- 1.3.3 The site and land around it is also within a large Minerals Safeguarded Area for Sand and Gravel, which is the subject of policy PSE 15 of the Development Plan.
- 1.3.4 The Clwyd Powys Archaeological Trust records show the western boundary of the Ystrad Character Area of the Vale of Clwyd Registered Historic Landscape Area runs along Pont Ystrad Road, hence the site is outside this designation.
- 1.3.5 There are a number of listed buildings within the site. The main buildings are Grade II\* and many of the remaining buildings around it are of Grade II status. These buildings are shown on one of the plans at the front of the report. The buildings are on the Council's Buildings at Risk Register.
- 1.3.6 There are no Scheduled Ancient Monuments within the site, although there are a number in close proximity, including Denbigh Castle, which is on higher ground to the north of the site.
- 1.3.7 The site is not in a flood risk area.
- 1.3.8 Public Footpath 46 runs along the track from Ystrad Road to Kingsmills Cottages, and along the western side of the site up to the B5401, but is outside the site boundary.
- 1.3.9 Denbigh is a low growth town in the Local Development Plan.

## 1.4 Relevant background information and planning history

- 1.4.1 There is a lengthy background to the application, which sets a context for consideration of the proposals now before the Authority.
- 1.4.2 The history of the Hospital is well documented. The original sections of the complex were built between 1844 and 1848 as a facility for the care of Welsh speaking people suffering from mental illnesses. It was known as the North Wales Counties Lunatic Asylum. There were a number of subsequent phases of expansion which created a significant complex which housed up to 1500 patients in 1956, and there were some 700 staff at peak operation. The main building is a Grade II\* Listed Building and many of the surrounding and individual buildings within the grounds are Grade II buildings.
- 1.4.3 A reorganisation in the provision of adult Health Services in the former County of Clwyd culminated in the Health Authority approving plans in 1987 for the phased closure of the entire Hospital complex. Welsh Office funding approval enabled an acceleration of the proposed 10 year closure programme, and the hospital was finally vacated in late 1995.
- 1.4.4 The former Health Authority sought to secure alternative uses for the building complex, and to market the site. The failure of these efforts reflected the difficulties arising from the sheer scale of the complex of Listed Buildings, and the practicality of adapting buildings to new uses to meet modern standards. Options considered were a Category C prison, Army Barracks, Army Personnel Centre, a Welsh Medium Tertiary College, a National Lottery Site, Central Government Office Relocation, Welsh National Equestrian Centre, Hotel / leisure uses, a museum for Wales and a base for the Welsh Assembly.
- 1.4.5 The first significant planning applications to be submitted following the closure of the Hospital in 1995 were by Kerringtons Ltd, in 1996 and 1997. These are detailed in the planning history section of the report. In brief:
- The 1996 applications involved 12 ha of new build residential development on land between the Gwynfryn site and the town, (220-270 dwellings) and the conversion of the hospital buildings to residential use (100 units). This was refused in 1997 on a number of grounds, including conflict with the development plan at the time (Glyndwr District Local Plan), prematurely in relation to the production of the Denbighshire Unitary Development Plan, the scale of development and impact on local highways, the setting of the hospital buildings and Denbigh Castle.
  - The 1997 application involved 3.4ha of new build residential development (100 units) on land and the conversion of the hospital buildings into residential use. This was refused in 1997 on the basis of conflict with the Glyndwr Local Plan, absence of information to support the case for 'enabling development', prejudging the outcome of the UDP process, and impact on the setting of the Hospital buildings and Denbigh Castle.
- 1.4.6 A separate company Monoplas Industries Ltd submitted planning and Listed Building consent applications in late 1997 for a mixed use development including industrial, commercial, residential, education and research, hotel leisure and sports, and partial demolition of buildings to the rear of the principal buildings. The planning application was reported to the May 1998 Planning Committee with an officer recommendation for refusal of permission. The recommendation was based on inadequate safeguards to secure the restoration and long term use of the key listed buildings and conflicts with the Glyndwr Plan policy arising from inadequate links between the different elements of the scheme and the release of housing land, such development being premature in advance of the production of the UDP and the prejudicial to its outcome in determining decisions on the size, scale and location of new development. Immediately prior to consideration at the Committee, Monoplas lodged an appeal against non-determination of the application,

which prevented Denbighshire from making a formal decision. Although the Planning Committee subsequently resolved for the purposes of defending the appeal that it would have refused the application in accordance with the officer recommendation, Monoplas did not pursue the appeal, which was withdrawn.

- 1.4.7 It is understood the Health Authority sold the site in 1999 to a company NWH Limited. NWH Limited submitted applications in 2000 for a number of developments including changes of use of smaller buildings within the complex to dwellings, workshops, and an Adult Education Unit, and to erect 21 dwellings on 2.7ha of land around the former Nurses Home. The applications were never progressed as the agents were unwilling to furnish additional information requested by the Authority. NWH subsequently placed what remained of the hospital complex on the market in 2002, when it is understood it was purchased by Acebench Investments Ltd.
- 1.4.8 In the course of 2000, the County Council commissioned Chesterton Plc to prepare a development appraisal of the site, aimed at producing an updated assessment of the costs of restoring the Hospital buildings, market demand for future uses of the site and buildings, availability of funding and recommendations on Unitary Development Plan policy. The appraisal concluded that a flexible planning approach needed to be adopted to the main building to allow the owners opportunity for exploration of potential uses, sourcing of grant aid opportunities, and the need for a clear legal agreement linking any enabling new build development to the reuse of the main buildings. Policy MDA 4 of the Unitary Plan (adopted in 2001) ultimately encompassed the main recommendations of the Chesterton report in setting out a framework against which to assess proposals for securing the future of the key listed buildings and related development.
- 1.4.9 Acebench sought to progress matters by setting up a steering group with the Prince of Wales Phoenix Trust, representatives of Denbighshire County Council, the WDA, and CADW. The group appointed King Sturge (property Consultants) and Butress Fuller Alsop Williams (Architects) to undertake a further feasibility study to assess the potential re-use options for the site in order to restore and preserve the principal Listed Buildings and Parkland. The appraisal led to the submission of a planning application in the name of Acebench Investments Ltd in November 2004.
- 1.4.10 The 2004 application sought permission for a mixed use scheme involving the conversion of hospital buildings to residential, business and community uses, and the development of land for residential, commercial and parkland uses, essentially as 'enabling' development. The emphasis in this application was on employment development but included some 6.9 hectares (17 acres) for housing. Full Council eventually resolved to grant permission in May 2005 subject to completion of a Section 106 Agreement. The final agreement included the provision of a bond to secure obligations to repair the listed buildings if this was not delivered by the end of September 2009. The planning permission was issued on completion of the Section 106 Agreement in September 2006.
- 1.4.11 A listed building consent application was submitted in the name of Freemont (Denbigh) Ltd in 2007 in relation to the demolition of a number of listed buildings on the site. This consent was granted following authorisation from CADW in 2008.
- 1.4.12 Demolition works on some of the later rear extensions and the former Erddig Ward building were started in late 2008. These were not however completed as it was discovered that the buildings supported a bat population and the necessary licence to carry out relevant works was not in place. It is understood that no further works have been carried out since this time.
- 1.4.13 The main hall serving the hospital was destroyed in a severe fire in November 2008. Other buildings have been damaged by fires since that time.



- 1.4.14 The 2006 planning permission lapsed in 2009.
- 1.4.15 Buildings at the Hospital are classed 'at risk' on the Council's Buildings at Risk Survey.
- 1.4.16 A steering group was set up in June 2011 as a result of the deterioration of the Hospital buildings with the aim of securing their restoration and new use. The steering group comprised The Prince's Regeneration Trust, the North Wales Building Preservation Trust and Denbighshire County Council. The North Wales Building Preservation Trust was set up with the view to develop and manage the site in the long term, in order to preserve the most important buildings in perpetuity.
- 1.4.17 Denbighshire County Council served an Urgent Works Notice and Dangerous Structures Notice on the owners in June 2011, and subsequently undertook emergency repairs on the main buildings. A Repairs Notice was served in 2013 and the County Council served a Compulsory Purchase Order Notice with an offer to purchase the site, in June 2014. A 3 week Inquiry took place in relation to this Order in March 2015. The Order was granted in September 2015.
- 1.4.18 As noted previously, the planning application now submitted has been prepared by Asbri Planning on behalf of the Prince's Regeneration Trust as the applicant. Members will appreciate that it is in order to submit an application without owning a property, provided the relevant notices have been served on the owner(s) and those with an interest in the land.
- 1.4.19 Notwithstanding the background history and the current situation at the site, it is Officers' duty to emphasise that consideration of the merits of the planning application should be based solely on the acceptability of the submitted proposals in relation to current planning policy and guidance and to other material planning considerations. Respectfully, the identity of the applicants, the Council's involvement in the aforementioned steering group and its actions in relation to the buildings, the ownership of the site, and the Compulsory Purchase Order proceedings should have no bearing on the determination of the land use planning merits of the proposals before the Council in application 01/2014/1330.
- 1.4.20 The application is submitted in similar form to the 2004 submission, involving the change of use of buildings (which is in effect for full planning permission) and the development of land (which is in effect for outline permission). There are currently no planning application forms specifically designed for what is a 'hybrid' form of application, so the applicants have completed the standard form on the Council's website. The 2004 application was described by the applicant's agents as an outline submission, although this included proposals for changes of use of buildings which were necessarily for full permission. The Authority has the flexibility to deal with a hybrid form of application provided it is satisfied there is sufficient information to allow for the elements of the scheme to be properly assessed.

## 1.5 Developments / changes since the original submission

### Additional information

- 1.5.1 The applicant's agents have provided additional information to clarify issues arising in relation to the application. This has included an Equality Impact Assessment, a Community and Linguistic Assessment, detailed information in relation to protected species, a Flood Consequences Assessment and Surface Water Drainage Strategy, and clarification of the scale parameters for the business uses and the number of dwellings.
- 1.5.2 It has also been confirmed that the gas works building is not proposed for demolition and will be retained.

### Financial appraisal matters

- 1.5.3 To assist consideration of the application and Members deliberations, Officers have sought a review of the Strutt & Parker Development Appraisal from an independent Chartered Surveyor, Rees Straw. The brief was to review the applicant's Development Appraisal in the context of the planning application, having regard to the responses by and on behalf of the owners, providing commentary on:
- whether the conclusions on viability are reasonable and form a credible basis on which the Council can make a decision on the application
  - whether the amount of enabling development is the minimum necessary to secure the future of the heritage asset.
- 1.5.4 The conclusions of the Rees Straw report on the Strutt & Parker Development Appraisal are as follows:
- "In respect of methodology and approach, we are of the opinion that the Report has been prepared in a sensible manner, extrapolating inputs from comparable market data, and adopting reasonable assumptions where appropriate. In the absence of detailed development and construction cost information, the Report highlights the fact that appraisal conclusions may vary once actual costing estimates are inputted, which we believe is an essential caveat to the Report.
  - The sensitivity in the Report is based around build cost, the results of which determine whether the proposed 11 acres of enabling land are the minimum necessary to secure the future of the heritage asset.
  - At the lower cost build rate, the scheme shows a surplus, and is therefore viable (based on the assumptions made as stated in the Report). At the higher build cost, the scheme produces a shortfall, and would not be considered to be commercially viable.
  - As the Report concludes, the scheme is considered to be marginal, with infrastructure funding potentially required. We would concur with this. At the lower build cost rate, it calculates that the scheme is viable when 11 acres of enabling land is released. Prima facie, this would appear to enable the future of the heritage assets to be secured.
  - The refurbishment of historic assets is a specialist discipline, and the accurate calculation of the costs of refurbishment and renovation require a skilled and highly experienced approach. In this instance, it is understood that it is not possible to obtain a report to specifically estimate the refurbishment costs of the subject property. However, as stated earlier, any variation to this major input will affect the conclusions of the appraisal, and in turn the quantum of enabling land required to secure the heritage asset's future.
  - We would therefore agree that on the basis of the Report's findings, the amount of enabling development as stated in the Report is at least the minimum necessary to secure the future of the heritage asset, and, in our opinion, it is highly likely that additional enabling development may be required should the costs of development so dictate once fully and properly estimated."

Later sections of the Officer report deal with the relevance of the Rees Straw conclusions, and in particular section 4.2.2 which addresses the main planning policy test in relation to the amount of enabling development.

### Protected species information

- 1.5.5 The applicant's Ecological consultants have responded to concerns voiced by the owner's Ecological advisor over the adequacy of the survey information in respect of bats on the site. The submission now includes three separate reports :
- An extended Phase 1 Habitat Survey
  - A Bat Mitigation document

- A Bat Emergence Surveys document.

The latter document was submitted in September 2016, and includes a review of surveys undertaken in August and September 2015, mitigation and recommendations, and a review of nature legislation. The main objector, NRW and the Council's Biodiversity Officer have been notified of the September 2016 document and comments received are included up to the time of drafting the report are included in the responses to consultation and publicity sections of the report.

