

WEST DUNBARTONSHIRE COUNCIL

Report by the Interim Executive Director of Corporate Services

Corporate and Efficient Governance Committee: Date 23 November 2011

**Subject: Service of a Demolition Order 143 Braehead, Bonhill, Alexandria
G83 9ND**

1.0 Purpose

- 1.1** The Committee is asked to consider the service of a demolition order, in terms of the Section 115 of the Housing (Scotland) Act 1987, upon a Mr Zishan (or Zeeshan) Iqbal the owner of a property at 143 Braehead, Bonhill, Alexandria.

2.0 Background

- 2.1** A privately rented end terraced property at No.143 Braehead suffered a serious fire in 2003 which rendered both Nos. 143 and 144 Braehead uninhabitable. Over the intervening periods several attempts have been made to engage the owner of No 143 to make good the property without any success. The property at No. 144 is owned by the Council. Both properties continue to deteriorate and have become a blight in an area that is generally improving.
(Appendix 1)
- 2.2** An engineers report compiled in May 2010 by the Councils Engineering Officer (Building Structures) identified three options which were:
- Demolition of the end terraced dwelling No.143, constructing a new gable wall at No.144 and undertaking structural repairs to No. 144 and reinstate services.
 - Demolish both Nos. 143 and 144 and form a gable wall to No. 145
 - Reinstall structural components and fabric of Nos 143 and 144.

3.0 Main Issues

- 3.1** No. 143 Braehead, Bonhill, Alexandria is in a serious state of disrepair and due to lack of any repair or maintenance work since the fire in 2003 it continues to deteriorate.
- 3.2** The property at No. 144 Braehead is Council owned and has been void as a result of the fire in 2003. Consequently the Council has lost rental income of approximately £21,000. As the property at No. 143 is in private ownership, the Council is restricted in its capability in repairing the

property at No.144 Braehead. The area around the derelict properties is a community concern as it attracts antisocial elements.

- 3.3** There are ongoing costs to the Council in securing the site to prevent vandalism, antisocial behaviour and flytipping etc. and it is an amenity issue for local residents. The council has spent in the region of £3000/£4,000 to make the property safe.
- 3.4** There is also the further potential of damage being caused to the property at No. 145 Braehead , which is an owner occupied property,unless the current position is altered.
- 3.5** Building Standards consider the property at No.143 Braehead to be beyond economical repair and that the only viable solution is to demolish the property, construct a gable wall at No.144 Braehead and carry out repairs to the Council-owned property to bring it back to a rentable condition. Alternatively, both Nos 144 and 143 could be demolished with a gable wall constructed at No.145 Braehead.
- 3.6** Section 115 of the Housing (Scotland) Act 1987 permits a local authority on consideration of a report by the proper officer, where they are satisfied that a house which does not meet the tolerable standard and ought to be demolished, to make a demolition order requiring that:
- the building shall be vacated for a specified period in the order, not less than 28 days from the date on which the order comes into operation, and
 - the building shall be demolished within 6 weeks after the expiration of that period, or, if the building is not vacated before the expiration of the period, within 6 weeks after the date on which it is vacated.
- 3.7** When a demolition order is in force, the owner of the building must demolish the building within the time stated in the order. If he fails to do so, the local authority may enter and demolish the building and sell any material recovered. Any expenses incurred by the local authority may be recovered from the owner and any surplus (from the sale of materials) must be paid to the owner. It is unlikely that there would be a significant sum of money from the sale of demolition material for this property.
- 3.8** The service of a demolition order and subsequent demolition of the property also permits the local authority to compulsorily purchase the site of the demolished building where expenses cannot be recovered by reason of the fact that the owner of the building cannot be found.
- 3.9** Other enforcement options considered and rejected by council officers were:

- Serve a works notice under the Housing (Scotland) Act 2006. This would require the owner to bring the property up to the Tolerable Standard. In default the council could carry out the works, but the owner would then still have ownership of a realisable asset. The costs of repair to this standard would be far in excess of demolition. There is the option of placing a repayment charge on the property under section 172 of the Housing (Scotland) Act 2006 where the Council decide to do the works in default. This must be registered in the land registry but the charge is recoverable in 30 equal annual instalments payable on the same date each year. The owner may also pay off the charge at any time by agreeing a sum with the local authority.
- Serve a waste land notice under section 179 of the Town and Country Planning (Scotland) Act 1997 as the buildings are having a detrimental impact upon the amenity of the surrounding area. The level to which the property would need to be repaired would be of a lower standard than the Tolerable Standard and the property may not be suitable for habitation at the end of the process. Recovery of costs would be through the courts leading to considerable legal expense.
- Serve a Defective Building Notice under Section 28 of the Building (Scotland) Act 2003. This would require repair work to prevent the property at No.143 having a deteriorating effect on the property at No.144 Braehead and make safe the structure of No 143 but would not require No 143 to be brought up to an inhabitable standard.
- Serve a nuisance abatement notice under Section 80 of the Environmental Protection Act 1990 for a premises in such a state as to be a nuisance to the property at No 144. As above the nuisance could be abated without No 143 being brought up to an inhabitable standard.

