

Report To: Planning Committee

Date of Meeting: 11th September 2013

Lead Member / Officer: Councillor David Smith / Graham Boase

Report Author: Graham Boase, Head of Planning and Public Protection

Title: The Former North Wales Hospital, Denbigh

1. What is the report about?

1.1 Denbigh Hospital is an important grade 2* (two star) listed building set within an extensive site. There are a number of other listed buildings within the site but the Council's focus has always been on securing the restoration of the most important listed building. The hospital was closed in 1995 and since then it has had several private sector owners. Since closure it has suffered from neglect, vandalism and theft. It is now in an extremely dilapidated state. The Planning (Listed Buildings and Conservation Areas) Act 1990 gives responsibility and powers to local authorities to act in these circumstances. This report outlines the recent history of the site and asks for authorisation to commence with the compulsory purchase of the site.

2. What is the reason for making this report?

2.1 The power to compulsory purchase a listed building by a local authority is set out in the 1990 Act but the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007/399 requires authorisation from the Planning Committee. A full report was submitted to Cabinet on 30th July 2013 a copy of which is attached as Appendix 1. The Cabinet report has Appendices A, B, C, and D. Please note that Appendix A is a Part 2 item. Cabinet supported the compulsory purchase of the site and asks Planning Committee to so authorise.

3. What are the recommendations?

3.1 That Planning Committee authorises the making of a Compulsory Purchase Order in respect of the site shown edged in red on the attached plan, in Appendix 3, pursuant to section 47 of the 1990 Act.

3.2 The compulsory purchase procedure can take some time possibly 18 months. Prior to completing the purchase of the site there will be a clearer picture of the costs and liabilities so further authorisation from Cabinet and Planning Committee will be sought before a General Vesting Declaration is made transferring ownership to the Council.

4. Report Details

- 4.1 The Cabinet report attached outlines the situation in some detail but some members of the Planning Committee may not be familiar with the recent history of the site, the problems and how a CPO can help.
- 4.2 Since the closure of the hospital DCC has had dealings with several owners. With each owner it was stressed the need to improve security and to repair the main listed building but to no avail. Following threats of enforcement action the site was sold in 2001/2 to Acebench Investments Ltd. DCC with the support of the Prince's Regeneration Trust, then began a dialogue with the owners agent. Following various studies a project was drafted which included "enabling development" in the form of new build housing, the purpose of which was to release capital to repair the main listed building. Outline Planning permission was granted in 2006 for the enabling development subject to planning conditions, reserved matters and a Section 106 Agreement which required the owner to pay £4.8m into a restoration fund controlled by DCC. During the planning process ownership was transferred to Freemont (Denbigh) Ltd., a company registered in the British Virgin Islands. Therefore it was necessary to underwrite the £4.8m with a bond from a British bank.
- 4.3 For reasons unknown, the owner failed to pursue the outline Planning permission and no reserved matters application was ever submitted. The outline Planning permission lapsed in 2009.
- 4.4 Since 2009 the owner has brought forward no further proposals for the site until he met the Head of Planning and Public Protection at a meeting on 13th August 2013 which will be covered below (see 4.9). The main listed building has continued to deteriorate. It became necessary to serve an Urgent Works Notice in June 2011 and carry out works in default costing approximately £900k paid for from the settlement sum. Demands for payment have been sent to the owner in order to recover the costs. This debt recovery is ongoing. In May this year a Repairs Notice, under section 48 of the 1990 Act, was served outlining repairs which were necessary to the most important part of the main listed building. No satisfactory response has been received. The only recourse now is to commence with the compulsory purchase of the site. (A compulsory purchase order cannot be made under section 47 of the 1990 Act unless a Repairs Notice under section 48 of the 1990 Act has been served, and two months have elapsed)
- 4.5 Clearly DCC does not want long term ownership of the site so a substantial amount of work has been put into identifying a way forward following acquisition. The North Wales Building Preservation Trust (NWBPT) has been created to take ownership from DCC as soon as ownership has been transferred to the Authority. Before DCC takes ownership there will be a formal back to back agreement with the NWBPT to ensure that the site ownership is passed on immediately.