## 2 DETAILS OF PLANNING HISTORY:

Applications prior to closure in 1995 were for a range of minor extensions and alterations to parts of the complex in relation to its use as a hospital. The main applications since are referred to below:

1/595/96/PO – Development of 12ha (29.6 acres) of land for residential purposes and conversion of existing former hospital buildings to residential use (outline application) (Kerringtons application) – REFUSED permission at January 1997 Planning sub-committee for the following reasons:-

1. “ The release of residential land outside the development boundary of the town would be contrary to policies of the operative development plan (Glyndwr District Plan and Clwyd County Structure plan: First Alteration) in particular the housing provision policies of the local plan including H1 and H2 and F5 (ii), and B2 and B3 of the Structure Plan.
2. The grant of permission would be premature in advance of the production of the Unitary Development Plan and would prejudice the outcome of the plan process, in that it would predetermine decisions on the development strategy, scale, location and phasing of new development which ought properly to be taken in the development plan context.
3. The number of residential units which would result from the new housing development would, together with existing commitments, be in excess of the likely need or demand for housing in the town over the next 15 years.
4. The local highway network is considered inadequate to accommodate the likely volume of traffic which would result from the development.
5. The scale of development proposed is considered likely to have an unacceptable impact on the town in terms of the effect on its character and community services.
6. The new housing development and associated works is considered likely to have an adverse impact on the setting of the hospital buildings, the Castle, the local landscape, and archaeological remains.”

The decision certificate was dated 10th January 1997.

01/55/97/PO – Development of 3.4ha (8.4 acres) for residential purposes and conversion of existing former hospital buildings to residential use (outline application). (Kerringtons application) – REFUSED permission at April 1997 planning sub-committee for the following reasons:-

1. “The release of residential land outside the development boundary of the town would be contrary to policies of the operative development plan (Glyndwr District Local Plan and Clwyd County Structure Plan : first alteration), in particular the housing provision policies of the local plan including H1 and H2 and B2 and B3 of the structure plan.

2. The grant of permission solely on the basis of enabling development in the absence of any proven detail financial feasibility study would, having regard to the previous proposal, make it difficult for the Council to refuse permission for additional residential land to fund the reuse of the hospital site. This prejudice the outcome of the development plan process in that it would predetermine decisions on the development strategy, scale, location and phasing of new development which ought properly to be taken in the development plan context.
3. The new build housing development is considered likely to have an adverse impact on the setting of the Hospital buildings and local landscape.”

The decision certificate was dated 3rd April 1997.

1/926/97/PO – Proposed use of land and buildings for mixed use development including : - industrial, commercial, residential, education and research, hotel/leisure/sports including recreation (incorporating details of Monoplas Development) (Monoplas application)  
WITHDRAWN - following appeal against non determination in May 1998.

1/927/97/LB – Partial demolition of listed building to rear of main front block (mainly 20th century buildings, including main hall, adjoining block canteen and workshops) (Monoplas) – WITHDRAWN – Following appeal against non determination in May 1998

The following 6 applications were submitted in 2000 by NWH Limited but were never progressed to formal determination on the basis of insufficient information to allow for proper consideration of key issues :

01/2000/172/PF – Change of use of isolation ward to workshop/training facility (Use Class B1 & D1), and alterations to existing vehicular and pedestrian access (full application)

01/2000/173/PF – Change of use of former Erddig Ward to adult education unit (use class D1), and alterations to existing vehicular and pedestrian access (full application).

01/2000/174/PF – Use of former Nurses’ home and adjacent land for educational purposes and alterations to existing vehicular and pedestrian access (full application)

01/2000/175/P – Development of 2.7 ha of land for residential purposes (21 dwellings) and alterations to existing vehicular and pedestrian access (outline application)

01/2000/176/PF – change of use of former chapel to dwelling (full application)

01/2000/177/LB – Listed Building consent for alterations in connection with change of use of former chapel to dwelling.

The most recent applications are -

01/2004/1445/PF – Restoration and partial demolition and change of use of former north Wales hospital to residential, business and community uses, and development of adjacent land and buildings for residential, commercial, and parkland uses, including change of use to B1 (Business Use), creation of new access and landscaping (outline application) – GRANTED 29/09/2006  
This permission expired in September 2009.

01/2007/0750/LB – Listed building consent for partial demolition of listed buildings – GRANTED 19/03/2008

01/2014/1331/LB – Partial demolition of buildings within the former North Wales Hospital complex (Prince's Regeneration Trust current undetermined application for listed building consent – this is the subject of the following report on the agenda)

01/2015/0252/CT – Application for Certificate of Appropriate Alternative Development – re. redevelopment of the former hospital site - (Freemont (Denbigh) Ltd) - current undetermined application.

### 3 **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)

Policy RD5 – The Welsh language and the social and cultural fabric of communities

Policy BSC1 – Growth Strategy for Denbighshire

Policy BSC3 – Securing infrastructure contributions from Development

Policy BSC4 – Affordable Housing

Policy BSC11 – Recreation and open space

Policy PSE4 – Re-use and adaptation of rural buildings in open countryside

Policy PSE15 – Safeguarding minerals

Policy VOE1 - Key areas of importance

Policy VOE4 – Enabling Development

Policy VOE5 – Conservation of natural resources

Policy VOE6 – Water management

Policy ASA2 – Provision of sustainable Transport Facilities

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note - Recreational Public Open Space

Supplementary Planning Guidance Note - Access for all

Supplementary Planning Guidance Note - Affordable Housing in New Developments

Supplementary Planning Guidance Note - Residential Development Design Guide

Supplementary Planning Guidance Note – Conservation and Enhancement of Biodiversity

Site Development Brief – Former North Wales Hospital

#### 3.1 Government Policy / Guidance

Planning Policy Wales Edition 8, 2016

TAN 1: Joint Housing Land Availability Studies (2015)

TAN 2: Planning and Affordable Housing (2006)

TAN 5: Nature Conservation and Planning (2009)

TAN 12: Design (2009)

TAN 15: Development and Flood Risk (2004)

TAN 18: Transport (2007)

TAN 20: The Welsh Language – Unitary Development Plans and Planning Control (2000)

Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas

English Heritage document – ‘Enabling Development and the Conservation of Heritage Assets’ Published 1999 / revised in 2008 in ‘Enabling Development and the Conservation of Significant Places’ with a further Revision Note in June 2012.

Welsh Office Circular 13/97: Planning Obligations

Wildlife legislation includes:

1992 ‘Habitats’ Directive (92/43/EEC) and the 2009 ‘Birds’ Directive

(2009/147/EC)

The Conservation (Natural Habitats Etc.) Regulations 1994,  
The Conservation of Habitats and Species Regulations 2010,  
Article 16 of EU Council Directive 92/43/EEC – Conservation of natural habitats, wild fauna and flora.

#### 4 MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 8, 2016 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned, and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4). There is detailed advice in Section 6.5 of PPW on the approach to demolition of listed buildings including the statement that authorities should not authorise demolition to make way for new development unless it is certain that the new development will proceed.

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Consistency with Local Development Plan Policy VOE 4 and Supplementary Planning Guidance – Site Development Brief 'Former North Wales Hospital, Denbigh'
- 4.1.3 Visual amenity / design
- 4.1.4 Landscape impact
- 4.1.5 Residential amenity
- 4.1.6 Ecology
- 4.1.7 Drainage
- 4.1.8 Highways
- 4.1.9 Archaeology
- 4.1.10 Affordable Housing
- 4.1.11 Open Space
- 4.1.12 Contaminated land
- 4.1.13 Density of development
- 4.1.13 Impact on Listed Buildings and the historic environment
- 4.1.14 Impact on Welsh Language and Social and Cultural Fabric
- 4.1.15 Other matters
  - Adequacy of legal Agreements / mechanism for securing the restoration of the listed buildings

4.2 In relation to the main planning considerations:

- 4.2.1 Principle

Development Plan policies

In terms of the Local Development Plan, there are some key policies of relevance to the principle of the proposals.

In relation to the issue of housing development, Policy BSC 1 sets out the growth strategy for Denbighshire, which is to meet the needs of local communities and projected population changes. Denbigh is identified as one of 8 'lower growth' towns in the Plan which are expected to provide for housing and employment needs primarily to meet local demand, and an indicative figure of 341 houses is shown in the table in the policy as a

contribution from new allocations and existing commitments in the town over the plan period. Development at the hospital site would provide a 'windfall' contribution to the County's target of 7,500 new homes to 2021, and it is not considered that this would be contrary to the Local Development Plan's Spatial Strategy

Policy VOE 4 of the Development Plan relates to 'enabling development' and is of direct relevance to proposals for the application site. The North Wales Hospital is designated under this policy in order to secure the future of heritage buildings designated as 'at risk'. The policy makes specific provision for 'enabling development' as a means of achieving this, but sets a number of tests including whether the amount of development is the minimum necessary to achieve the objective. The proposals are reviewed in detail against the seven tests in VOE 4 in the following section of the report.

Policy PSE4 of the Development Plan relates to the re-use and adaptation of rural buildings in open countryside. In Officers' view, the policy is aimed primarily at conversions of redundant agricultural buildings to an alternative use rather than proposals of the nature and scale involved in the current application. Nonetheless, it is suggested the application is not inconsistent with the objectives of the policy, which seeks to retain the historical / architectural features of buildings, and the application documents outline the history of efforts to seek a viable alternative use and the financial viability reasons why conversion to affordable units would not be realistic. These latter issues are reviewed in the following sections of the report.

#### Supplementary Planning Guidance

Also relevant to the principle of the developments proposed is the Supplementary Planning Guidance adopted by the County Council in May 2014 in the form of a Site Development Brief 'Former North Wales Hospital, Denbigh'. This is a 21 page document with appendices, containing background information on developments at the site and a strategy for meeting the principal aim of preserving the original Grade II\* 'U' shaped hospital building and finding an alternative use for the site. The Brief sets out a 'Masterplan framework' with ideas for phasing, access, movement, design principles and planning obligations, as a guide for all parties involved in the process, and ultimately to assist in the determination of any planning applications. The proposals now before the Council are closely aligned with the contents of the Brief and in Officers' opinion meet with the broad principles set out in this document. The proposals are reviewed in detail in relation to the contents of the Brief in the following section of the report.

In terms of status, the Site Development Brief is not part of the Development Plan, but having gone through public consultation and Council approval, it can be treated as a material planning consideration in the determination of an application by the Council, and by Planning Inspectors and Welsh Government in relation to planning appeals.

#### Planning Policy Wales

In respect of the principle of development within the grounds of a former hospital, there is relevant guidance from Welsh Government in Section 4.9 of Planning Policy Wales, which sets out a preference for the re-use of previously developed (or brownfield) land in preference to greenfield sites, including land in and around settlements where there is vacant or under-used land. This support is however guarded in refining the definition of the curtilage of what was 'previously developed' land, as with specific reference to a hospital it suggests the whole site should not be developed to the boundary of the curtilage – leaving the judgement to the local planning authority having regard to how the site relates to the surrounding area and requirements for on-site open space, buffer strips and landscaped areas. PPW contains a range of other land use impact considerations which need to be addressed in the determination of planning applications, which are the subject of review in separate sections of the report

English Heritage guidance

Development Plan Policy VOE 4 and the Site Development Brief both refer to guidance on 'enabling development' and conserving the historic environment from English Heritage. The Justification section of VOE4 outlines circumstances in which enabling development may be merited to secure the future of a heritage asset, and refers to the application of the principles in English Heritage guidance.

The application documents provide a volume of information which enable the Authority to assess the merits of the case made for the enabling development, and in Officers' opinion there is sufficient material to make a reasoned judgement on the issues relevant to a determination in relation to the tests of VOE4, which permits enabling development subject to meeting these tests.

Taking all the aforementioned policies and guidance into account, Officers would suggest that the principle of restoring significant listed buildings through conversion into apartments, with residential and commercial development in part of the grounds as 'enabling development' is potentially acceptable. However, the proposals do require detailed scrutiny in relation to the key policies and in relation to their localised impacts to draw a fair conclusion on the planning merits. These matters are dealt with in the following sections of the report.

#### 4.2.2 Consistency with Local Development Plan Policy VOE 4 and Supplementary Planning Guidance – Site Development Brief 'Former North Wales Hospital, Denbigh'

##### **In relation to Policy VOE4 –**

Policy VOE4 is considered to be a key consideration in relation to the application and is set out in full with commentary below to assist Members deliberations on how the proposals sit in respect of the 7 detailed tests. The policy and its supporting text are printed in *italics* to distinguish them from the Officer commentary:

##### *Policy VOE 4 – Enabling Development*

*Enabling development may be permitted as a way of resolving the status of heritage assets designated as 'at risk', provided all of the following criteria are met:*

##### Comments –

The listed buildings at the North Wales Hospital are on the Council's Buildings 'at risk' Register, reflecting their condition and concern over their future.

*i) The enabling development will not materially detract from the archaeological, architectural, historic, landscape or biodiversity interest of an asset, or materially harm its setting; and*

##### Comments –

The applicants' case is that the proposals take into account the essential setting of the site and the scheme would ensure this is retained and enhanced. They point to the proposals to secure the retention of the Grade II\* Main Range, and to enhance the setting through removal of more modern and unsightly buildings. In relation to the enabling development, they suggest this has been carefully thought out and located, and along with the access arrangements, would avoid adverse impact on the setting of the listed buildings. They refer to ecological and landscape assessments which suggest limited overall effects on matters of interest. The conclusion is that the proposals will not materially harm the setting.

