

Report to: The Executive

Date: 30/03/09

Report of: Director of Development and
Regeneration, Director of Legal and
Democratic Services, Director of
Corporate Services

Report No:

Contact Officer: Carol Sutton, Head of Strategic
Development

Tele No: 336231

Report Title: **Clarence Street former school building**

**Confidential/
Non Confidential:**

(Non-Confidential) This report does **not** contain information which warrants its consideration in the absence of the press or members of the public

Purpose:

To explain the background to, and impact of the judicial review proceedings on decisions previously made regarding interim car parking and Clarence Street former school buildings.

To examine and take decisions on the options available for the future of the Clarence Street former school buildings and development site.

Recommendations:

It is recommended that the Executive :-

1. Notes the outcome of the judicial review proceedings.
2. Decides on whether to undertake an options appraisal for the future of the buildings.
3. Decides on the appropriate option for the future of the Clarence Street former school buildings.

Decision:

Background Doc(s):

Bolton: Our Vision 2007-17
Town Centre Action Framework 2005 – 2008
Coming to Town – Town Centre Transport Strategy published 2007
Building Bolton published 2006
Clarence Street Development Brief approved 25th February 2008
Report to the Executive “Interim Car Parking Proposals in Bolton Town Centre” approved by urgent action on 18/08/08 and noted on 29/09/08
Report to Executive Member for Strategy and External Relationships “Clarence Street former school buildings” 23/02/09, deferred at the meeting.

(for use on Exec Rep)

Signed:

Leader / Executive Member

Monitoring Officer

Date:

Summary:

Save Britain's Heritage sought a judicial review of the Council's decision to demolish the former Clarence Street School buildings and the decision to grant planning permission for the site to be used as a temporary car park.

This report explains the outcome and impact of the judicial review proceedings, the options available for the future of the buildings and site and proposes appropriate action in light of the information provided.

1 Background

- 1.1 The Council has been subject to judicial review proceedings brought by Save Britain's Heritage (SAVE), regarding:-
 - 1.1.1 The decision taken by the Executive Member using the Emergency Powers Procedure to demolish the former Clarence Street School which was noted by the Executive on 29th September 2008.
 - 1.1.2 The decision taken by the Planning Department to grant permission for the site to be used as a temporary car park using delegated powers.
- 1.2 This report will explain the Council's current requirements for car parking in the town centre, the grounds for judicial review and the points conceded by the Council, the policies approved in respect of this area of the town centre, the views of others and propose appropriate actions taking into account all the relevant circumstances.
- 1.3 This report also addresses the additional representations made in further correspondence from SAVE relating to a report to the Executive Member for Strategy and External Resources on 25th February 2009. The Executive Member noted the outcome of the judicial review proceedings and deferred consideration of the matter to this meeting to allow further work to take place. This has now happened and the report is amended accordingly.

2 Car Parking

- 2.1 The adopted Town Centre Transport Strategy – Coming to Bolton, requires that driving to Bolton and access to car parks must not become too onerous. The Council proposes to build a number of multi storey car parks in key locations at gateways to the Town Centre. The first two were required to be built at Deane Rd and at Bath Street due to the need to serve existing and new developments in the south and the north of the Town Centre respectively.
- 2.2 In August 2008, the Executive Member approved interim parking solutions for Bolton Town Centre. One of the solutions was to provide temporary car parking in the north of the Town Centre, to manage the closure of the 227 space Bath Street surface car park in order to build a new multi storey car park. The surface car park was due to close in February 2009 for a 12 month period. Following a site search, the Clarence Street school site was the only one identified in the north of the Town Centre which was suitable for an interim car park in location, opportunity and deliverability by February 2009. It could provide 103 spaces.
- 2.3 The need for this additional provision was identified after the Clarence Street Development Brief was prepared and consulted on. The timing of the temporary car parking requirement was dependent on the development timescales for a series of projects and the selection of the Council's car parking partner in April 2008, and could not have been foreseen at the time the Clarence Street Development Brief was prepared.
- 2.4 The Bath Street car park closed on schedule on 15th February 2009, to enable the new Topp Way Car Park to be constructed, which is now underway. Due to the judicial review proceedings the earliest the Clarence Street car park could now be made available is July 2009. The Council's strategy to minimise inconvenience to Town Centre visitors by directing customers from the Bath Street car park directly to the replacement spaces at Clarence Street is therefore not possible. Motorists are either finding alternative car parks or choosing to go elsewhere.

