

REPORT OF: PLANNING, BUILDING CONTROL & LICENSING SERVICES MANAGER

TO: EXECUTIVE

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2 ALBION STREET, EARBY

PURPOSE OF REPORT

To inform Committee of their options to seek the repair of the building.

RECOMMENDATION

1. That the Council undertake the repair works as required under the Ruinous and Dilapidated Buildings Repairs Notice served pursuant to Section 79 of the Building Act 1990.
2. The Council pursue the recovery of the debt directly with the owner of the Property including placing a charge against the property.
3. That, should the debt not be able to be recovered without the sale of the property That a further report be brought back to the Executive to consider whether the Council pursue the enforced sale of the property.
4. That the Planning, Building Control and Licensing Services Manager be instructed to negotiate with the owner to seek a long term solution to see the renovation and re-use of the property.

REASON FOR RECOMMENDATIONS

In order to bring the site back to a condition that does not affect the amenity of the area.

BACKGROUND

1. The property is an end of terrace stone built structure. The building was in an acceptable condition whilst it was occupied. The owner was the occupier. The property was vacated when the owner was sent to prison. The building has since significantly deteriorated.
2. Windows and doors have been broken which have had to be secured by us. The chimney has also been repaired by Pendle during 2012. There has been fire damage and the inside of the property is in a significantly poor state of repair.
3. The condition of the property is such that it is not fit for human habitation. A Prohibition Order has been served that prevents the property being occupied in its present condition. This would only be lifted if the building, internally and externally, is brought back to a condition that would be fit for human habitation.
4. The condition of the property would reflect its value but no valuation has been undertaken on it presently.
5. We have discussed directly with the owner the condition of the property and his financial status. The indication we have is that the owner wishes to re-occupy the house. He indicates however that he has no money and is unable to finance any work to improve it presently.

ISSUE

6. The property is in a significantly poor state both internally and externally. Its condition is having a negative impact on the area with further deterioration likely unless its decline is ceased. The owner is unable to carry out repairs and is unwilling to sell it with an intention to re-occupy it. It is highly unlikely that he will be able to re-occupy it in the foreseeable future.
7. One of the main considerations in looking at the options to see the building brought back to an acceptable condition is that of the long term impact of any action. For example were we to enforce the works required under the Building Notice that has been served would this solve the issue or would that merely result in work that would bring the building back into an acceptable external condition but with the condition of the building subsequently deteriorating. The only realistic way of ensuring that the building is in an acceptable condition in the long term is to get it re-occupied.
8. A report was considered by the Executive in May on progress on dealing with the building. We have served a Notice under Section 79 of the Building Act 1984 requiring repair works to be undertaken. No work was carried out and the matter subsequently went to magistrates court.
9. The hearing was deferred with the court asking us to meet the defendant to look at his situation and what options were open to him. Building Control Officers met with him and discussed what his plans were. This included whether he was in a position to carry out any works to it as well as whether he may wish to sell it to a willing developer. The outcome of that was that we were informed that the owner did not have the funds to carry out the works but still intended to retain ownership and that he did not wish to dispose of it.

10. The matter was subsequently remitted back to court where the owner was found guilty and fined. The work required has not been undertaken. The building remains in a poor condition and there is little to no prospect of it being improved by its current owner.

Options for the Repair and restoration of the Building

11. There are a number of options that the Council can consider to seek the long term improvement of the building. These are set out below

Undertake Repairs Pursuant to the Building Act Repairs Notice

12. The requirements of the Notice we have served under the Building Act have not been met. One prosecution has already been successfully undertaken against the owner. We have no corroboration of his financial state but if what he has informed us is correct he does not have any finance available to him to undertake the work. The costs of this have been established at £6,800.
13. In the absence of the owner undertaking the work we can carry out the work in default. We can then seek to recover the costs against the owner. It is however more likely that we would need to seek a charge against the property as the owner is not in a position to pay.
14. The benefit of this course of action would be that the exterior of the building would be repaired. It would not however secure the long term integrity or use of the premises.