The responses to consultation from the Clwyd Powys Archaeological Trust, the Conservation Architect, the Biodiversity Officer and Natural Resources Wales raise no



objections to the proposals on grounds of impact on the interests referred to in test (i) or to the setting of the listed buildings, subject to suitable controls through planning conditions. The Conservation Architect suggests the enabling development is discretely located so as not to impact detrimentally on the setting of the main listed buildings.

Officers' opinion, based on the responses from the key consultees is that the proposals pose no conflict with test (i). It is not considered the impact on matters of natural and historic interest including the setting of the listed buildings and the Castle would be such as to result in material harm.

*ii) the proposal avoids detrimental fragmentation of management of the heritage asset; and*

Comments –

The applicants' case is that the submission of the application in its hybrid form will ensure the restoration works and the enabling works are integrally linked, with a legal agreement to bind these in perpetuity, including the phasing and delivery; and that the consent for the surrounding land will increase its value to generate monies for the restoration works. It is argued that the heritage site and its assets would be managed holistically as part of the consent process and that the planning strategy will ensure the management of the site will not be fragmented.

There are no consultation responses suggesting conflict with test (ii).

Officers' opinion is that the basis of the proposals is to ensure the coordinated management of the retained key listed buildings and that this would avoid its fragmentation, in accord with test (ii). In the event a permission were to be considered, it would be relevant to seek a suitable term within any Section 106 Obligation to secure arrangements for the future management of the heritage asset to insure against fragmentation, to accord with test (ii).

*iii) the proposal will secure the long term future of the heritage asset, and where applicable, its continued use for a sympathetic purpose; and*

Comments –

The applicants' case is that the very purpose of the application is to secure the long term future of the most important listed buildings, and that residential use is wholly appropriate to ensure long term maintenance. Without the developments proposed it is suggested the restoration and retention of the listed buildings is extremely unlikely.

There are no consultation responses which comment directly on this test. The Conservation Architect considers the proposals satisfactorily address the tests of VOE4, English Heritage and the Supplementary Guidance. There are general concerns from the main objector that the scheme is not viable and would not secure the future of the asset.

Officers' opinion is that the proposals are geared primarily at securing the future of the main Grade II\* buildings, which are assessed as being the key heritage asset. The mechanism for achieving this is similar to that proposed previously, through a combination of renovation works linked to funding released through enabling development, and in this case through the proposed use of the main block as apartments, thereby introducing a positive longer term use with a guarantee of maintenance of the fabric of these buildings. The relevance of the viability arguments is dealt with elsewhere. The proposed residential use of the main block is considered to be a sympathetic use of the buildings in this location, having regard to the scale of the use and the design approach being adopted to conversion, also in accord with test (iii). It is difficult to comment in detail on the potential for securing the future of other listed buildings in the complex given the financial variables, but the proposals

do leave the door open for retaining other listed buildings and on this basis provide for the possibility of salvaging more of the site's history as part of a longer term plan.

- iv) *the problem arises from the inherent needs of the heritage asset, rather than the circumstances of the present owner or the purchase price paid; and*

Comments –

The applicants' case is that the proposals are clearly made pursuant of the needs of the listed buildings. They refer to the long and unsuccessful history of efforts to secure alternative suitable uses and the urgent need to protect the asset, given the physical condition of the buildings.

There are no responses to consultation raising matters specific to this test of policy VOE4.

Officers' opinion is that in relation to this test is that as the application is proposing a planning solution to meet the basic objective of saving key listed buildings on the Buildings at Risk Register, this is recognition that the problem arises from the inherent needs of the heritage asset, as required by test (iv). Respectfully, the circumstances of the present owner or the purchase price paid for the hospital are not considered to be factors of relevance to assessing compliance with test (iv).

- v) *sufficient financial assistance is not available from any other source; and*

Comments –

The applicants' agents advise that funding possibilities have been widely explored and insufficient public funding is available to rescue the historic assets, which is partly due to the high level of funding required. It is concluded that the financial benefit from the sale of the areas of land for enabling development (£3.7 million) is the only feasible method of funding the restoration of the most important historic assets. It is suggested that the £200,000 shortfall between the funds realised through the enabling development and the costs of redevelopment could then be met through grant funding which the Building Preservation Trust could access, given this would then be a relatively small sum in comparison to the overall development cost.

There are no responses to consultation which suggest there are sources of external funding on the scale necessary to save all the listed buildings at the Hospital site.

Officers' opinion is that with regard to the information in the application documents, and the case advanced as part of the 2004 submission, it is reasonable to accept the statement that there are no external sources of financial assistance available to fund the scale of works necessary to save the main listed buildings, or any others in the massive complex at the hospital. The absence of external funding on the scale necessary to secure the future of the listed buildings would suggest there is a clear case to consider the need for enabling development and that test (v) of the policy is met.

- vi) *it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset, and that its form minimises disbenefits; and*

Comments –

The applicants refer here to the Strutt and Parker financial appraisal which concludes that without the enabling development proposed, there would be a £3.7 million shortfall in the redevelopment of the site. It is stated the enabling development would generate £3.5 million, indicating a shortfall of approximately £200,000, which it is expected would be

covered by grant funding given it is relatively small in comparison to the overall development cost. The fact that the appraisal concludes that even with the level of enabling development proposed, it would in the best case scenario, break even, provides a clear indication that the enabling development proposed is the absolute minimum required to achieve a viable scheme to protect the long term future of the main range building.

There are detailed objections to the application, summarised earlier in the report, which question the viability of the scheme presented, and whether the Strutt & Parker Development Appraisal establishes a case for granting permission. It is suggested the scheme has not been thought through, is deficient in many areas, not taking account of abnormal costs, the value of the site, issues of borrowing and funding, risks, and uses questionable assumptions on marketing and sales, costs of dealing with contamination, acceptable developer profit, infrastructure costs, relying on a zero purchase cost for the site. An appraisal of the Strutt & Parker Development Appraisal has been prepared on behalf of the owner by Eckersley Chartered Surveyors, and suggests a negative residual price of £5.09 million, and that 17 acres of enabling development would be required.

The conclusions of the independent Quantity Surveyor engaged by the Council to review the Development Appraisal information and submissions are set out in full in paragraph 1.5.4 of the report. This report advises in terms of methodology and approach that the Development Appraisal has been prepared in a sensible manner using inputs from comparable market data and adopting reasonable assumptions where appropriate. It recognises appraisal conclusions may vary once actual cost estimates are inputted, and that there is sensitivity around build costs for refurbishment which determine whether the amount of enabling development is the minimum necessary. It concurs with the appraisal's conclusion that the scheme is marginal, with infrastructure funding potentially required. It states on the basis of the report's findings, the amount of enabling development stated is at least the minimum necessary to secure the future of the historic asset, and that additional enabling development may be required should the costs of development so dictate once fully and properly estimated.

In reviewing the proposals in relation to test vi) of policy VOE 4, there is obviously a significant volume of financial information presented to the Council, and contrasting views on the adequacy of that information and the conclusions to be drawn from it. As noted, the substance of the objections is that the proposals will not result in a viable scheme and will therefore not provide the funding required to retain and restore the key buildings on the site. Ultimately, in respecting the basis of the representations, Officers suggest that what has to be addressed in relation to the merits of the planning application is the actual wording of the policy test, which requires it to be demonstrated the amount of enabling development is the minimum necessary to secure the future of the heritage asset. This does not require viability or deliverability of a scheme to be proven. In this context, therefore, whilst due regard should be had to the Development Appraisal information in assisting consideration of the proposals, and to representations made on it, as there is no policy requirement to prove viability, this is not a matter Officers believe needs to be considered in detail or should be accorded significant weight in the determination of the application.

Officers consider the Development Appraisal has been subject to appropriate scrutiny, and that it would be reasonable to accept the conclusions of the independent consultants that this establishes the amount of enabling development is at least the minimum necessary to secure the future of the heritage asset. Whilst the review suggests the Development Appraisal may underplay costs associated with the development and highlight the marginal viability of the proposals, this affirms that the amount of enabling development proposed would be, if anything, less than the minimum necessary. Officers consider this would not be contrary to test vi) of VOE 4, which is interpreted as seeking to ensure no more than the minimum necessary enabling development is permitted.

In relation to concerns over the potential for failure of the scheme through want of viability, Officers suggest the likely consequence would be the submission of a further application, which would have to be considered on its merits against the relevant policies and guidance in place at that time. It is apparent from the submissions here that the application is promoted as not objectively commercially viable, but would be deliverable by virtue of the Building Preservation Trust's fund raising abilities and the lesser need for profit.

In terms of the final test in VOE 4, in respect of potential disbenefits from the form of the enabling development, the proposal is for some 5 hectares of residential development on land primarily to the south and west of the main range buildings. The Conservation Architect's conclusion is that the enabling development is discretely located so as not to impact detrimentally on the setting of the main listed building. Officers' opinion is that the extent of enabling development proposed here would minimise the disbenefits on the setting, subject to appropriate attention to detailing to the form of that development.

vii) *the value or benefit of the survival or enhancement of the heritage asset outweighs the long term cost to the community (i.e. disbenefits) of providing the enabling development.*

Comments –

The applicants' case is that the cost to the community of Denbigh is minimal and the town is only set to gain by the development. They suggest the proposals will ensure a key part of the area's history will be secured in perpetuity through the restoration of the main buildings, and the business uses would create new employment opportunities for local people. They refer to other benefits from accessibility to the site, the landscape and visual improvements from a positive use.

Individual objectors to the scheme question the need for additional housing development and the ability of local services and the highway network to cope with the amount of development involved.

Having regard to the responses from key consultees, Officers' opinion is that there would be limited disbenefits from the scale of development proposed, phased over a 10 year period. Development Plan colleagues advise in relation to the housing need / demand issue, the development would not prejudice the policies or strategy of the Local Development Plan. Highways Officers raise no objections to the proposals in terms of the capacity / adequacy of the highway network. There are no specific objections from service providers to the application. There are clear and uncontested heritage and environmental benefits from securing the future of the Grade II\* and possibly other listed buildings at the hospital and the restoration of the grounds, which it is suggested outweigh any disbenefits of development at the site. It is concluded that there is no fundamental conflict with test (vii).

*The former North Wales Hospital, Denbigh is designated under this policy in order to secure the future of these important listed buildings. Any enabling development must be the minimum necessary to achieve this.*

*Justification*

*Enabling development is development which would normally be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out and which could not otherwise be achieved. In some rare cases the only way of securing the future of a heritage asset is to allow enabling development, which normally would not be allowed, thereby releasing funds. This will only be allowed where all the criteria in this policy are met. In addition, the guidance as set out in the document "Enabling*

*Development and the Conservation of Heritage Assets" published by English Heritage will be applied.*

*Enabling development, as an approach, will only be considered in relation to heritage assets designated as 'at risk' and not to any other heritage assets designated as 'at risk' and not to any other heritage asset or other type of building / facility.*

Overall comments on VOE 4–

The applicants conclude that the proposals accord with the policy and that the application represents an acceptable form of enabling development. They suggest the planning permission granted in 2006 included similar proposals as promoted in this application.

Objectors to the proposals express concerns over the impacts on local services and highways, and question the need for more houses. The site owner challenges the financial viability of the proposals. There are few negative responses from statutory or local bodies consulted, including service providers.

Officers' opinion is that the proposals are in accord with the broad thrust of policy VOE4, for the reasons set out in relation to each of the tests.

#### **In relation to the Site Development Brief – Former North Wales Hospital, Denbigh –**

In terms of status, the Development Brief approved at Planning Committee in May 2014 is intended to amplify the policies of the Local Development Plan, but like all Supplementary Guidance, is not part of the Development Plan. Welsh Government has however confirmed that following public consultation and Council approval, supplementary guidance can be treated as a material consideration when determining planning applications and appeals.

The context for the Brief is policy VOE4 of the Development Plan. The Brief proposes planning uses and development principles for the site, and contains a Masterplan Framework which provides an indicative land use development and road pattern to guide future development. The plan showing the key elements is produced at the front of the report for information purposes. The Masterplan Framework set out in Section 7.1 of the brief refers specifically to the following printed in *italics* to distinguish them from the Officer comments as part of the report :

- *Key historic buildings, Grade II and II\*, to be restored and developed;*

Comment –

The application Site Masterplan is consistent with the plan in the brief in that it shows the Main Range buildings to be retained and restored. It annotates the Nurses Home, Chapel, Mortuary, and Aled Ward buildings as ones that could be retained if a suitable end use is found and viability allows.

- *Buildings with extant listed building consent for demolition and other listed buildings for which demolition is supported but listed building consent is required;*

Comment -

The applications include plans showing the buildings already demolished, those with existing listed building consent for demolition, and those buildings proposed for demolition as part of the current proposals. The current applications are consistent with the Masterplan in the Brief in proposing the retention of the main range, and confirm the intention to retain Aled Ward, the Nurses Home, the Chapel, Mortuary / Isolation ward, if a suitable end use is found and viability allows. The proposals to demolish the rear walls of the buildings at the back of the main range prior to reinstatement, and to demolish the former Ogwen, Hafan and Eryri Wards are also in accord with the Masterplan.

