

**Report To: Cabinet**

**Date of Meeting: 30/07/2013**

**Lead Member / Officer: Councillor David Smith/Graham Boase**

**Report Author: Graham Boase**

**Title: The Former North Wales Hospital, Denbigh**

---

**1. What is the report about?**

- 1.1 The purpose of this report is to update Cabinet regarding progress at this important Listed Building, to seek support for the service of a Compulsory Purchase Order (CPO) for the Site, and to obtain support for Officers to make an offer to purchase the Site.

**2. What is the reason for making this report?**

- 2.1 The previous report to Cabinet was in October 2010, since then there has been significant progress with this project. It is now necessary to update Cabinet on the latest position, seek support for the service of a CPO and to outline the general risks associated with the CPO process. Given the complexities of the Site it is recommended that should the Council be successful with the CPO or the offer to purchase the site is accepted that prior to formally taking ownership of the site a further Cabinet authorisation is sought.

**3. What are the Recommendations?**

- 3.1 The recommendations are:
- Cabinet support the service of a CPO for the site and recommend that Planning Committee so authorise.
  - Cabinet support Officers to make an offer to purchase the site based on the response from the independent Valuer and other material factors.
  - Prior to formally purchasing the site be it via the CPO procedure or via negotiations a further Cabinet authorisation is sought.

**4. Report details**

- 4.1 In October 2010 Cabinet authorised the service of an Urgent Works Notice and if not complied with the implementation of the Urgent Works in default. The notice was served on 6th June 2011. The owner did not respond within the specified deadline and therefore a specialist contractor was instructed to enter the site and begin work. The target building was the original phase one building, built between 1846 and 1848, which is the most important building architecturally and historically. The work included the removal of asbestos, the

removal of all structural timber because it was rotted to the point of near collapse and the construction of a temporary roof. The building was found to be in a worse condition than anticipated but nevertheless the contractor managed, under difficult circumstances particularly related to health and safety matters, to complete the work by August 2012. The cost of these works was approximately £900k.

- 4.2 Five Section 55 demands for payment in relation to the costs of carrying out the urgent works in default have been served on the owners. Welsh Government has confirmed that two of the appeals are not valid. The Planning Inspectorate has confirmed that the three valid appeals are to be dealt with by written representation. The Council now needs to decide how to proceed regarding the two demands for which there is no valid appeal and to provide the Planning Inspectorate with statements in relation to the three valid appeals. The fact is there is little chance of recovering the money from the owner, as they are an off shore company, although the possibility of putting charges on the land should we be successful in pursuing the debt is an option worth considering.
- 4.3 In October 2010 Cabinet also supported the creation of a Single Purpose Vehicle, in the form of a non profit making organisation, to take ownership of the site from DCC should the Authority be successful in acquiring the Site, be it voluntary or compulsory. This organisation has now been created, with the help of the Prince's Regeneration Trust (PRT), and is known as the North Wales Building Preservation Trust (NWBPT). This Trust has applied for charitable status, and remains committed to restoring the Site.
- 4.4 Cabinet also supported the service of a Repairs Notice and if necessary the compulsory purchase of the site. The Repairs Notice has now been served. It was dated 14th May 2013 and formally served on the owner Freemont (Denbigh) Ltd., in the British Virgin Islands (BVI) on 24th May 2013 by a specialist law firm. In addition it was also served on another BVI company, Northern Estates Ltd. who have a charge on the property. The agent for the owner, a solicitor in Preston, was served the notice in person. Should the owner fail to make significant progress towards carrying out the repairs within 2 months (i.e. by 24 July 2013) DCC are entitled to commence with a CPO. At the time of writing this report Officers are not aware of any progress made by the owner and therefore have to conclude that the required evidence of significant progress is unlikely by the deadline. The CPO process is likely to take 18 months and result in a Public Inquiry.
- 4.5 The Council in authorising and serving the Repairs Notice accepted that if it was not complied with that the next logical step was to commence the CPO proceedings. The PRT are contracted to assist the Council in this process and they recommend we now pursue the CPO. The NWBPT will enter initially into a 'Memorandum of Understanding' and eventually into a 'Back to Back Agreement' to take over the ownership of the Site should the CPO be successful.