3 Judicial Review proceedings

- 3.1 SAVE commenced Judicial Review proceedings on the 3rd November 2008. The basis for challenge was on seven Grounds and the Council conceded on parts of three grounds.
- 3.2 The Council conceded that the decision to demolish and thereafter to continue with the demolition, and to grant planning permission for development of the school site for a temporary car park, were unlawful on the basis that they did not take into account a material consideration namely the Clarence Street Development Brief.
- 3.3 In relation to the planning permission for the temporary car park, the Council conceded that it failed to have regard to a further material consideration namely the planning effects of the demolition of the school which was necessary for the car park to be constructed
- 3.4 The Judicial review was granted on 28th January 2009 and the following decisions were quashed:-
 - 3.4.1 The decision to demolish the school by the Executive Member for Strategy and External Relations on the 18th August 2008 and the noting by the Executive on 29th September 2008, the decision to proceed with demolition following the purported grant of planning permission, and the decision on 31 October 2008 to continue demolition.
 - 3.4.2 The planning permission reference 80920/08 issued on 16 October 2008 for the “laying out of 103 space car park including timber knee rail fence, pay and display ticket machine and height restriction barrier” at Clarence Street/All Saints Street, Bolton.

4 Clarence Street Development Brief

- 4.1 The Clarence Street Development Brief (the “Brief”) was approved by the Executive Member for Development on the 25th February 2008 as a statement of Council policy. The purpose of the Brief is to guide the development of the wider area which is in multiple ownerships and includes the former school buildings. (See site plan in Appendix).
- 4.2 Within the area covered by the Development Brief, the Council owned development site is shown shaded on the attached plan. This comprises a site wholly in Council ownership which comprises the surface public car park, parts of Clarence Street highway, and all the land and buildings within the former Clarence Street college curtilage
- 4.3 The aim of the Brief is to promote high quality sustainable design and public spaces that are responsive to the context of Little Bolton and that will enhance views into, and from, the St George’s conservation area and create a unique destination and arrival point for the town centre comprising a varied mix of uses.
- 4.4 The Brief sets out the relevant planning policy context which includes the allocation of the whole of the Development Brief area in the Council’s UDP for redevelopment and/or reuse of existing buildings for mixed uses. The Council’s town centre urban design Supplementary Planning Document “Building Bolton” identifies the area as part of the town’s shatter zone where urban clearance over decades has damaged the townscape, and encourages redevelopment which responds to its context.
- 4.5 Within the Brief, the Clarence Street school buildings are described as being “of architectural merit and worthy of retention” and the buildings as being of “high value in terms of their contribution to local distinctiveness”. The main school building is described as being “a

significant landmark feature in an area dominated by highways and low rise retail buildings. The single storey building fronting St Peter's Way is of architectural interest in its own right with some interesting terracotta detailing and its own bell tower."

- 4.6 It is further provided in the Brief that the school buildings "represent an exciting opportunity for conversion and extension for a number of uses such as residential, office or hotel" and cites examples of similar successful conversions within the Borough.
- 4.7 It is noted in the Brief that the retention and conversion of the principal building which fronts Clarence Street is the preferred option. However the Brief provides further that the Council "are prepared to consider the demolition and redevelopment of the former school buildings if the developer is able to demonstrate that alternative proposals will deliver a landmark development at the Topp Way/St Peter's Way junction that will significantly enhance the townscape of the area. An exceptionally high standard of design would be required."