- 4.6 A masterplan for the site has been drafted on behalf of the Council showing the potential for the enabling development. This draft masterplan will form the basis of supplementary planning guidance for the site which will be subject to full public consultation. The adoption of the SPG will be a Member decision. A business case has been commissioned which demonstrates that there is a financially viable project possible but only where there is no profit element as would be the case with the NWBPT. A summary of the business case from the Prince's Regeneration Trust is attached as Appendix 2. Outline proposals have been drafted which demonstrate that the most important part of the main listed building can be adapted for residential use. The NWBPT will be responsible for managing the project, procuring all necessary consents, marketing the enabling development land in phases and ensuring the restoration of the main listed building. Welsh Ministers will not confirm the CPO unless it can be demonstrated that there is a viable project possible and that there are no serious impediments to implementation. Officers believe we will be able to fulfil this requirement.
- 4.7 Acquisition of the entire site is necessary, in addition to the main listed building, in order to protect the setting of the listed building and to facilitate the enabling development.
- 4.8 The compensation payable to the owner is not known at the moment but previous work has shown that the site has a minimal value. A further valuation has been commissioned and also an assessment will be provided of any likely compensation payable should the CPO be successful. Officers believe that compensation, if payable at all, will be low. If the compulsory purchase order is confirmed, DCC will have an opportunity to review again the compensation position before deciding to acquire title to the site pursuant to the compulsory purchase order
- 4.9 The meeting on 13th August 2013, referred to above, involved a discussion with the owners agent and a joint venture partner to the owner about the possibility of developing the site, retaining a minimum of the listed buildings and demolishing significant parts of the listed buildings. The Head of Planning and Public Protection will continue a dialogue. In the meantime it is essential that the CPO process is initiated and progressed.
- 4.10 The test applied by the Welsh Ministers in deciding if a compulsory purchase order should be confirmed is that of a compelling case in the public interest. The Welsh Ministers will need to be satisfied that there is a reasonable likelihood of the Council's proposals for the restoration of the main listed building being achieved. It is considered by DCC's officers that there is such a compelling case to compulsorily acquire the site, and that there is a good likelihood of the main listed building being restored and brought back into use. As has already been mentioned,

the funds for the repair of the main listed building will be obtained by the disposal of parts of the land for residential and, possibly, commercial development. The reports prepared by the Council's consultant indicate that this is likely to be a viable project.

- 4.11 A compulsory purchase order interferes with the human rights of those with an interest in the land. It is considered that such an interference is a proportionate one in this case.
- 4.12 There are costs associated with a compulsory purchase order. There are the legal and administrative costs of making the Order and securing its confirmation. If there are objections to the order there will be the costs of presenting the Council's case at a public inquiry. In addition the Council will be responsible for paying the Planning Inspectorate's costs of arranging the inquiry. If, following an inquiry, the order is not confirmed the Council would have to pay the objector's costs. Assuming the order is confirmed and title to the property is taken by the Council, there will then be the compensation claims of relevant parties to deal with. The Council is seeking to minimise any financial risk and having the balance of the settlement referred to in paragraph 4.3 affords considerable comfort. The expert advice obtained indicating this project is viable also suggests that any risks are manageable. However the fact is that without compulsory purchase action now the condition of Denbigh Hospital is likely to continue to deteriorate and there seems little prospect of the listed building being restored, or the site being brought back into productive use, for the foreseeable future.
- 4.13 Please refer to the Cabinet report in Appendix 1 for further detail.

5. Recommendation.

- 5.1 That Planning Committee authorises the commencement of the compulsory purchase of the Former North Wales Hospital site pursuant to section 47 of the 1990 Act and that a further report be submitted to Cabinet and Planning Committee prior to acquiring title to the land pursuant to the compulsory purchase order.