

## PLYMOUTH CITY COUNCIL

**Subject:** Transfer of Freehold of Devonport Market Hall Building  
**Committee:** Cabinet  
**Date:** 12 March 2013  
**Cabinet Member:** Councillor Evans  
**CMT Member:** Anthony Payne (Director for Place)  
**Author:** Paul Barnard, Assistant Director for Planning  
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**Ref:** Growth/DMH  
**Key Decision:** Yes (urgent)  
**Part:** I

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### **Purpose of the report:**

The report considers an offer from the Homes and Communities Agency for the transfer of the former Devonport Market Hall building, a vacant grade 2 listed building, under their Dowry Programme. The report considers the risks associated with the proposed transfer and associated land from the Homes and Communities Agency to the City Council. The report summarises the risks and the mitigation measures that have been possible within the timescale of the proposed transfer set as 31<sup>st</sup> March 2013. It also sets out that along with the freehold and unencumbered transfer of the land a dowry for on-going maintenance of £2.57 Million is also proposed, provided the transfer occurs in the 2012/2013 financial year. Although the report clearly identifies the high risks to the City Council of the transfer, it recommends that the opportunity to bring the building within local democratic control and ownership along with funding that may not be available in the future merits acceptance of the offer from the Homes and Communities Agency in order to enable the delivery of a social enterprise project and a sustainable long-term future for an important listed building consistent with the adopted policies of the Devonport Area Action Plan.

It was not possible to publish this as a key decision on 11 February 2013 and it is impracticable to defer the decision until the next Cabinet meeting on 2 April 2013 because the Homes and Communities Dowry Programme funding is only available this financial year and the requirement to transfer the land by 31 March 2013 means that a decision has to be taken with sufficient time to affect the land transfer before this date. Written notice has been given to Councillor Mrs Aspinall, Chair of the Overview and Scrutiny Management Board.

The decision has been designated as urgent in accordance with the provisions of the Constitution and with the agreement of Councillor Mrs Aspinall, Chair of the Overview and Scrutiny Management Board, the decision will be immediately implemented and the call in procedure will not apply.

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## **Corporate Plan 2012 – 2015:**

The proposed transfer of the former Devonport Market Hall building is consistent with the cooperative approach to facilitating community ownership of assets.

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:**

The building will be transferred to the City Council for £1. The dowry sum of £2.57 Million will be transferred to the City Council in financial year 2012/2013. There will be no restrictions on the use of the dowry sum – other than it is used for the former Market Hall building. There will be no monitoring requirements placed on the City Council by the Homes and Communities Agency. In addition the developers of the surrounding Devonport Vision site, Redrow Homes, will transfer £178,000 of funding budgeted for the maintenance of the building whilst they are on site completing their housing development to the City Council. All previous studies and reports on the building will be transferred to the City Council at no cost. The Homes and Communities Agency will cover the City Council's legal costs. Redrow will continue to pay for site security for the duration they remain on site to complete the development of the rest of the site – expected to be 2017.

An updated cost independent cost report indicates that the estimated costs of renovating the building to be £2.3 Million. The intention is that the dowry is used for these renovation costs, however whether this is sufficient will depend on a final costed project and how much of the dowry has been needed for maintenance in the period prior to renovation (this could be significant at between £50,000 and £200,000 per annum). In the case of a shortfall other funding sources to enable renovation including grants will need to be identified by officers.

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

The primary risk associated with the proposal relates the speed within which the transfer has to be undertaken, meaning that the full due diligence normally associated with a building acquisition simply cannot be undertaken. In addition there are risks associated with the fact that this listed building has been under-used for a number of years and is therefore in a generally poor state. There is as yet no viable long-term end use of the building and therefore although updated cost estimates have been prepared these might prove insufficient if a new use is not found for the building within a reasonable period of time. Moreover, if the City Council accepts the transfer then it will have to take a lead in developing future funding bids and allocate the necessary human and other resources to allow this to happen. Asbestos surveys indicate no presence of asbestos. A Bat Survey indicates no presence of bats although given the building has been vacant for some time a further survey would be needed in June 2013. Finally, the building is effectively already in public ownership with a national regeneration agency and so ultimately as a responsible organisation they would have to find a solution to the building after Redrow vacate the site as anticipated in 2017.