Enforced sale

15. The option of an enforced sale is dependent on there being a debt that needs to be recovered relating to the premises. In 2012 work was undertaken on the property relating to a dangerous chimney stack. That resulted in costs of £976.66 being incurred. These have not been repaid to the Council and are outstanding.
16. Were we to undertake the works required under the Building Act Notice and were this not to be paid there would be a further debt of £6,800. A total debt owing would be £7776.66.
17. Under the provisions of section 107 of the Building Act 1984 debts can be recovered from owners of properties. The costs would only be able to be recovered if the owner had the means to pay. We do not have any corroborative information to confirm if he has or has not any resources but from statements he has made to staff he has no finance available other than a pension. Alternatively a charge would need to be made against the property.
18. Section 107 also has provision in it that we could seek to force the sale of the property to recover our debt. This is a matter that would be referred to the County Court and can be challenged. It is a discretionary remedy. The court would need to be persuaded that there was no other way of recovering the debt. This would also require consideration of the provisions of the Human Rights Act 1998 where individuals have rights that their home and correspondence are not interfered with and that they are not deprived of their possessions.

19. It would be in our view unlikely that someone would be forced to sell their house for a debt of £976.66 as is presently owing. It is likely that someone being forced to sell their house to recover that amount of debt would be a disproportionate action.
20. The other side of this is that the owner is making no effort at all to secure his property or keep it in a condition that is acceptable. Were we to bring the outside up to an acceptable condition to remedy the injury its condition is having on the amenity of the area and no other work happened subsequently that there would be a stronger case to pursue the recovery of the debt through an enforced sale.

Empty Dwelling Management Order (EDMO)

21. The Council may apply to a Residential Property Tribunal to seek to have an EDMO imposed. Should one be granted the Council effectively takes possession of the property, although not legal ownership, and can negotiate with the owner to try and get the property back into residential use.
22. An EDMO initially lasts for 12 months in which time we negotiate with the owner to renovate the property. If this does not result in work being carried out a final EDMO, which lasts for 7 years, can be entered into. This allows us to renovate the property and try to recover the costs of the work.
23. Effectively the costs of renovating the property would be borne by the Council who would be responsible for getting it back into a state where it can be re-occupied.
24. We can recover the costs of undertaking the work from the owner. However if, as in this case, the owner has no finance available to pay that debt in effect the Council would have paid for the renovation of the property and would be unable to recover its debt.
25. This is not an appropriate mechanism for securing the long term occupation of the property.

Compulsory Purchase

26. Section 17 of the Housing Act 1985 allows for the compulsory purchase of properties. The condition of the unit and its long term vacancy would provide a case to justify pursuing a Housing Act CPO.
27. The cost implications for doing this would need to be established. The value of the house would need to be assessed in order to understand what capital the Council would need to purchase it. The owner of the property has quoted a value in his view of circa £120,000. This would clearly be significantly in excess of the actual value but it demonstrates the aspirations of the owner and indicates that a much lower value is likely to be challenged. This would add in an additional process of establishing a value subsequent to any granting of a CPO through a Lands Tribunal. Were this to happen the administration costs of a CPO would be increased.

Conclusions

28. This is a difficult issue that is not likely to be resolved voluntarily by the current owner as he indicates he has no working capital and has not undertaken any work to the property over the last few years.
29. The recommended course of action is for the Council to enforce the requirements of the Section 79 Building Act Notice. This will tidy the property up in the short term and provide an environmental uplift for neighbours. Subsequent to this we should try to recover our debt. This would take the route of putting a charge against the property and seeking payment of that from the owner. Should that fail then the option would be to seek to enforce the sale of the building.
30. The recommended process is that a capital amount of £6,800 be allocated to undertake the work. Work should then be undertaken and at the same time the Planning, Building Control and Licensing manager be authorised to negotiate with the owner to seek to get the building renovated and occupied.
31. Should the cost of the work not be able to be recovered from the owner without the sale of the property it is recommended that a further report be brought back for the executive to consider whether to seek to recover the debt by an enforced sale.

IMPLICATIONS

Policy: None

Financial: The costs of carrying out the work would be £6,800.

Legal: None arising directly from the report.

Risk Management: None arising directly from the report.

Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.