4.6 At this point in the process therefore it is important that Cabinet support the service of the CPO, which is ultimately a Planning Committee decision. If Cabinet do support the service of a CPO the matter will be reported to Planning Committee in September for formal authorisation. There are risks to progressing the CPO and they are outlined in Appendix A. The Council has engaged a specialised lawyer to assist with the CPO. It is clear that in commencing the CPO process and if successful having the CPO confirmed does not commit the Council to taking possession of the site if the circumstances at that time are not appropriate. If CPO process is successful prior to seeking to formally take ownership, a further resolution of Cabinet and Planning Committee will be sought when the circumstances at that time are better understood as such the risks at this stage are minimised.

**5. How does the decision contribute to the Corporate Priorities?**

5.1 The decision will help progress towards a resolution for this problem site and the development of a quality project which will include housing and employment uses thereby helping with Corporate Priorities "Development of the Local Economy" and "Ensuring Access to Good Quality Housing".

**6. What will it cost and how will it affect other services?**

6.1 The decision to CPO the site will involve costs including obtaining specialist advice and compensation payable to the owner. The specialist advice is likely to be well within the available budget. The compensation is more difficult to predict hence our enquiries to a valuation consultant. It is expected that compensation will be low because the asset value of the site is offset by the liabilities of the repairs to the listed buildings however should the compensation be higher than expected a clause in the agreement with the NWBPT will ensure repayments to DCC from the sale of development land amounting to a sum equal to the deficit, as long as sale values are sufficient to enable this. Even in the worst case scenario therefore the cost to DCC should be nil over the medium to long term.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

7.1 A decision to CPO the site does not require an equality impact assessment as there will be no impact on staff or the community.

**8. What consultations have been carried out with Scrutiny and others?**

8.1 The Denbigh Members Area Group and the Denbigh Town Council are regularly advised of progress and have been told of the intention to CPO the site. DCC works closely with the PRT and the NWBPT. Both organisations attend regular Steering Group meetings where there are observers from Cadw and Welsh Government. There have been previous reports to the SLT, CET and Cabinet.

## **9. Chief Finance Officer Statement**

Given the size of the site and the costs of its restoration there are clearly significant financial risks around this project. The Council does have some funds set aside to progress the project but needs to manage these very carefully.

While a CPO is the obvious next step given the lack of progress with the current owners, the Council must ensure that it has a very clear exit route so that it does not end up taking on significant liabilities.

Final permission should be sought from Cabinet before the purchase is finalised.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1 The risks and mitigation are set out in Appendix A.

## **11. Power to make the Decision**

11.1 The Welsh Ministers may confirm a CPO to acquire a listed building under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 when they are satisfied that reasonable steps are not being taken for its proper preservation. The CPO can not only include the listed building, but associated land.

11.2 The Welsh Ministers will want to be satisfied before they confirm the CPO that there is a reasonable likelihood of the project for restoration of the listed building proceeding. The model now proposed is for enabling development in the form of new build housing which will release capital for the repair of the listed building. The disposal of land for this purpose will be phased over several years and the entire project will be managed by the North Wales Building Preservation Trust. A sensitive design will be essential for development so close to an important listed building. Control over the acceptability of the development will be through the normal planning permission and listed building consent procedure. The listed building could be converted to a number of uses including residential, offices, care home, hotel, etc. It is intended that employment uses will also be included in this new build part of the scheme.

11.3 Planning permission and listed building consent will be required to deliver this project. It is not appropriate to obtain permission and consent before the CPO is made and it is likely that such permission and consent will be obtained by the persons carrying out the enabling development and the restoration works to the listed building. It is not envisaged that there will be any insurmountable difficulties in obtaining the necessary planning permission and listed building consent. Planning permission has previously been granted consent (now lapsed) for enabling development similar to the scheme now being proposed but there will be a greater emphasis on quality and sensitivity in the new scheme.

- 11.4 The ultimate test the Welsh Ministers apply in deciding if a CPO should be confirmed is that of a compelling case in the public interest. Officers take the view that there is such a compelling case with Denbigh Hospital. Without the intervention of the Council the likelihood is that the property will continue to deteriorate. Furthermore the owner has not provided any credible evidence that it will secure the restoration of the main listed building on the site. In contrast, making a CPO will provide a realistic prospect of the building being restored and reused.
- 11.5 Any CPO interferes with the human rights of the owner. Such interference is justified when it is in the public interest. For the reasons set out in this report the proposed action will not constitute a breach of the Human Rights Act 1998.