5 Views of others

- 5.1 Planning consent for the construction of the temporary car park was granted on 16th October 2008 using delegated powers. No planning consent is required for the demolition of the former school building as it does not have listed status, nor is it in a Conservation Area. The following views were expressed in relation to the planning application by the Council's Design and Conservation Officer in reference to the Supplementary Planning Document "Building Bolton", the Town Centre design guide. In particular "that the building has been established in Building Bolton as a building of high architectural value and provides a distinguished landmark building and focus to the northern part of Little Bolton".
- 5.2 The conservation officer states that the building sets a quality benchmark and an urban design standard, and that "once the building is gone it will be harder to achieve a quality building given its poorer neighbours". In reference to the St Georges Conservation Area the Conservation Officer comments that "at present the building provides enclosure to All Saints Street and provides an attractive backdrop to Little Bolton Town Hall. If the building is demolished Little Bolton Town Hall would appear even more isolated and views out of the conservation area would be harmed."
- 5.3 The conservation officer does discuss in her comment that there is an acceptance that retention of the building may not be possible and goes on to say that if the building cannot be retained the Officer would recommend that references to the building are retained on the site, such as the boundary walls including the attractive entrance gate on All Saints Street.
- 5.4 Save Britain's Heritage who objected to the planning application and brought the claim for judicial review are a conservation group who campaign for endangered historic buildings placing a special emphasis on the possibilities of alternative uses for historic buildings. In this instance they have in conjunction with the Bolton News run a competition encouraging local people to suggest alternative uses for the building. Their view is that the building should be restored and redeveloped for future use.
- 5.5 A further objection was made to the planning application by an individual on the grounds of its architecture and history, and recommending that the building be re-used.
- 5.6 More recently SAVE has raised three further concerns. Firstly they have requested that the issue be considered by a Committee of the Council rather than an Executive Member; secondly they have raised points about the proposed method and cost savings that could be made in the "Making Safe" option discussed below in section 8; and thirdly are recommending further strategy options development to investigate how the buildings could be re-used and act as catalyst for the wider area. In this context the Churches Conservation Trust has submitted a fee proposal following a request from SAVE. This matter is considered further in section 9 below.

- 5.7 The Princes Regeneration Trust has also written to the Council requesting that all opportunities to reuse the existing buildings be explored and offering advice to investigate this.
- 5.8 Two letters have been received via Bolton MPs supporting the retention of the buildings. One of them for use by the University of the Third Age, a voluntary educational group.

6 Listed status of the Building

- 6.1 A third party made an application to the Secretary of State to have the school building listed as a building of special architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) Act 1990. On the 3rd November 2008, the Secretary of State declined to list the building.

7 Clarence Street school buildings : Current Position

- 7.1 Demolition commenced in October 2008, and ceased on 31st October 2008 when Save Britain's heritage applied for and were granted an interim injunction.
- 7.2 To date £22,000 of one off non-recoverable costs have been incurred to stop the demolition contract, make the site safe and maintain it. Ongoing costs of approximately £10,000 per month are being incurred to secure the site which is subject to 24 hour security to manage the potential risks to the public of unauthorised access and the potential for further damage to, or theft from the building.
- 7.3 The demolition works carried out prior to the High Court injunction were extensive and only the shell of the building remains. All the timber floors were removed and only those constructed from concrete remain. All services and internal systems have been removed and utilities disconnected, the roof of the annexe completely stripped and a proportion of the main building roof has been stripped of slates by opportunists.
- 7.4 A decision is now required on the future of the building because of its poor and deteriorating condition. The current measures to protect the building were sufficient for a short period whilst the legal process was underway. Now that the legal position is confirmed, it is appropriate and necessary to consider the options open to the Council.

8. Options Available

- 8.1 There are four options to be considered for the site;

8.1.1 Re-instatement - The building could be rebuilt and put back in the state it was in prior to the demolition works prior to marketing the site for development. It is estimated that for works of this nature to be carried it would cost a minimum of £1.7m up to £2.8m with a mean cost of £2.3m. These figures have been calculated based on the rates set out in the BCIS quarterly building costs per square metre 2005, and a total floor area of 2248sqm. Uplift for inflation is included in the higher cost estimate but not the lower or middle estimates. The range of prices reflects the different rates applicable for conversion/rehabilitation and newbuild.