- *Buildings which may be considered for demolition but could be retained if a viable / suitable end use is found;*

Comment –

The Site Brief Masterplan identifies Aled Ward and two of the wings at the rear of the Main Range in this category. The application Development Plan proposes the removal of the rear wings but annotates Aled Ward as a building which could be retained if a suitable end use is found and viability allows.

- *Areas for residential development (marked 02 to 05) taking advantage of outstanding locations and views, without compromising the setting of the key listed buildings;*

Comment –

The application Development Plan proposes residential development on the same areas as shown on the Site Brief Masterplan, and bases the phasing of development on that outlined in the site brief.

- *An area for residential and mixed use development (marked 06), for example employment live / work units, including areas retaining certain existing buildings if a suitable end use is found and is supported by viability arguments;*

Comment –

This area on the Site Brief Masterplan is proposed on the application Development Plan as residential and mixed use development, including areas retaining certain existing buildings if a suitable end use is found and viability allows.

- *Land to remain undeveloped but potentially transformed into recreation open space at a later stage;*

Comment –

These areas are similar on the site Brief Masterplan and on the application Development Plan.

- *Despite not being specifically marked on the master plan, the former nurses home may be used for residential purposes or community facilities;*

Comment –

The Nurses Home is shown on the application Development Plan as one that could be retained if a suitable end use is found and viability allows.

- *Main routes for vehicular movement; and*
- *Possible vehicular access points.*

Comment –

The Site Brief Masterplan shows one new main access point off Pont Ystrad Road, south of the existing main entrance to the Hospital, with use of the access off Nantglyn Road. The application Development Plan proposes in addition, a new main access off Pont Ystrad Road, to the north of the existing main entrance.

In reviewing the spatial strategy for the development in application 01/2014/1330 against the guidance in the site brief, it is apparent that there is a basic consistency between the majority of the key elements. In Officers' opinion the proposals are in broad compliance with the ideas set out in the site brief Masterplan.

The site brief contains additional guidance on considerations to be given to design and landscape matters, which are acknowledged in the application documents. The issue of Planning Obligations and infrastructure contributions are also addressed and are reviewed elsewhere in the report.

In concluding on the detailed assessment of the submission against Development Plan policy VOE 4 and the contents of the Site Brief, it is Officers' view that the key elements of the application meet the important tests and provide a basis for support for the principles set out in the proposals. Further evaluation of specific impacts follows.

#### 4.2.3 Visual amenity / design

In referring to what may be regarded as material considerations, Planning Policy Wales 3.1.4 refers to the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment.

The impact of a development on visual amenity is therefore a relevant test on planning applications. This is emphasised in Paragraph 3.1.7, which states that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. As the Courts have ruled that the individual interest is an aspect of the public interest, it is therefore valid to consider the visual amenity implications of a proposal as a material consideration.

Design issues are addressed in some detail in the submissions, in sections dealing with design objectives for the conversion works on the main buildings, and within each of the proposed housing areas. The Conservation Officer considers the enabling development is discretely located so as not to impact detrimentally on the setting of the main listed building and that the indicative proposals for adaptation of the main building are well considered and allow for the retention of much of the north east elevation.

In Officers' opinion, the plans submitted to show the detailing of works on the main buildings proposed for conversion and adaptation demonstrate a sensitive approach to the task of adaptation to a new use. The plans need additional detailing, in particular in relation to the proposed reconstructed sections at the rear of the main buildings, which will also need to be dealt with in relation to listed building submissions, but they are considered acceptable as a way forward here. Full details will be required of the proposals for the housing and commercial units, including layouts and design, so would effectively be 'reserved matters' forming the subject of future applications. It is suggested that any permission would need to oblige the development of a more detailed 'Masterplan' including relevant Design Objectives for each phase of development, to guide future submissions based on the approach adopted in the current submission. This would ensure development around the main listed buildings is of a suitable high quality recognising the significance of the buildings and the setting, also respecting relationships with existing development around the site.

#### 4.2.4 Landscape impact

Policy VOE 1 relating to key areas of importance seeks to protect areas designated of natural landscape value and Historic Landscapes from development which may adversely affect them. Land between the site and the town, including the field between the Nantglyn Road and Ystrad Road is within a Green Barrier as designated in the Local Development Plan, development within such areas only being permitted provided the open character and appearance of the land is not prejudiced. The main ridgeline of the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty is located some 7-8 kilometres to the east so policy VOE 2 of the Development Plan needs to be addressed insofar as any this involves any potential impact on the setting of that area, and on important views to and from that area. The site is outside the Vale of Clwyd Historic Landscape Area, although its western boundary runs along Pont Ystrad Road. The requirement to take account of landscape impact is reflected in general advice in Planning Policy Wales 7 and Technical Advice Note 12: Design

The submission argues full consideration has been given to the impact on the local landscape, including from distant views (Vale of Clwyd / Clwydian Range), and from significant local views (Denbigh Castle). It suggests there will be localised impacts from the enabling development but that this would not be significant or detrimental, and would be minimised by the careful consideration given to locating this development on the lower and less visually obvious parts of the site, and by the proposals for retaining existing trees and new planting. Natural Resources Wales raise no objections on landscape impact.

In assessing the above issues and responses, it would be Officers' view that the development would not have unacceptable impacts on any of the landscape interests highlighted. Whilst there would inevitably be localised impact from new residential development in the grounds of the hospital, having regard to the site characteristics and location, it is not anticipated with suitable controls over the location and detailing of new development that this would impact adversely on the setting of the listed buildings themselves, on the setting of the hospital or Denbigh Castle, the

Green Barrier, the wider Historic landscape of the Vale of Clwyd, or views from or into the more distant Clwydian Range AONB.

#### 4.2.5 Residential amenity

Planning Policy Wales 3.1.4 refers to the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment as potentially material considerations. The impact of a development on residential amenity is therefore a relevant test on planning applications. This is emphasised in Paragraph 3.1.7, which states that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. As the Courts have ruled that the individual interest is an aspect of the public interest, it is therefore valid to consider the residential amenity implications of a development as a material consideration.

There are no representations expressing concern over potential impact on residential amenity.

In Officers opinion, the residential amenity issues likely to arise in relation to existing dwellings from the development would be limited as there are only a relatively small number of dwellings in the locality. Impacts are difficult to assess at this point given the application seeks 'in principle' agreement to areas of land for residential use, and there are no details of dwellings in those areas close to existing houses. It is respectfully suggested, however, that residential amenity impacts can be adequately addressed at detailed plan stage, when proper assessment can be given to the acceptability of relationships between properties, including potential for overlooking / loss of privacy. There are no residential amenity issues likely to arise from the conversion of the main listed buildings to apartments, given the considerable distances between these buildings and the nearest dwellings outside the application site. Detailed plans of units within the proposed housing areas would allow opportunity to ensure there are no unacceptable residential amenity issues for future occupiers.

#### 4.2.6 Ecology

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment. Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests. This reflects policy and guidance in Planning Policy Wales (Section 5.2), current legislation and Supplementary Planning Guidance Note – Conservation and Enhancement of Biodiversity, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

There is extensive legislation relating to protected species. This sets out basic requirements on Local Planning Authorities when determining planning applications for development which may impact on European Protected Species. Significant to this is a separate licencing process administered by Natural Resources Wales in relation to activity which would harm a European Protected Species, which requires application of a 'derogation test' and two conditions upon which the grant of a licence to a person carrying out such activity rests. The basic tests to be applied by Natural Resources Wales are:

- The activity to be licenced must be for imperative reasons of overriding public interest or for public health and safety
- There must be no satisfactory alternative
- Favourable conservation status of the species must be maintained

Court judgements have established that notwithstanding the licencing regime, a Local Planning Authority must also address its mind to the derogation tests when deciding whether to grant planning permission for a development which may harm a European Protected Species – hence in order to comply with the relevant Regulation it must engage with the provisions of the Directive.



The presence of protected species and the extent to which they may be affected is therefore a relevant material consideration on the application.

The original submission generated requests for additional information from consultees and a detailed objection from an Ecological Consultant engaged by the site owner, which challenged the adequacy of survey information in relation to protected species and whether the Authority could deal with the application in the absence of this information.

The applicants have sought to address issues arising in relation to the ecological information and submitted a Bat Emergence Survey document in September 2016, supplementing the two previous documents (an Extended Phase 1 Habitat Survey, and a Bat Mitigation Report). As noted previously, there has been reconsultation on the Bat Emergence Survey document, and the responses received on this are referred to in the consultation responses section of the report.

Natural Resources Wales have provided comments at various stages in relation to the application. Their October 2016 response deals specifically with issues in relation to bats, and is summarised in detail earlier in the report. Having regard to the submissions and the legislation, NRW state that in principle the development is not likely to be detrimental to the maintenance of the favourable conservation status of each of the populations of bats affected, provided any consent includes appropriate conditions.

The Council's Biodiversity Officer has commented that the latest surveys and assessment were undertaken to a satisfactory standard to inform the decision making process, in combination with the previous surveys for the site, and that this gives additional backing to the Article 16 Assessment undertaken in February 2015 by the Authority. The Officer reviews whether the development meets one of the derogation purposes set out in the Habitats Directive, along with the two conditions upon which the grant of an NRW licence rests. The review is set out in detail in the Consultation Responses section of the report and concludes the derogation purpose is satisfied, along with the two conditions, subject to imposition of conditions requiring submission, approval and implementation of avoidance, mitigation and compensation measures.

The responses from Natural Resources Wales and the Biodiversity Officer are significant to consideration of the ecological impacts of the development, and in particular to the assessment of issues relevant to the bat population. The comments indicate the survey information on bats is satisfactory. In relation to the aforementioned derogation test and two conditions to be considered in deciding whether to grant planning permission for a development which may harm a European Protected Species, NRW and the Biodiversity Officer provide detailed commentary and the conclusions are that derogation purpose is satisfied and that the two conditions are met, subject to appropriate avoidance, mitigation and compensation measures. These are considerations to be given by the Local Planning Authority to the assessment of ecological impact from the proposals.

Having regard to the information provided and the consultation responses, it is considered in respect of ecological impacts and in particular protected species issues, that subject to the imposition of conditions securing suitable avoidance, mitigation, and compensation measures, the proposals meet with the tests of planning policy and guidance. Due consideration has to be given to the derogation test in the Habitats Directive and the related conditions to be applied by NRW in considering whether to grant a licence, and the conclusions of NRW and the Biodiversity Officer on the information submitted are that provisions of the relevant Regulations and derogation requirements might be met (also subject to imposition of conditions). In Officers' opinion, the views of NRW and the Biodiversity Officer are to be respected and help the Authority to fulfil its duty to have regard to those requirements. Consequently it is concluded that there should be no impediment to planning permission on ecological grounds.

#### 4.2.7 Drainage

Planning Policy Wales Section 13.2 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, provides a detailed framework within which risks arising from different sources of flooding should be assessed. Policy VOE6 of the Local

Development Plan requires all major developments to be accompanied by a Water Conservation Statement.

No parts of the site are shown at risk of flooding in the Development Advice Maps accompanying TAN 15 – Development and Flood Risk. Natural Resources Wales requested additional information in the form of a Flood Consequences Assessment / surface water management strategy given the amount of development, and have since confirmed in relation to the details provided that they have no objections subject to the inclusion of conditions requiring approval of details of relevant systems. Dwr Cymru Welsh Water have raised no objections, also requesting inclusion of conditions and advisory notes on any permission relating to the detailing of drainage works.

Officers' conclusion is that there are no drainage issues of concern arising from the responses of the key statutory consultees. Appropriate details of surface water regulation measures within the site would need to be submitted for further approval at detailed design stage, and can be covered by conditions in the event of a permission being granted.

#### 4.2.8 Highways

Planning Policy Wales 3.1.4 refers to what may be regarded as material considerations and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment. The acceptability of means of access is therefore a standard test on most planning applications.

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. These policies reflect general principles set out in Planning Policy Wales (Section 8) and TAN 18 – Transport, in support of sustainable development.

In terms of detailing, the proposals involve a new main site access off Pont Ystrad Road, and a secondary access to serve proposed residential areas to the south east of this existing entrance, opposite Pennant Farm outbuildings, with an existing access off the Nantglyn Road being used as a one way route into the site. Additionally, there is an intention to provide a bus stop / route within the site, to improve pedestrian and cycle links, and to relocate the 30mph speed limit signs in conjunction with the project. The Transport Assessment concludes in relation to vehicle movements that the peak hour flows would be significantly less than that which could have been generated by the uses of the site as a hospital, that the development will have a marginal impact on the operation of the existing / proposed highway network, and that existing junctions have sufficient capacity to accommodate the likely volumes of traffic in peak periods in 2025.

There are individual concerns voiced at the potential for increased use of Love Lane and the local highway network. The Highway Officer has no objections to the proposal and suggests the inclusion of conditions on any permission requiring submission and approval of relevant details, including proposals for the improvements to highways adjacent to the site and improvements of public transport, footway and cycle links to the town centre.