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## Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No, but an Equality Impact Assessment will be undertaken as part of the preparation of future options for the use of the building once these have been explored.

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## Recommendations and Reasons for recommended action:

It is recommended that Cabinet:

1. Accept the offer from the Homes and Communities Agency to transfer the former Devonport Market Hall building and associated land together with a dowry sum of £2.57 Million to enable the transfer by 31st March 2013.

Reason: The acceptance of the offer will enable the future of an important listed building to be secured in accordance with the policies of the Devonport Area Action Plan to facilitate the development of a social enterprise project.

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## Alternative options considered and rejected:

Option 1: Reject the Homes and Communities Agency Offer: This is not considered appropriate given the opportunity to take the building into local democratic control and facilitate a long term sustainable use of an important historic building in Devonport.

Option 2: Seek a revised Homes and Communities Agency Offer: This was rejected following discussions which indicated that the dowry sum and timescales to complete the transfer was fixed.

Option 3: Facilitate a transfer to a community group rather than the City Council: This was rejected as the Homes and Communities Agency indicated that they would not be prepared to transfer the land to any community group given their assessment of the capabilities of existing groups at this stage to take on the responsibilities of the building and develop a viable and credible future use.

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## Published work / information:

### Devonport Area Action Plan -

<http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/planningpolicy/ldf/aaps/ldfdevonportaap/ldfdevonportadoption.htm>

### Devonport Conservation Area Appraisal and Management Plan-

<http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/planningpolicy/ldf/ldfbackgroundreports/brdevonportconservationproposals.htm>

## Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Old Market Hall Outline Estimates, JMA, February 2013		X			X				

Bat Survey, Clock tower: Devonport, EAD, February 2013	X									
Devonport Market Building Study, GHK, April 2009	X									

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**Sign off:**

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Originating SMT Member: Paul Barnard, Assistant Director of Planning													
Has the Cabinet Member(s) agreed the content of the report? Yes													

## **1.0 Background**

- 1.1 The former Devonport Market Hall Building was designed by James Piers St Aubyn and built in 1852. It is a Grade II listed building and comprises an Italianate clock tower, coupled with a market hall created beneath three iron-trussed roofs with iron lattice balconies supported on iron columns together with a large central staircase. During the last century, and notwithstanding that there had been a market on the site since 1760, the Ministry of Defence annexed the building and a substantial track of land around it behind a security wall that began to be removed in 2003 when a large scale regeneration project started by English Partnerships commenced.
- 1.2 The building is currently owned by the Homes and Communities Agency (HCA) and in a poor state of repair. The HCA's development partner Redrow have been unable to identify a commercial use for the property and the HCA expect that when Redrow complete the adjoining development site in 2017, the Agency will be left with a major contingent liability for which they need to devise an exit strategy. The management and maintenance (including costs in the interim rests with Redrow via the development agreement with the HCA.

## **2.0 Proposal**

- 2.1 The regional office of the HCA has presented an potential opportunity to transfer the property at nil value to a third party with the benefit of a £2.57 million dowry from a centrally allocated pot CLG fund known as the Dowry Programme. The HCA consider the Council is well placed to take over the property and utilise the dowry to bring the building back into beneficial use and identify a suitable end user.
- 2.2 In order to benefit from this proposal the transfer has to complete by 31st March 2013.