8.1.2 Making Safe —. Following communication with SAVEs structural engineer, a revised specification has been prepared by the Council's Head of Building Control. This sets out the minimum work required to maintain the structural stability of the building where the timber floors have been removed, secure the building from unlawful access and improve the external appearance to the St Peter's Way and Topp Way frontages.

This revised option will not make the buildings watertight, and therefore the state of the building is at risk of deteriorating further due to water ingress. This specification will provide:-

- A structural scaffold to give lateral restraint to the walls where the timber floors are removed,
- Boarding up of all windows and doors; with permascreeen at ground floor and plywood on upper floors.
- Provide roofing felt to annex roof visible from St Peters Way.
- 2.4m hoarding to exposed site boundaries, and repairs to make good existing boundary fencing.
- Replace manhole covers in yard

Written quotes have been received at a cost of £79k for the works including purchase of the scaffolding, or £85k inclusive of scaffolding hire charges over a two year period. This is significantly less than the figures in the previous report because the specification no longer includes making the buildings watertight as suggested by SAVEs consultant. The written scaffolding quotes received were also less than the verbal estimates from the existing demolition contractor.

This makes no allowance for on site security inspections for vandalism or forced entry, and it is considered that daily inspections would be appropriate for a building in this location and condition. This option would meet building safety requirements during any options appraisal, marketing and disposal period and offer future developers the opportunity to carry out the necessary refurbishment/conversion works in conjunction with their proposals for the development of the site.

8.1.3 Status Quo - The third option is that the building is left in its current state with the security maintained at the site at a cost of £10k per month. The current short term arrangements were put in place pending the outcome of the legal proceedings, and the Head of Building Control does not consider them to be acceptable for a lengthy period pending sale and development. The stability of the building is of concern as there is currently no lateral restraint in the part of the building where the timber floors were removed, and the building is deteriorating with the risk to health and safety increasing.

8.1.4 Demolition - In this alternative the building could be demolished and the site cleared and mounded, the estimated cost for this is in the region of £35,000.

9. Development Options Appraisal

- 9.1 The Executive is asked to consider whether an options appraisal is appropriate taking into account all the relevant matters including the Brief.
- 9.2 The buildings are surplus to Council requirements and to be marketed and disposed of for development. The Brief was prepared to help guide that development, and that of the wider area. A mixed use development is encouraged. The Brief proposes a number of acceptable development uses for the buildings including residential, office and hotel. SAVE and the Princes Regeneration Trust have made representations that the Council should consider further options appraisal work before taking a final decision on the future of the building.
- 9.3 There are a number of heritage organisations that could undertake the options appraisal work. SAVE have put forward the Churches Conservation Trust (which operates within the wider historic buildings sector) and Page 7 of 12
Princes Regeneration Trust, however the Council is

aware of others including the Heritage Trust for the North West, and Heritage Works Building Preservation Trust. The Architectural Foundation also provides guidance.

9.4 The main aim of an options appraisal from a heritage organisation is to establish the best end-use of the building and to assess financial viability. It should identify risks and reduce uncertainty. Options should be appropriate, and conclusions should be realistic. An options appraisal would have four key elements:-

- Identification of the most beneficial use
- Clear demonstration of potential financial viability or reasons why there is no viable use
- Statement of the buildings importance in conservation terms.
- An assessment of the social and public benefits of the proposed scheme.

9.5 The conclusions and recommendations of such an options appraisal should cover the following:-

- Preferred use
- The cost
- Principal sources of funding
- Likely final conservation deficit
- How this deficit would be met
- If the building is to be retained, how it will be sustainable in the long term

9.6 An options appraisal would cost up to £15,000, and take up to 3 months including commissioning and delivery. This would be for a broad appraisal and not for the more detailed design and development work required to rigorously test a preferred option. No grant funding is available as it is neither listed nor in a Conservation Area.