It is not considered in the context of the Highway Officer's comments, and with respect to objections raised, that there are strong highway grounds to refuse permission here. The previous use of the site is a relevant consideration in assessing this application, and it is apparent that the traffic likely to be generated by the development proposed will be considerably less than that which would have arisen from the active hospital use. It is recognised that improvements would be necessary to the approach roads and footway links to the town, but these can be secured through conditions on any permission.

#### 4.2.9 Archaeology

Policy VOE 1 of the Local Development Plan seeks to protect areas of archaeological historic importance from development which would adversely affect them, reflecting general advice in Planning Policy Wales (Section 6.5) which sets out a range of considerations to be given to the assessment of archaeological issues, including approaches to recording and investigating potential remains in conjunction with new development. Welsh Office Circular 60/96 provided earlier advice on the importance of archaeological matters in the planning process, stressing the need for due assessment of the nature and importance of any features and their setting.

The submission advises the site is not subject to any archaeological designations. In response to CPAT comment on the loss of the gasworks buildings, the applicants have advised that it is not intended to demolish that building.

There are no individual representations raising archaeological issues. CPAT advise that prior archaeological assessment has been completed for the historic buildings at the site in relation to the 2004 planning application, but suggest that additional work will be necessary to bring the basic level of recording up to standard in relation to buildings to be demolished and those for which there was no internal access.

Subject to inclusion of the type of condition suggested by CPAT, it is concluded that archaeological interests would not be adversely affected by the development.

#### 4.2.10 Affordable Housing

Local Development Plan Policy BSC 3 sets out a requirement, where relevant, for development to contribute to the provision of infrastructure to meet the additional social, economic, physical and/or environmental infrastructure requirements arising from the development. The policy lists a range of priorities which it states will vary depending on the nature and location of the development, and includes affordable housing provision, which is detailed further in policy BSC 4. BSC 4 seeks to ensure, where relevant, 10% affordable housing on site on developments of 10 or more residential units, but states “ In recognition of differing characteristics throughout the County, negotiations to determine the actual provision of affordable housing will be based on factors outlined in the Council’s Affordable Housing Supplementary Planning Guidance”. The Supplementary Planning Guidance adopted in May 2014 confirms that the requirement for Affordable Housing applies to new build and conversions to residential units, but in the sections on the scenarios applying to delivery, indicates that no affordable housing provision should only be considered in exceptional circumstances once all other options have been exhausted. Circumstances referred to in the guidance which may constitute ‘exceptions’ are where the history of the site makes this unreasonable, such as previous consents; and where a proposal meets an ‘identified, acknowledged, and overriding regeneration aim or project in accord with an approved regeneration strategy and where affordable housing would seriously prejudice this’. The Development Plan policies and Supplementary Planning Guidance develop Welsh Government policy and guidance in Planning Policy Wales and Technical Advice Note 2 : Planning and Affordable Housing.

As recorded in the preceding sections of the report, the viability of the development scheme has been subject to close scrutiny in order to inform consideration of key issues. The Development Appraisal assumes there will be no requirement for affordable housing, and even with no consideration for such provision concludes that the best scenario is break even assuming no further grant funding. The Council’s Housing Strategy Officer notes that there is identified housing need in Denbigh for smaller dwellings, but supports the proposed development despite the lack of affordable housing provision, on consideration of the fact that there are abnormal building costs to the development and listed building considerations.

It is apparent from the financial information provided with the application and from the scrutiny it has been subject to, that the viability of the scheme is at best marginal without insistence on provision for affordable housing. The implications of obliging provision would simply be to increase the amount of residential development to generate the funding, which would be in conflict with one of the main tests of policy VOE4, which is to restrict the amount of enabling development to the

minimum necessary to secure the future of the heritage asset. Officers' view on the issue is therefore that it would be contrary to the intentions of policy VOE4 to insist on affordable housing provision, and that the financial viability arguments for this stance constitute the 'exceptional circumstances' set out in the Supplementary Planning Guidance on Affordable Housing, to justify no provision. The Housing Officer's response to consultation reflects this conclusion.

#### 4.2.11 Open Space

Local Development Plan Policy BSC 3 sets out a requirement, where relevant, for development to contribute to the provision of infrastructure to meet the additional social, economic, physical and/or environmental infrastructure requirements arising from the development. The policy lists a range of priorities which it states will vary depending on the nature and location of the development, and includes open space provision, which is detailed further in policy BSC 11. Policy BSC 11 requires proposals for all new residential development to make provision for open space, which should always be on site. The alternative of commuted sum payments are only acceptable where it can be demonstrated that circumstances justify that approach including where provision would impact on the financial viability of a development.

The applicants have indicated that it is intended to provide open space throughout the scheme and to open up undeveloped areas of the site for wider public enjoyment. It is suggested that details of open space provision be agreed through the mechanism of a planning condition. No representations have been received raising issues relevant to open space provision.

Officers would suggest that the development offers considerable scope for provision of open space, incorporating and enhancing the open areas around the site for the benefit of occupiers of properties to be developed and for a wider population. There are potential recreational and landscape benefits from securing the retention and improvement of open area in and around the buildings. Suitably worded planning condition(s) could be attached to any permission to secure a strategy for appropriate provision and treatment of open space in connection with the redevelopment of the site.

#### 4.2.12 Contaminated land

The need to consider the potential impact of contaminated land in relation to development proposals is contained in Chapter 13 of Planning Policy Wales, which requires planning decisions to take into account the potential hazard that contamination presents to the development itself, its occupants and the local environment; and assessment of investigation into contamination and remedial measures to deal with any contamination. Planning permission may be granted subject to conditions where acceptable remedial measures can overcome such contamination.

There are no responses received on this application which raise concerns over contaminated land.

Officers' opinion is that any contamination issues can be addressed through controls in standard planning conditions as used in permissions on other developments in the County, which was the approach adopted in relation to the 2006 permission for the mixed use scheme at the hospital. The conditions need to oblige suitable surveys of potential contaminants on the site and submission and approval of detailed proposals for treatment and disposal dependent on the findings of the surveys.

#### 4.2.13 Density of development

General guidance on residential density is contained in Local Development Plan Policy RD1 test ii), which seeks to ensure the most efficient use of land by achieving densities of a minimum of 35 dwellings per hectare, unless there are local circumstances that dictate differently. Whilst the wording of RD1 relates to support for proposals within development boundaries, the guidance provides a benchmark for consideration of proposals on the fringes of one of the County's main towns.

The application is essentially in outline form in relation to the development of land for residential use, and provides only basic information in relation to indicative numbers of dwellings within the individual areas shown for housing use. The total area of land shown for housing development is in the order of 5 hectares and the indicative number of new dwellings is up to 200, suggesting an average density of 40 to the hectare. There are no representations in relation to the issue of the density of the development.

Officers' opinion on the issue of density is that the site may be capable of accommodating an average of 40 dwellings to the hectare, but the detailed plans would need to demonstrate that this is possible to achieve in terms of satisfactory physical relationships between dwellings, taking account of the impacts on the listed building complex / setting and the surroundings. On the basis of the information submitted, it is not considered the proposals would result in an overdevelopment of the site likely to result in an unacceptable cramping of the available site area by buildings.

#### 4.2.14 Impact on listed buildings and the historic environment

Local Development Plan Policy VOE 1 seeks to protect sites of built heritage from development that would adversely affect them, which requires assessment of impacts on archaeological, listed building, landscape and listed building interests, which are reviewed independently in other sections of the report. The context for assessment of applications involving alterations, extensions, and demolition of listed buildings which require planning permission is set by Welsh Office Circular 61/ 96 and Planning Policy Wales (Section 6), which also stress the importance of protecting the historic environment. PPW 6.1 refers specifically to the need to ensure the character of historic buildings is safeguarded from alterations, extensions, or demolition that would compromise their special architectural and historic interest; and 6.5.9 indicates that where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building or its setting, and any features of special architectural or historic interest which it possesses. These are matters dealt with in detail in the following report on the agenda, in respect of the listed building consent application. The test in policy VOE 4 relating to assessment of impacts of enabling development is addressed separately in section 4.2.1 of the report.

There are separate representations on the application which express concerns over the impact of the proposals on the setting of the listed buildings, and that the 'essential setting' for the listed buildings identified in the submission is in conflict with the stance taken by the Council in approving the extent of enabling development in 2006. The application documents provide a volume of material explaining the rationale and justification for the proposals for works on the listed buildings in connection with conversion / adaptation to apartments, for the demolition of buildings and parts of buildings at the rear of the main Grade II\* range, and the location of the enabling development. The Justification Statement for demolition indicates demolition is unavoidable given the condition of the buildings and the constraint they pose on viable redevelopment of the site, which is the key to securing the future of the Main range. The Conservation Architect raises no objection to the proposals in terms of impact on the listed buildings or the setting, recognising that it is not possible to save as much of the listed building stock because of their condition, albeit that the proposals reserve buildings to be saved should the project prove to be sufficiently successful. He considers the enabling development is discretely located so as not to impact detrimentally on the setting of the main listed building.

Planning policy and guidance rightly seek to protect historic buildings from harm, and there is a clear emphasis on securing retention unless there are compelling circumstances which might justify an alternative approach. In this case, it is respectfully suggested that the circumstances are somewhat unique, and this is recognised in the Local Development Plan in its inclusion of policy VOE 4. In looking to apply the various policy tests and guidance to the proposals, it is of relevance that the application is in a 'hybrid' form, which makes it possible only to comment in general terms

on the potential impact of the demolition of buildings and the impact of new development on the setting of listed buildings, the setting of Denbigh Castle, or views into and out of the Castle or town.

In reviewing the issues relating to the setting, Officers suggest that whilst the loss of additional listed buildings is regrettable, the scheme has been developed following significant deliberations over the value of the whole complex, and in the context of the proposals to retain the key buildings, the removal of the buildings at the rear, and the proposals for residential development are considered an acceptable concession to allow the main objectives to be achieved. It is to be noted that the Conservation Architect concludes the enabling development as proposed is discretely located so as not to impact detrimentally on the setting of the main listed building, and on this basis it is not considered that the proposals would have an unacceptable or adverse impact on the historic environment, the character and appearance of the listed buildings, their setting, or the setting of the Castle, subject to strict controls over matters of detailed design, layout and key related matters such as landscaping at detailed plan stage.

The design detailing of any new development would be critical to its acceptability both in terms of impact on the listed buildings and the setting. This can only be dealt with at detailed plan stage, but the Design and Access Statement provides reasonable assurance that there is an understanding of the importance of the quality of the environment here and the need for development to accord with basic design criteria.

#### 4.2.15 Impact on Welsh Language and Social and Cultural Fabric

The requirement to consider the needs and interests of the Welsh Language is set out in Planning Policy Wales; TAN 20 and Policy RD 5 of the Local Development Plan. Policy RD 5 sets out the need for submission of a Community Linguistic Impact Assessment with all applications in settlements involving developments of over 20 dwellings and other developments of 3000sq m or more floor area.

Whilst the application site is actually outside the 'settlement' of Denbigh insofar as it is outside the defined Development Boundary in the Local Development Plan Proposals Map, a Community Linguistic Impact Assessment has been submitted with the application. This concludes that the development would have an overall positive impact on the Welsh language and its future in the locality, including the retention of Welsh speakers.

In Officers' opinion, a phased residential development of the scale proposed on this site on the fringe of a town the size of Denbigh would not by virtue of its size, scale, and location cause significant harm to the character and language balance of the community. The site has been in use as a hospital for many years and its development by way of housing spread over at least 10 years is not considered likely to have a detrimental impact on the Welsh language and social and cultural fabric of the town or the wider community.

#### 4.2.16 Minerals issue

Policy PSE 15 of the Local Development Plan looks to safeguard high quality resources of minerals in the County from development which may result in its permanent loss or hinder future extraction. In areas identified for safeguarding, the policy only permits extraction where it can be demonstrated that the need for the development outweighs the need to protect the mineral resource; or where such development would not have a significant impact on the viability of that mineral being worked; or where the mineral is extracted prior to the development.

Factually, the application site is shown on the Minerals Proposals Map accompanying the Local Development Plan within a Mineral Safeguarded Area (Sand and Gravel). The Minerals Officer concludes that given the small size of the site, any loss of sand and gravel is likely to be minimal and outweighed by the need to ensure the preservation of the listed buildings, and suggests that

the proposal meets criteria (i) of PSE 15, i.e. that it can be demonstrated that the need for the development outweighs the need to protect the mineral resource in this instance.

Having regard to the comments of the Minerals Officer, it is considered that there are no conflicts with the minerals safeguarding policy.

#### 4.3 Other matters

##### Adequacy of legal Agreements / mechanism for securing the restoration of the listed buildings

Members will appreciate that it is standard practice for Officers to negotiate with applicants/agents, on a 'without prejudice basis' to the recommendation on major proposals, on potential conditions and Heads of Terms of a possible Section 106 obligation to address matters which cannot reasonably be covered through planning conditions, to make a development acceptable. This was the route followed in relation to the 2004 application.