4.0 People Implications

- 4.1** There are no personnel issues.

5.0 Financial Implications

- 5.1** There are financial consequences for the Council. The council has spent in the region of £3,000/£4,000 to make the property safe. Over the last several years the Council has lost approximately £21,000 in rental income from No.144 Braehead. Had both properties been occupied the council would have received approximately £16,000 in council tax charges.

- 5.2** A demolition contractor has estimated that the cost of demolishing the property, and strapping and sheeting the gable wall of No.144, would be in the region of £17,500 excluding VAT. The quote assumes there is no asbestos in the building and does not include costs associated with any service disconnections or landscaping works.
- 5.3** In the event that the owner defaults on the demolition order then any costs incurred by the local authority, should they decide to undertake the works in default, are recoverable from the owner.

6.0 Risk Analysis

- 6.1** Failure to take action against the owner of No 143 Braehead will leave the property in a state of continual deterioration which ,as well as having a negative impact on the amenity of the area, will result in the loss of potential rental income from the Council owned property at No 144 Braehead.
- 6.2** There may also be additional costs to the Council to ensure the continued security of No 144 Braehead.
- 6.3** The potential deterioration of No 144 Braehead could eventually impact on the integrity of the owner occupied property at No 145 Braehead which could expose the Council to possible civil action.

7.0 Equalities Impact Assessment (EIA)

- 7.1** This report does not relate to any new or significantly changing policies or services and therefore an EIA is not required at this time.

8.0 Strategic Assessment

- 8.1** The Council has identified four main strategic priorities for 2011/2012, namely Social & Economic Regeneration; Financial Strategy; Asset Management Strategy; and Fit for Purpose Services.
- 8.2** The approval of the demolition order and resultant demolition of this derelict property will contribute greatly to all four of the Council's main strategic priorities for the local community.

9.0 Conclusions and Recommendations

- 9.1** The property at 143 Braehead, Bonhill, Alexandria is below the tolerable standard, in a state of serious disrepair, and is now beyond economical repair. Its current condition is costing West Dunbartonshire Council loss of additional housing accommodation and rental income for the property at No.144 Braehead, and could potentially affect an owner occupied property at No.145 Braehead. The area is blighted by the condition of these properties and direct action will greatly improve the amenity for local residents.
- 9.2** The owner of No.143 Braehead has been given every opportunity to remedy the situation and has failed to do so. Recent contact by letter has intimated to him the consequences of failing to repair or demolish the property and he has failed to engage with officers of the Council.
- 9.3** The service of a demolition order has the least risk attached for the recovery of costs incurred by the Council. The cleared site would be an improvement to the amenity of the area and would permit repair to the Council owned property at No.144 Braehead thereby providing housing accommodation and rental income for the authority. Other enforcement options were considered to carry a higher risk of non-recovery of costs incurred as well as failing to fully address the improvement of the property.
- 9.4** Officers recommend the Committee approve a demolition order, in terms of Section 115 of the Housing (Scotland) Act 1987, be served on Mr. Zishan (or Zeeshan) Iqbal, the owner of No.143 Braehead, Bonhill, Alexandria.

David Amos
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Date:

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Appendices:

Appendix 1 Photographs of Nos.143 and 144 Braehead, Bonhill, Alexandria

Background Papers:

Housing (Scotland) Act 1987

Housing (Scotland) Act 2006

Town and Country Planning (Scotland) Act 1997

Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

Engineers report. Architectural Services- Department of Housing, Environmental & Economic Development.

Wards Affected:

Ward 2

Appendix 1



Photograph 1 143 Braehead, Bonhill, Alexandria-fire damaged end terrace property.



Photograph 2 143 and 144 Braehead, Bonhill, Alexandria



Photograph 3 143 to 147 Braehead, Bonhill, Alexandria