10. Discussion of Building Options

10.1 The Executive is asked to consider the appropriate course of action for the remaining buildings and the future of the site, in the context of the approved Development Brief.

10.2 As explained above, the Clarence Street site cannot now deliver the Council's temporary car parking strategy due to the minimum 3 month gap between closure of the existing spaces and the potential opening of the new spaces. The buildings are surplus to Council requirements. It is therefore possible to dispose of the Council owned site for development in accordance with the guidance in the Development Brief.

10.3 The current general market conditions are not favourable. Soft market testing with developers active in Bolton Town Centre show that as it is located in the centre of the development plot, and in its current part demolished condition, it is not a commercially attractive proposition to retain the buildings within any new development. The market sentiment is also evidenced by the recent withdrawal of the developer from the scheme to refurbish the listed Little Bolton Town Hall for a restaurant and office use, as it was considered commercially unviable in the current economic conditions. That project is eligible for grant assistance from the Heritage Lottery funded Little Bolton Townscape Heritage Initiative.

10.4 Even with developer interest a realistic timescale for disposal of the development opportunity is a minimum of 18 months and this is relevant in considering the future of the buildings in terms of the financial impact of the options on the Council, and the environmental impact at this gateway location to the Town Centre. The time period is based on open marketing the site for sale, taking into account financial consideration and quality of scheme. This would require preparation of documents, advertisement, receipt of submissions, analysis and decision. This could take up to 6 months. The site is then likely to remain undeveloped for a minimum of a further 12 months due to the usual development processes

following tender acceptance including legal contracts completion, design, planning approvals and construction mobilisation.

10.5 In addition to the future disposal and development of the site, there is now the additional issue of the condition of the buildings and the requirement to take further action on their safety in the context of the estimated 18 months period pending development. The options are set out in section 8. In light of the timescales set out, maintaining the status quo is a high risk option for this timescale due to the deteriorating condition of the building and the lack of structural stability where the timber floors have been removed.

10.6 Notwithstanding the Council policy established in the Brief, the following factors are further relevant considerations when determining whether to demolish the buildings or invest in their repair or reinstatement:-

10.6.1 Extensive demolition has already been undertaken as described in paragraph 7.3. The building is now a shell at a prominent gateway to the Town Centre. It is in a poor and deteriorating condition and vulnerable to damage from weather, theft, and vandalism.

10.6.2 The Council must take into account value for money and the cost for the Council to reinstate the building structure in total, or in part (the making safe option). There would be no guarantee that the building would be retained by any future developer.

10.6.3 As the buildings are neither listed nor in a Conservation Area, nor in a targeted regeneration area, the availability of public funds to help deliver a viable scheme to refurbish and reuse them are limited.

10.6.4 Whilst the Brief did not envisage demolition prior to acceptable alternative proposals, it did allow for the demolition and redevelopment of the site provided the replacement was of landmark quality which significantly enhances the townscape. The Council is able to seek as landowner as well as Planning Authority, that the replacement meets the requirements of the Brief.

10.6.5 Considering a heritage issue, one of the concerns expressed by SAVE and others is the impact of demolition on Little Bolton Town hall and views from the conservation area. However the Clarence Street buildings are situated centrally on the Council owned development site, which is in the north of the area covered by the brief. (See plan in Appendix). The site is physically separated from the Little Bolton Town Hall Listed Building and the Conservation Area by a modern 1980's office park. Views from these heritage features are thus obscured by existing development, and an appropriate quality development would provide visual closure at this important gateway, and a greater sense of focus at the junction

11 Conclusions

11.1 Council decisions are necessary to determine the appropriate way forward for the Council owned development opportunity, and the action required to the Clarence Street buildings to meet safety requirements. The report sets out the options available and the relevant factors to take into consideration including the Council's approved Brief.

12. Recommendations

It is recommended that the Executive:-

1. Notes the outcome of the judicial review proceedings

2. Decides on whether to undertake an options appraisal for the future of the buildings
3. Decides on the appropriate option for the future of the Clarence Street former school buildings.

Appendix : Clarence Street Location Photo