Having regard to the circumstances relevant to the current proposals, Officers have engaged with the applicants / agents on a range of possible Heads of Terms of a legal agreement, including the following, to secure:

- The establishment of a liaison group including Denbighshire County Council, the site owner, developer(s) and relevant interested parties, to oversee the development of the site and restoration of the listed buildings
- Arrangements for reviewing the phasing plan(s), including the timescale for offering enabling development land for sale and the co-ordination with a programme for restoration works to the listed buildings and provision of infrastructure
- The payment of moneys from the sale of enabling land into an agreed account, and the mechanism for the operation of that account to ensure the money is used in the restoration of the listed buildings
- Proposals for the promotion / enhancement of the Welsh language as part of the development
- Proposals for a local Labour Plan / training initiatives to promote the use of local labour and schemes for training as part of the development

The applicant's agent has confirmed that the Heads of Terms above are acceptable as a basis for progressing matters. Officers would suggest that subject to detailed drafting and legal scrutiny these Heads of Terms in conjunction with the suggested conditions on a permission would provide safeguards and positive gains from the development, and are a material consideration to be weighed in relation to the merits of the application.

##### Position of the site owner, and the Prince's Regeneration Trust

It is stated earlier in the report that in weighing the issues relevant to the application, Members should not take account of the identity of the applicant or the owner of the site, but deal purely with the proposals in terms of their land use planning merits. This is an unusual situation where the applicant at the time of considering the planning application is not the owner of the land, and the owner may have no intention of co-operating with the applicant in the process of completing a Section 106 Obligation in due course. This is not considered to be a matter for the Council to address in assessing the land use planning merits of the planning application. So long as the application is a valid submission, the Committee has a duty to determine it against policies and material planning considerations, as it would with any other application. The processes in completing a Section 106 Obligation and the prospects of any permission being implemented should not be a matter of concern to the Committee in considering the application in front of it.

##### Denbighshire County Council's involvement with the site

The Council's actions in serving various Notices on the site owner in relation to works on the listed buildings, and the move to instigate Compulsory Purchase Order proceedings should play no part in deliberations on the planning or listed building applications in front of the Committee. These are not considered to be matters material to the determination of the particular merits of these applications.

### Relevance of the 2006 planning permission and 2008 listed building consent

The 2006 permission has relevance to the current applications in that it confirmed the Council's acceptance of the principle of a mixed use 'enabling development' in the grounds of the hospital as a means of securing the future of the key listed buildings. The subsequent grant of listed building consent signified CADW's acceptance that some demolition of historic buildings was acceptable in association with positive proposals for the development of the site and the restoration of the key listed buildings.

However, it is to be noted that the 2006 permission was granted having regard to a specific policy in the Unitary Development Plan (MDA4), and to the particular proposals for a mixed use scheme submitted at the time. The permission has since expired and the Unitary Plan has been replaced by the Local Development Plan, which contains an entirely new policy relating to the principle of 'enabling development' – VOE4 – which sets a different context for the consideration of the current application. So whilst the previous consents are of interest as background to the consideration of the November 2014 application, and indicate the Council has taken a flexible approach to proposals geared at securing the future of the main listed buildings, Officers suggest they should have limited bearing on the assessment of the merits of the current proposals, as these have to be considered in relation to the tests of up to date policy and guidance.

### Impact on local services

There are concerns expressed in a response from a private individual over the impact of development on local services, including on schools and health services.

There are no specific objections raised in consultation responses from service providers to the proposals, including drainage bodies in terms of the capacity of the sewerage system or the treatment works. The Health Board have suggested the need for a suitable Health Impact Assessment and consideration of contributions to future provision of services.

In noting local reservations over the potential impact on local services, Officers suggest it would be difficult to sustain an objection based on the comments from the main providers. There is a responsibility on all service providers to plan ahead for the delivery of their own service, based on potential population changes, in connection with which there is clear approved strategy and proposals in the adopted Local Development Plan. Respectfully, the impact of the likely scale of development phased over a number of years at the site and elsewhere in the town and the County should be capable of being accommodated reasonably in the forward planning of all service providers. The carrying out of a Health Impact Assessment, as recommended by the Health Board, is not a statutory requirement as part of a planning application, but could be used as part of the development of the phases of development, in order to help inform the preparation of detailed layout plans with proposals encouraging the health and wellbeing of future residents.

In the particular circumstances applying to this application / site, the provision of financial contributions towards education, health and other services is not justifiable, given the clear objective to secure the future of the listed buildings and the marginal viability of the scheme.

### Sustainability issues

Sustainable development is a key part of the Local Development Plan Strategy, and has been applied to the land use policies and allocations in the Plan. Planning Policy Wales and associated Technical Advice Notes have previously set out specific requirements in relation to standards of construction in development as part of planning proposals, but as a consequence of changes in approach from Welsh Government, it is no longer necessary to include Sustainability Code requirements which were embodied in TAN 12 Design and TAN 22 Sustainable Buildings into planning permissions. Revisions to the Building Regulations in 2014, in particular into Part L now place the onus on developers to embody the relevant sustainability standards into Building Regulation submissions, so there is no need for consideration of these matters in relation to buildings proposed as part of the application.



### Inclusive design

The requirement to outline how the principles of inclusive design are to be incorporated into a scheme are set out in TAN 12 – Design and TAN 18 – Transport, along with Supplementary Guidance Note – Access for all. The submission includes an Access Statement and an Equality Impact Assessment and sets out basic principles for provision to be made for persons with disability, including external ramps, and inclusion of lift and specialist equipment within the converted building. The proposals will also have to meet specific requirements of Part M of the Building Regulations and demonstrate a satisfactory approach to devising solutions for what is a difficult site.

### Request for call in of application

There is a single representation suggesting that as a result of the size of the development and the use of public funds, Welsh Government should be calling in the application for determination. The issue of call in is one for Welsh Ministers and is not a relevant consideration for the Council, which has the duty to determine the proposals in relation to the Development Plan and relevant material considerations.

## **5 SUMMARY AND CONCLUSIONS:**

- 5.1 The application involves a range of proposals, including works to secure the restoration of the main Grade II\* listed buildings as apartments, and the development of land within the grounds for mixed residential and business use as 'enabling development' to fund the restoration works. The scheme also proposes demolition of buildings to the rear of the main Grade II\* block. The report highlights the basis of the submissions which argue the case for the restoration of the main buildings and the associated enabling development. The following application on the agenda deals with the parallel listed building consent application for the proposed works on, and extent of demolition of the listed buildings.
- 5.2 The North Wales Hospital has a unique place in the history of the town. The report sets out in some detail the complex background leading to the submission of the application, and notes that the buildings and grounds have suffered badly from neglect since closure of the hospital, more recently involving fires resulting in the loss of the main hall, and damage to other buildings. The remaining buildings are on the Council's 'at risk' register, which reflects their deteriorating condition.
- 5.3 The planning application raises a number of issues which oblige careful consideration. There have been a small number of individual representations on the application, those opposing the proposals include concerns on behalf of the site owner which challenge the viability of the scheme as submitted, and suggest there is little purpose in granting development that is unlikely to be realised for reasons pertaining to viability as this is the very reason why development has not taken place in the past when planning permission was granted, as economic circumstances at that time made the development unviable. Other objectors have concerns over the effect on local services, the need for housing, the impact on the setting and on the highway network. There are also representations expressing support for the retention of the Heritage buildings.
- 5.4 There are limited concerns in consultation responses on the application. Denbigh Town Council raise no objections. Natural Resources Wales and the Biodiversity Officer are satisfied at the additional information provided to address ecological issues, subject to suitable conditions on any permission. Other consultees such as the Highway Officers and Conservation Architect also suggest imposition of conditions to control relevant matters. A Section 106 Obligation could provide additional safeguards / gains to secure the future of the main buildings and related gains commensurate with the development proposed.
- 5.5 There is a specific policy in the Local Development Plan, VOE 4, which relates to enabling development, and the Plan designates the North Wales Hospital under this policy in order to secure the future of the important listed buildings. The policy is a significant consideration in the

weighing up of the proposals. Its tests are reviewed in detail in the report, along with other planning policies, Supplementary Planning guidance and legislation.

- 5.6 The Development Appraisal accompanying the application has been the subject of review by an independent consultant, and the conclusions suggest the amount of enabling development would be at least the minimum necessary to secure the future of the heritage asset. Officers consider this would not be contrary to test vi) of VOE 4, which is interpreted as seeking to ensure no more than the minimum necessary enabling development is permitted. The viability of the development is not considered to be a significant consideration in the determination of the application as this is not a requirement of planning policy. The report suggests that it is apparent from the submissions that the application is promoted as not objectively commercially viable, but would be deliverable by virtue of the Building Preservation Trust's fund raising abilities and the lesser need for profit.
- 5.7 It is suggested, having regard to consultation responses, representations and the considerations relevant to the determination of the application, that the proposals are broadly compliant with the objectives of current Development Plan policies, and in particular the key policy, VOE4, which permits enabling development as a way of resolving the status of heritage assets designated as 'at risk' - subject to inclusion of suitable conditions and to completion of a Section 106 Obligation. In Officers' opinion, the development is in accordance with the Development Plan and there are no material planning considerations which indicate the Council should come to a different conclusion and refuse permission.
- 5.8 In recommending favourably on the application, Officers recognise that the loss of the additional listed buildings would be regrettable, and that there remain uncertainties over elements of the application and the likelihood of a scheme proceeding in the near future. Nonetheless, it is considered that the package of proposals are worthy of support having regard to the substance of the submission, responses to the application and the planning policy context. They offer a realistic prospect of saving nationally important listed buildings, with significant positive economic and environmental benefits for the town from new development and the restoration of the grounds.

## **RECOMMENDATION**

The Officer recommendation therefore is to GRANT permission subject to –

### **A. Completion of a Section 106 agreement to secure the following basic Heads of Terms, to ensure:-**

1. The establishment of a liaison group including Denbighshire County Council, the site owner, developer(s) and relevant interested parties, to oversee the development of the site and restoration of the listed buildings
2. Arrangements for reviewing the phasing plan(s), including the timescale for offering enabling development land for sale and the co-ordination with a programme for restoration works to the listed buildings and provision of infrastructure
3. The payment of moneys from the sale of enabling land into an agreed account, and the mechanism for the operation of that account to ensure the money is used in the restoration of the listed buildings
4. Proposals for the promotion / enhancement of the Welsh language as part of the development
5. Proposals for a local Labour Plan / training initiatives to promote the use of local labour and schemes for training as part of the development

The terms of the Section 106 Obligation will need to be developed further through negotiation and would be reported back to Planning Committee at a future date for consideration and ratification before any agreement is completed.

**B. The draft planning conditions listed below, which will need to be developed further and would be reported back to Planning Committee for consideration and ratification alongside the refined terms of the Section 106 Obligation, before the issue of the Certificate of Decision:-**

The Certificate of Decision will be released only on completion of the Section 106 Obligation.

The draft conditions are:

**In relation to the submission of detailed plans and the commencement of development**

1. In relation to applications for the approval of details in connection with works of demolition, the conversion of the main range buildings, and the mothballing of buildings to be retained, such details shall be submitted for the consideration of the Local Planning Authority no later than 2 years from the date of this permission, and the developments / works as approved shall be commenced no later than one year from the date of the respective approvals.
2. In relation to applications for the approval of 'reserved matters' details in connection with the commercial units and new residential development, such details shall be submitted for the consideration of the Local Planning Authority no later than 10 years from the date of this permission, and the developments / works as approved in relation to each phase of the development shall be commenced no later than two years from the date of the respective approvals.