## **3.0 Risks**

- 3.1 Whilst the Council is keen to facilitate bringing this important building back into economic use for the benefit of the local community, the above proposal is not without significant risks. The timescale militates against a full due diligence process. The building is in a poor state. There is as yet no viable and credible future use. The dowry sum could prove insufficient if a new use is not found in a reasonable period of time. A future project is likely to rely on future funding bids which may not be achieved. Although the HCA own the freehold they currently have a management agreement with Redrow for them to maintain the building until the *Vision* development for the main site is completed – likely 2017. Last year Redrow spent £100,000 on maintenance. This obligation with Redrow will fall away following a transfer by the HCA to a third party such as the Council, although the HCA advise that negotiations could be held with Redrow on this point although clearly time is not on our side to successfully facilitate such an arrangement, if indeed Redrow would be interested.

- 3.2 The Council faces the following risks in connection with this proposed acquisition:
1. There is a very restrictive timeframe to carry out a full due diligence process which should include a full structural survey and cost plan for refurbishment, full legal report on title and contamination / environmental survey.
  2. The revised cost plan has no guarantee that the £2.57 million dowry will meet the potential redevelopment costs of the site. Even then no fixed end use is identified so any cost plan will be somewhat subjective.
  3. The current cost plan cannot be verified by the City Council within the timeframes available.
  4. In the absence of an agreement with Redrow, holding costs could significantly reduce the value of the dowry pending redevelopment – when Redrow have left site, security arrangements alone could cost circa £50,000 pa, plus repair and maintenance costs.
  5. Redrow clearly could not identify a commercial use for the building and the internal listed staircase is a major obstacle to re-use.
  6. Although community groups have expressed an interest, to the Council's knowledge there is no agreed plan for re-use by the community with a sustainable business plan to demonstrate long term viability.
- 3.3 From the HCA's perspective it is clear that it would be beneficial to them to transfer the asset / liability to the Council as part of their exit strategy for the site. When considering this proposal, the Council needs to take into account the fact that the building is already in public ownership with the National Housing and Regeneration Agency, and ultimately the HCA will have to find a solution to this property and the regeneration agency has the financial resource to identify and implement a creative solution as well as carry the risk. The Council on the other hand has restricted resources to take on this major redevelopment and the significant risks associated with it – for instance if it transpires that the true cost of holding and redeveloping the property is closer to £3 million the Council will be faced with a major financial pressure to address.
- 3.4 Officers have attempted to mitigate the risks by negotiating with the HCA on associated land transfers that will make the development of a future project at the market hall more deliverable. In addition the HCA and Redrow are in discussions on other land matters which can address wider regeneration issues within the area, although separate from any transfer before 31<sup>st</sup> March 2013. In addition various surveys have been commissioned to ensure that the most up to date costs and information is available to the Council within the deadlines in order to make the most informed judgement.

#### **4.0 Devonport Area Action Plan**

- 4.1 The Devonport Area Action Plan was adopted in 2007. It sets out a transformational vision for the regeneration of the area and specifically highlights the need to protect historic environment assets, supported by the evidence of the Devonport Conservation Area Appraisal and Management Plan. In particular Policy DP01 supports the redevelopment of the former South Yard Enclave site (now known as Devonport Vision) for a major mixed use development. Included within this policy is a requirement that historic buildings are re-used. The Devonport Market Hall is specifically mentioned in this policy where its historic environment associations are to be respected and enhanced.

- 4.2 The redevelopment of the Devonport Vision site has since 2007 delivered high quality homes and has been kept going by strong partnership working despite the impact of the recession on viability. However, even though a more residential led scheme continues to proceed on the site, no viable solution has been found for the market hall despite numerous discussions and option appraisals.
- 4.3 The re-use of this important listed building, possible for a social enterprise, is strongly supported by adopted City Council policy as set out in the Area Action Plan.

## **5.0 Conclusion**

- 5.1 There is no doubt that the HCA offer is high risk for the Council. However whilst the HCA may have some degree of future obligations in relation to the future of the building there is absolutely no guarantee that the transfer will be offered in the future or, more significantly, that a dowry sum of £2.57 Million will exist in 2017 when Redrow vacate the site.
- 5.2 Given the significant heritage importance of the building, and the opportunity to develop a social enterprise project by taking ownership of the building, it is recommended that the City Council accepts the HCA offer.