

REPORT OF: DEMOCRATIC AND LEGAL MANAGER

TO: EXECUTIVE

DATE: 25th AUGUST 2016

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FORMER CORN MILL, GISBURN ROAD, BARROWFORD

PURPOSE OF REPORT

To ask the Executive to consider a recommendation made by the Barrowford and Western Parishes Committee at its meeting on 7th July.

RECOMMENDATION

That no action is taken to acquire this building by compulsory purchase.

REASON FOR RECOMMENDATION

That the requirements necessary to make a compulsory purchase order as set out in this Report do not exist in respect of this building.

BACKGROUND

1. At its meeting on 7th July this year, the Barrowford and Western Parishes Committee passed the following resolution in respect of the Problem Buildings Report :

“ 37. PROBLEM BUILDINGS

The Planning, Building Control and Licensing Services Manager submitted a report on problem buildings in Barrowford and Western Parishes.

RESOLVED

- (1) That 32 Garnett Street be removed from the problem buildings list.*
- (2) That the Executive be recommended to reconsider issuing a compulsory purchase order in respect of the former Corn Mill in Higherford and using the brownfield development fund to improve the site.*

REASON

- 1. Work on the site would be controlled by Building Control.*

2. *In the interests of visual amenity and to encourage regeneration in the area.”*

2. As a point of clarification, the Executive hasn't previously considered the possibility of a compulsory purchase order being made in respect of the former Corn Mill, though the Area Committee has done so.
3. The building has been included on the Problem Sites Reports to meetings of the Area Committee over a number of years. The issues referred to have included the parking of cars on the frontage of the building and the fixing of security grilles to a service door and ground floor windows on the frontage of the building. Discussions have taken place over several months involving the Member of Parliament, the Chief Executive and the Planning and Building Control Manager to discuss these issues.
4. This Report sets out the issues which would be involved in making a compulsory purchase order in respect of this building and also the issues around using the brownfield development fund to improve the site.

ISSUES

Compulsory Purchase

5. The use of compulsory purchase powers is subject to Government guidance and also to the various statutory powers which contain the powers to make compulsory purchase orders. That guidance says that the making of a compulsory purchase order is to be seen as a last resort where a Council has attempted to buy a building or a piece of land by agreement and it hasn't been possible to do so. The first step here would therefore be for the Council to negotiate with the owner of the building to seek to buy it by agreement and a budget would need to be identified for the purchase price.
6. If those negotiations failed, the Council could then consider resolving to make a compulsory purchase order. The power which the Council would use would be that contained in either Section 226(1) (a) or 226 (1) (b) of the Town and Country Planning Act 1990. The wording of that Section is as follows:

“(1)A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area

(a)if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,

(b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.”

7. The procedure after making the order is for it to be submitted to the Secretary of State for confirmation. If an objection or objections are received to the order, the Secretary of State can arrange a public inquiry to hear those objections. It is therefore essential that, before deciding to make an order, the Council has put in place all the requirements necessary to prove its case at an Inquiry. The test for an order to be confirmed is that the Council must show a “compelling case in the public interest” for this to happen.
8. The matters which would need to be in place would be the following:
 - a. The Council would need to show that funding was in place to purchase the building and to pay any other compensation which might be payable under the order. Funding

would also need to be in place for any works which needed to be carried out following acquisition, either by the Council or by a developer;

- b. The Council would need to have a future use for the building, once it was purchased. This might include having approached a developer and having obtained any necessary planning and other permissions. (An order can be submitted for confirmation if an application for planning permission has been made, but won't be confirmed unless that permission has been granted).
- c. The detailed reasons for making the order need to be set out in a formal document called a "Statement of Reasons", which is sent to the Secretary of State when the order is submitted for confirmation.

9. All these matters, in particular the decision to make the order and the draft Statement of Reasons would need to be approved by this Executive.

10. Looking at the reports about this building as set out in the Problem Sites reports to the Area Committee, it would appear that discussions with the owner of the building, involving the Member of Parliament, the Strategic Director and the Planning, Licensing and Building Control Manager have taken place in the past, but that no conclusions have been reached.

11. Given the matters which would need to be put in place if a compulsory purchase order (in particular the necessary finance and proposals for the future use of the building) it would appear to be premature for a approval to be given for the making of a compulsory purchase order.

Brownfield Sites Fund

12. The funding of any proposed works on the land could of course be the subject of an application to the Council's Brownfield Sites Fund. However, as for the making of a compulsory purchase order, a development scheme would need to be drawn up and considered on its merits.

IMPLICATIONS

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| Policy: | No implications arising directly from the Report |
| Financial: | There is no approved budget provision to facilitate the compulsory purchase of the building or payment of any other compensation that may arise. |
| Legal: | These are set out in the body of the Report |
| Risk Management: | No implications arising directly from the Report |
| Health and Safety: | No implications arising directly from the Report |
| Sustainability: | No implications arising directly from the Report |
| Community Safety: | No implications arising directly from the Report |
| Equality and Diversity: | No implications arising directly from the Report |

APPENDICES None

LIST OF BACKGROUND PAPERS None