**General matters**

**APPROVED PLANS AND DOCUMENTS**

3. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:
  - (i) Basement floor plans as existing - Main Listed Building (Drawing No. AL.100) received 27 November 2014
  - (ii) Ground floor plan as existing - Main Listed Building (Drawing No. AL.101) received 27 November 2014
  - (iii) First floor plan as existing - Main Listed Building (Drawing No. AL.102) received 27 November 2014
  - (iv) Second floor plan as existing - Main Listed Building (Drawing No. AL.103) received 27 November 2014
  - (v) Elevations as existing - Main Listed Building (Drawing No. AL.104) received 27 November 2014
  - (vi) Elevations as existing - Main Listed Building (Drawing No. AL.105) received 27 November 2014
  - (vii) Ground floor plan as existing - Eryri and Hafan Wards (Drawing No. AL.108) received 27 November 2014
  - (viii) Ground floor plan as existing - Aled and Ogwen Wards (Drawing No. AL.107) received 27 November 2014
  - (ix) Development plan (Drawing No. AL.01A) received 13 April 2015
  - (x) Site plan as existing - Listed Building (Drawing No. AL.02) received 27 November 2014

- (xi) Site plan as existing - Roads and footpath (Drawing No. AL.03) received 27 November 2014
  - (xii) Site plan as existing - Views to and from site (Drawing No. AL.04) received 27 November 2014
  - (xiii) Site plan as existing - Site boundary (Drawing No. AL.05) received 27 November 2014
  - (xiv) Site plan as existing - Buildings already demolished (Drawing No. AL.06) received 27 November 2014
  - (xv) Site plan as existing - Buildings to be demolished (Drawing No. AL.07B) received 9 February 2015
  - (xvi) Site plan as existing - Essential setting for the principal listed buildings (Drawing No. AL.08) received 27 November 2014
  - (xvii) Site plan showing access points and vehicle movement around the site (Drawing No. AL.09) received 27 November 2014
  - (xviii) Site plan as existing - Existing trees (Drawing No. AL.10) received 27 November 2014
  - (xix) Site plan as existing - current situation on site (Drawing No. AL.11) received 27 November 2014
  - (xx) Basement floor plan as proposed - Main Listed Building (Drawing No. AL.0.10) received 27 November 2014
  - (xxi) Ground floor plan as proposed - Main Listed Building (Drawing No. AL.0.111) received 27 November 2014
  - (xxii) First floor plan as proposed - Main Listed Building (Drawing No. AL.0.112) received 27 November 2014
  - (xxiii) Second floor plan as proposed - Main Listed Building (Drawing No. AL.0.113) received 27 November 2014
  - (xxiv) Elevations as proposed - Main Listed Building (Drawing No. AL.0.114) received 27 November 2014
  - (xxv) Elevations as proposed - Main Listed Building (Drawing No. AL.0.115) received 27 November 2014
  - (xxvi) Site plan as existing – Additional Buildings to be demolished (Drawing No. AL.12) received 9<sup>th</sup> February 2015.
  - (xxvii) Enfy Reports: Extended Phase 1 Habitat Survey, received 27 November 2014; Bat Mitigation, received 9 February 2015; Bat Emergence Surveys , received 30 September 2016.
4. The physical extent of enabling development permitted in association with the retained buildings shall not exceed that shown on the submitted Development Plan, reference 1314.10 AL.01.
5. No applications shall be made to seek the detailed approval of plans for the conversion of the main range buildings, any phases of new build residential units, or the commercial units until the written approval of the Local Planning Authority has been obtained to a detailed Masterplan document setting out the principles to be adopted in the preparation of those submissions, in relation to all of the following:
- a) The phasing of development including the timing of demolition works, the phasing of works of conversion within the main range buildings, the phases of new residential development including indicative numbers of units in each, and the phasing of the commercial units;
  - b) Detailed design objectives for the works of conversion and for each phase of new residential and commercial unit development, to include road layout hierarchies and design principles for new buildings and open spaces, conservation management and landscaping proposals;
  - c) A Landscape and Ecological Protection and Enhancement Plan and Biodiversity Method Statement including:
    - i. a full survey of all trees, hedgerows; features of nature conservation interest such as wooded areas, bat flightlines, wildlife corridors, foraging areas; grassland and parkland areas;

- ii. details of proposals to retain, protect, work or remove trees and hedgerows, new areas of tree and other planting, and hard and soft landscaping works
  - iii. proposals for the mitigation of impact, the protection and enhancement of habitat, structural landscaping and the enhancement of planting in the woodland along the south east boundary of the site.
  - iv. relevant updated surveys and details of protected species mitigation and compensation measures, shown on appropriate scale maps and plans, and relevant schemes of Reasonable Avoidance Measures, including for reptiles and badgers.
  - v. details of an external lighting scheme including light spillage
  - vi. a timetable for implementation of mitigation and compensation, referencing the construction of the development
  - vii. arrangements for post project monitoring and long term wardening, management, and surveillance of the site, including persons responsible for implementing and supervising the works, as well as compliance auditing
  - viii. a Management Scheme for the Landscape and Ecological Protection and Enhancement Plan, incorporating details of required aftercare and long-term maintenance and monitoring.
- d) A Demolition Protocol to demonstrate how bats will be protected where bat surveys have not been undertaken due to access and safety restrictions, and how new development will be constructed in accordance with the guidance in the Bat Mitigation Report.
- e) An overall drainage scheme for the site which shall include plans for the carrying out of works in relation to each phase of the development, in accordance with guidance on Sustainable Urban Drainage Systems in CIRIA publications C.522 SuDS- Design Manual for England and Wales, and C523 SuDS - Best Practice Manual; to ensure:
- (i) no land drainage run off or any net increase of surface connects directly or indirectly to the public sewer system;
  - (ii) separate foul and surface water discharges from the site;
  - (iii) surface water generated from new impermeable surfaces are limited to equivalent Greenfield rate for the site, to be agreed with the Local Planning Authority.
- f) Proposals for a Travel Plan , the creation of new and improved links to the town centre for pedestrians, cyclists and walkers; the improvement of the footway along the whole length of the Ystrad Road frontage; the enhancement of links with Public Footpath No 46; and the establishment and maintenance of a public transport link to the town centre;
- g) Proposals for the restoration and treatment of the grounds around the listed buildings and the areas to be retained as open land within the site, including provision, enhancement, and maintenance of amenity and recreational open space within the site, to include provision for Community Recreational Open Space and Children's play space; the enhancement of the walled gardens, bowling green, and the responsibility for the provision and future maintenance of these areas.
- h) A Health Impact Assessment, to inform the preparation of detailed layout plans with proposals encouraging the health and wellbeing of future residents.

## **Demolition works**

6. No demolition works shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to proposals for :

- a) The storage and re-use of stone and slate, and other historic featurework in connection with the development of the site.
  - b) The aftertreatment of the land occupied by the buildings and the areas immediately surrounding them, including proposed final levels, hard and soft landscaping and planting, and the timing of the completion of the restoration works.
- The works shall be carried out strictly in accordance with the details as approved.

### **Conversion of the main range buildings**

7. No demolition works, or works on the conversion of the main range buildings to residential units or community space shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to all the following details:

- a) the full extent of demolition works and means of securing the structure of the buildings during those works,
- b) proposals for the storage and re-use of stone and slate, and other historic featurework in connection with the development of the site.
- c) proposals for the making good and reconstruction of sections of the buildings,
- d) the proposed means of vehicular and pedestrian access
- e) all floor layout plans and elevational details,
- f) external wall and roof materials,
- g) architectural detailing of all external features,
- h) proposals for the treatment of the land around the buildings, including circulation arrangements, provision of parking areas, bin stores and clothes drying areas, private external amenity areas for residents, and the reinstatement of open areas including the bowling green, around the buildings,
- i) the provision to be made to secure suitable access for disabled people.
- j) the foul and surface water drainage proposals
- i) any external lighting
- j) proposals for the protection of bats which may be affected by works the buildings, to demonstrate how the works will be consistent with the principles and proposals set out in the Ecological Protection Plan and the Demolition Protocol which have to be submitted and approved in relation to Condition 5 of this permission.
- k) proposals for the timing of the conversion works.
- l) how the proposals are consistent with the principles and details approved in connection with Condition 5 of this permission.

The development shall be carried out strictly in accordance with the details as approved.

8. Prior to their application, details/samples of the proposed materials and colour finishes to be used on the walls, roofs, windows, doors, residential paths and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Those details shall include stonework, slates, coping stones, bargeboards, fascias, pointing and painting. The development shall be carried out strictly in accordance with the details as approved.
9. Any existing external openings to be blocked up as part of the proposed demolition works and / or existing walls / stonework to be restored in accordance with the approved plans shall be carried out with materials that match those used on the existing walls of which they form part, in texture, type, colour, mortar and pointing unless otherwise agreed in writing by the Local Planning Authority.
10. No demolition works shall be permitted to commence on the rear walls of the main range buildings until evidence of a contract for the carrying out of the works of reconstruction of the walls and making good of exposed sections of the retained buildings has been provided to the Local Planning Authority and the Authority has consented to the commencement of the works.

11. None of the residential units in the main range buildings shall be occupied until the access and parking arrangements relating to them have been completed in accordance with the relevant approved plans. The access and parking arrangements shall be maintained as approved at all times.

### **Treatment of other buildings to be retained**

12. No works shall be permitted to commence on the demolition of any parts of the main range buildings, or in connection with their alteration and conversion to residential units, or on any of the phases of residential development or commercial development until the written approval of the Local Planning Authority has been obtained to detailed proposals for the mothballing of the buildings shown to be retained on plan 1314.10 AL.07B, and the timing of the works thereon. The works shall be carried out strictly in accordance with the details as approved.
13. Other than the main range buildings, no further works or uses shall be permitted on any of the buildings shown to be retained on plan 1314.10 AL.07B, without the prior written approval of the Local Planning Authority to all the following details:
  - a) the proposed use(s)
  - b) all floor layout plans and elevational details,
  - c) external wall and roof materials,
  - d) architectural detailing of all external features,
  - e) the proposed means of vehicular and pedestrian access
  - f) proposals for the treatment of the land around the buildings, including circulation arrangements, provision of parking areas, refuse stores, private external amenity areas, hard and soft landscaping, and the reinstatement of open areas around the buildings,
  - g) the foul and surface water drainage proposals
  - h) any external lighting
  - i) the provision to be made to secure suitable access for disabled people.
  - j) proposals for the timing of the conversion works.
  - k) proposals for the protection of bats which may be affected by works on each building, to demonstrate how the works will be consistent with the principles and proposals set out in the Ecological Protection Plan and the Demolition Protocol which have to be submitted and approved in relation to Condition 5 of this permission.
  - l) how the proposals are consistent with the principles and details approved in connection with Condition 5 of this permission.

The development shall be carried out strictly in accordance with the details as approved.

### **Detailing of the commercial units**

14. No works shall be permitted to commence on any of the commercial units until the written approval of the Local Planning Authority has been obtained to all the following details:
  - a) the proposed use(s)
  - b) the siting and layout
  - c) all floor layout plans and elevational details,
  - d) external wall and roof materials,
  - e) the proposed means of vehicular and pedestrian access
  - f) the foul and surface water drainage proposals
  - g) proposals for the treatment of the land around the buildings, including circulation arrangements, provision of parking areas, refuse stores, private external amenity areas, hard and soft landscaping, and the treatment of open areas around the buildings,
  - h) the provision to be made to secure suitable access for disabled people.
  - i) any external lighting
  - j) how the proposals are consistent with the principles and details approved in connection with Condition 5 of this permission.

The development shall be carried out strictly in accordance with the details as approved.

## **Detailing of the new build residential development**

15. In respect of each of the phases of new build residential development approved under Condition 5, no development shall be permitted to commence until the written approval of the local planning authority has been obtained to all the following details:
- a) the access, appearance, landscaping, layout and scale of the proposed development; including the number type and mix of dwellings and the density of development, proposed finished floor levels, land levels and boundary fences and walls;
  - b) all proposed highway works, including new roads and footways, improvements to existing highways and footways, cycleway and pedestrian routes, the links to adjoining phases of development, the closing off of any existing accesses, lightning and signing, traffic calming, parking, turning and unloading, the provision of access for disabled persons, arrangements for access by emergency services; and the timing of carrying out and completion of the highway works relative to the bringing into use of the developments proposed;
  - c) the design, layout and construction of the foul and surface surface water drainage systems.
  - d) the provision of public and private amenity open space and equipped play areas.
  - e) any external lighting
  - f) the provision to be made to secure suitable access for disabled people.
  - g) how the proposals are consistent with the principles and details approved in connection with Condition 5 of this permission.

The development shall be carried out strictly in accordance with the details as approved and none of the dwellings shall be occupied until the relevant infrastructure relating to them has been completed.

## **Highways / Parking matters**

16. Notwithstanding the submitted plans and documents, no works shall be permitted to commence on the demolition of any parts of the main range buildings, or in connection with their alteration and conversion to residential units, or on any of the phases of residential development or commercial development until the written approval of the Local Planning Authority has been obtained to full details of the vehicular accesses and associated highway works and internal estate roads, including the detailed design, layout, construction, visibility splays, drainage and street lighting, measures for traffic calming, pedestrian links and turning areas which are to serve that part of the development. None of the residential units, commercial buildings, or uses permitted in the mothballed buildings shall be permitted to be occupied until the approved highway works have been completed for that element of the development.
17. No development in connection with the alteration and conversion of any buildings to residential units, or on any of the phases of residential development or commercial development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to full details of proposals showing how the development will provide safe pedestrian and cycle routes linking into the existing highway network. The improvements identified shall be completed in accordance with the approved plans or as otherwise agreed in writing before the development is brought into use.
18. No works of demolition, or any development associated with the conversion of the main range listed buildings and other retained buildings, or any phase of new residential development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of a Construction Environmental Management Plan (CEMP) in connection with those works. Each CEMP shall include the following details:-
- a) Measures for construction/site traffic management to include the access, parking, turning, loading and unloading of all vehicles using the construction site.
  - b) Measures for construction/site management to include the access, parking, turning, loading and unloading of all vehicles using neighbouring sites via any shared access.



- c) Piling techniques if necessary
- d) Storage of plant and machinery
- e) Provision of site security to include hoarding and lighting
- f) Protection of trees, hedgerows and other natural features
- g) Proposed means of dust suppression and noise mitigation
- h) Measures to deal with any mud from vehicles on shared access roads or on nearby County roads during construction, including wheel washing facilities
- i) All construction/demolition working and operational times
- j) Details of the outside storage of spoil or other excavated material including location and height of storage.

Construction/demolition in each phase shall not be carried out otherwise than in accordance with the approved CEMP unless amendments have been agreed in writing by the Local Planning Authority.

## **Drainage**

- 19. No development shall be permitted to commence on the conversion of the main range buildings, any new build residential units or commercial units until the written approval of the Local Planning Authority has been obtained to the details of a scheme for the comprehensive and integrated drainage of the site showing how foul, surface water and land drainage will be dealt with, including a surface water regulation system. The scheme shall be fully implemented and subsequently maintained in accordance with the timing and phasing arrangements embodied in the scheme, or within any other period as may be subsequently be agreed in writing by the Local Planning Authority.
- 20. Foul water and surface water discharges shall be drained separately from the site.
- 21. Foul flows from the proposed development shall connect to the 225mm public combined sewer located between manholes SJ05652204 and SJ05653201 as shown on the statutory sewer plan.
- 22. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.
- 23. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
- 24. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

## **Ecology**

- 25. There shall be no removal of hedgerows, trees, shrubs and climbing plants or works to or demolition of buildings or structures that may be used by breeding birds between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, other than with the prior written approval of the Local Planning Authority following investigation and recommendation by a competent ecologist that such works are acceptable and there are appropriate measures in place to protect nesting bird interest on site.

26. No works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of a conservation plan for each species of bat that has been identified roosting at the site. The plan shall consider overall conservation objectives for each species; provision of features that could be used for defined roosting purposes; the provision and management of foraging and dispersal habitats; and future surveillance and monitoring requirements, including target key performance indicators. The plan shall be implemented strictly in accordance with the approval.
27. No works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of bat avoidance, mitigation and compensation measures, including those measures described in the Enfy's bat reports. The details shall cross reference to the conservation plan for each species of bat that has been identified roosting at this site, and in respect of dedicated bat habitats, details concerning compensation areas shall include future tenure and long term provision of resources required for management surveillance and wardening purposes.
28. No works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of an external lighting and internal light spillage scheme.
29. No works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of proposals that facilitate long term bat surveillance/monitoring, habitat management and wardening.
30. No works to or demolition of buildings and structures shall be permitted to commence until the Local Planning Authority has been provided with a copy of a licence that has been issued to the applicant / developer by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorising the specified activity/development to proceed, or Natural Resources Wales has informed the applicant / developer that such a licence is not required.
31. No works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of an ecological compliance audit (ECA) scheme. The Audit shall evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions, and shall identify Key performance Indicators that are to be used for the purposes of assessing and evidence compliance.
32. No works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of Biosecurity Risk Assessment, to include appropriate measures to control any invasive non native species on site and measures or actions that aim to prevent invasive non native species.
33. Notwithstanding the submitted plans, no works involving the lopping, topping or felling of any trees within the application site shall be permitted to be undertaken until there has been carried out a suitable survey of the trees by an experienced and licensed bat ecologist to determine the presence of features suitable for bats, and where such habitat is present, the written approval of the Local Planning Authority has been obtained to a Tree Protection Plan including appropriate avoidance, mitigation and compensation measures. Any works permitted to these trees shall only be carried out in accordance with the approved Tree Protection Plan.
34. No site clearance works, works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of

a scheme of Reasonable Avoidance Measures in relation to reptiles, which shall be informed by an updated reptile survey including the scrub around buildings and rubble piles.  
Works shall only proceed in accordance with the approved measures.

35. No site clearance works, works to or demolition of buildings and structures shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of an updated Badger survey, and in the event that any setts are identified, a scheme of Reasonable Avoidance Measures in relation to reptiles.  
Works shall only proceed in accordance with the approved measures.

### **Landscaping / Open Space**

36. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping in relation to the different elements of the development shall be carried out in the first planting and seeding seasons following the completion of that part of the scheme to which they relate, and any trees or plants which, within a period of five years of being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
37. Other than those specimens which are permitted to be removed or worked on by virtue of plans approved in relation to other conditions of this permission, no trees within the site shall be lopped, topped or removed without the prior written consent of the Local Planning Authority.

### **Heritage / Conservation**

38. No demolition works or development shall be permitted to commence until a full photographic survey and written schedule of all architectural details of the buildings within the site has been undertaken/produced. The resulting photographs and survey should be deposited with the National Monuments Record of Wales, operated by The Royal Commission on the Ancient and Historical Monuments of Wales, National Monuments Record of Wales, Plas Crug, Aberystwyth, SY23 1NJ Tel: +44(0)1970 621200, [nmr.wales@rcahmw.gov.uk](mailto:nmr.wales@rcahmw.gov.uk).
39. No demolition works or development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the archaeological curator for the Local Planning Authority. The archaeological programme of work shall be undertaken and completed in accordance with the standards laid down by the Institute for Archaeologists and MoRPHE (2006). On completion appropriate reports and an archive assessment shall be submitted for approval to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust, 41 Broad Street, Welshpool, Powys, SY21 7RR. tel: 01938 553670.

### **Contamination**

40. No demolition works, works on the conversion of the main range buildings and other retained buildings, or the development of any phases of new residential development and commercial units shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a comprehensive survey over the entire site of soils and buildings to determine whether any of the land is contaminated and whether there is hazardous material in the buildings; such survey to be in accord with BS: 10175:2001 ("The Investigation of Potentially Contaminated Sites").
41. In the event that the site survey required by Condition 40 of this permission reveals the presence of any contaminated or hazardous material, no demolition works, works on the conversion of the main range buildings and other retained buildings, or the development of any phases of new

residential development and commercial units shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a detailed site specific risk assessment to identify risks to water resources, surrounding land and property, wildlife, building materials and future users of the site, and any other person; and to detailed proposals for addressing the risks, specific measures for decontaminating the site and dealing with any unsuspected hazardous material or contamination which becomes evident during the development of the site. The development shall be carried out strictly in compliance with the detailed measures approved by the Local Planning Authority.

42. In the event that any areas of unexpected contamination become evident in the course of demolition or construction works, all works in the vicinity of that contamination shall be suspended immediately, and the Local Planning Authority shall be notified within 24 hours. No work shall be permitted to continue in the affected area until the written agreement of the Local Planning Authority has been obtained to details of the measures proposed to remove or contain any hazard presented by the contaminants, and the method of rendering harmless such contamination. The development shall only be permitted to proceed in accordance with the details approved.

The reasons for the conditions are:-

1. To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, and to ensure the works are carried out in a reasonable timeframe to secure the future of the main range buildings.
2. To accord with the provisions of Section 91 of the Town and Country Planning Act 1990
3. For the avoidance of doubt and to ensure a satisfactory standard of development.
4. For the avoidance of doubt and in the interests of protecting the essential setting of the listed buildings and Denbigh Castle.
5. The proposals involve the phased development of land and require further detailing to guide the submission of future applications, and in order that the Local Planning Authority retains control over development in the interest of the proper planning of the site.
6. In the interests of sustainable principles, to make efficient use of building material within the site, and in the interests of visual amenity and the setting of the listed buildings.
7. To ensure the local planning authority retains control over the detailing of works on the main buildings to protect the character and appearance of the listed buildings.
8. To ensure the local planning authority retains control over the detailing of works on the main buildings to protect the character and appearance of the listed buildings.
9. To ensure the local planning authority retains control over the detailing of works on the main buildings to protect the character and appearance of the listed buildings.
10. To ensure the works of demolition and reconstruction of the rear walls of the main range buildings are coordinated and do not put the building at risk.
11. To ensure the residential units are served by suitable parking and servicing arrangements
12. To ensure suitable measures are undertaken to secure the remaining buildings and to prevent deterioration which would threaten their future.
13. In order that the Local Planning Authority retains control over future uses and the impact on the character, appearance, and setting of the listed buildings.
14. In order that the Local Planning Authority retains control over future uses and the detailing of the development in the interests of visual and residential amenity, and to protect the setting of the listed buildings.
15. In order that the Local Planning Authority retains control over the detailing of the new residential development in the interests of visual and residential amenity, highway safety, the provision of adequate infrastructure, and to protect the setting of the listed buildings.
16. To ensure the development is served by a suitable highway network, in the interest of the free and safe movement of traffic within the site and on the adjacent highway.
17. To ensure pedestrian, cycle and highway links to the town are improved in conjunction with the development.

18. To ensure demolition and construction stage works are suitably controlled in the interest of highway safety, users of local highways, and amenities of occupiers of property in the vicinity.
19. To ensure that effective drainage facilities are provided for the proposed development, and to prevent flooding by ensuring the satisfactory storage of, and disposal of, surface water from the site.
20. To protect the integrity of the public sewerage system.
21. To prevent hydraulic overloading of the public combined system, to protect the health and safety of the existing residents and ensure no detriment to the environment.
22. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
23. To prevent hydraulic overload of the public sewerage system and pollution of the environment.
24. To prevent pollution of the water environment.
25. In order to protect ecological interests.
26. In order to protect ecological interests.
27. In order to protect ecological interests.
28. In order to protect ecological interests.
29. In order to protect ecological interests.
30. In order to protect ecological interests.
31. In order to protect ecological interests.
32. In order to protect ecological interests.
33. In order to protect ecological interests.
34. In order to protect ecological interests.
35. In order to protect ecological interests.
36. In the interests of visual amenity and to protect and enhance the setting of the listed buildings.
37. In the interests of visual amenity and to protect and enhance the setting of the listed buildings.
38. In order to ensure adequate opportunity for the recording of the listed buildings on the site.
39. In order to ensure adequate opportunity for the recording of the listed buildings on the site.
40. To ensure suitable safeguards are in existence to establish the presence of hazardous or contaminated material, and to protect the interests of existing residents, potential users of the land, wildlife, and the quality of water drainage in local streams.
41. To ensure suitable safeguards are in existence to establish the presence of hazardous or contaminated material, and to protect the interests of existing residents, potential users of the land, wildlife, and the quality of water drainage in local streams.
42. To ensure suitable safeguards are in existence to establish the presence of hazardous or contaminated material, and to protect the interests of existing residents, potential users of the land, wildlife, and the quality of water drainage in local streams.

#### **NOTES TO APPLICANT:**

1. The Development Plan (Job no. 1314.10 Drawing No. AL.01 Rev A) is considered to form an acceptable general framework for the development of the site, and a basis for the preparation of further detailed plans for the phasing of new development and the conversion of the main range buildings. You should discuss the progression of your proposals in relation to the submission of details required by the conditions of this permission with the Council's planning, conservation and highway officers.
2. You are advised that separate listed building consent is required for the demolition or alteration of the listed buildings on the site, and that the grant of planning permission can not convey any indication of the prospect for such consent being granted. Strictly no demolition or other works requiring listed building consent should be undertaken without that consent being obtained.

3. Your attention is drawn to the attached Highway Supplementary Notes:
  - (i) Highway Supplementary Notes Nos. 1,2,3,4,5,6,7,8,9 & 10.
  - (ii) New Roads and Street Works Act 1991-Part N Form.
  - (iii) Denbighshire County Council Specification for Road Construction.
  - (iv) Denbighshire County Council General Notes for Highway Lighting Installations.
  - (v) Denbighshire County Council's General Requirement for Traffic Signs and Road Markings.
4. In connection with the surface water drainage proposals, the County Council and Natural Resources Wales advocate the use of Sustainable Urban Drainage Systems (SuDS). You are asked to discuss the proposals for the development of the Surface Water Drainage Strategy incorporating the principles of a SuDS with NRW and the general approach to the drainage systems with Dwr Cymru Welsh Water prior to the submission of any details.
5. You are advised to contact the relevant Statutory Undertakers prior to the preparation of detailed plans and the commencement of any demolition or new building works, to ascertain the location of apparatus, and the need for separate consents if there is likely interference. Questions of access for emergency vehicles should be taken up direct with the Fire and Ambulance Services.
6. The Council's Transport and Infrastructure section has drawn attention to the need to safeguard Public Footpath 46 during site works, and advises that no building materials are to be stored on the right of way which may cause a nuisance or obstruction to any users, that there should be no diminution in width of the footpath as a result of development, and that no barriers should be placed across the right of way of either a temporary or permanent nature.
7. You should contact the Council's Footpaths Officer in connection with proposals to develop links to Public Footpaths No 46 and to the town centre, and the Highways / Transportation Officers to discuss proposals for the highway detailing, the need for road widening, the development and enhancement of cycleways and public transport links.
8. You should contact Natural Resources Wales and the County Ecologist in connection with the requisite wildlife surveys and mitigation proposals, including the approach to be adopted to bat mitigation prior to the carrying out of any demolition works, and you are reminded of the developer's responsibilities in complying with protected species legislation. The response from Natural Resources Wales is attached to this Certificate and sets out specific advice in relation to the Licencing process and relevant contacts.
9. You are advised that the Betsi Cadwaladr University Health Board recommend the undertaking of a Health Impact Assessment as part of the progression of the plans and you should discuss the approach to developing an Assessment with Officers of the planning section and the Health Board, to inform the strategy for the layout of the new residential areas.
10. You are reminded that the permission is the subject of a separate Section 106 Obligation with specific terms relevant to the progression of the development.
11. Your attention is drawn to the attached copy of the consultation responses from Natural Resources Wales and Dwr Cymru Welsh Water, setting out a range of considerations to be applied to the development of detailed plans for the development.
12. You are encouraged to contact the County Council's Planning and Conservation Officers in connection with the development, in particular in respect of the preparation of detailed plans in relation to the main buildings, proposals for retained listed buildings, and the details relevant to the conditions of this permission.