

**Report to the Cleaner, Greener and Safer
Communities Overview and Scrutiny Committee**

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Vacant and Derelict Building Enforcement



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Introduction

A report has been requested by Members that addresses the Council's current powers in relation to vacant and derelict buildings enforcement, and whether best use is being made of these powers.

Background

The condition of derelict buildings can adversely affect the amenity of the area, be a danger to the public, and become a target for anti-social and criminal activity and appropriate action should be taken to minimise the harm arising.

Questions to be Addressed

What are the powers available to the Council?

When is it appropriate to use such powers?

Could there be better use of such powers?

Outcomes

The Council should use its powers proactively, and working across the Council should be encouraged by ensuring that all have knowledge of the powers at the disposal of other sections and the scope of such powers so that complaints are passed on to the relevant sections when appropriate. Where a decision is taken that it is not appropriate to use particular powers, the reasons should be recorded and shared.

Supporting Information

There are a number of powers that are available to the Council to address derelict and vacant buildings as follows

- Section 215 (s215) of the Town & Country Planning Act 1990 (the Act) provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring land and buildings to be 'cleaned up'
- Sections 79-82 (ss79-82) of the Environmental Protection Act for abatement or prohibition of a nuisance, operated by the Environmental Health Division;
- Sections 76-79 (ss76-79) of the Building Act addresses defective premises, dangerous buildings, ruinous and dilapidated buildings and neglected sites, this power is operated by Building Control on behalf of the LPA;
- Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 for works on unoccupied buildings, operated by the Environmental Health Division;
- Completion Notices served by the LPA; and
- Compulsory Purchase Orders served by the LPA.

S215 notices apply where it appears that the visual amenity of part of the area is being adversely affected by the condition of neighbouring land and buildings. The notice is served on the owner requiring that the situation be remedied. These notices set out the steps that need to be taken, and the time within which they must be carried out. LPAs also have powers under s219 to undertake the clean up works themselves and to recover the costs from the landowner.

Ss79-80 of the Environmental Protection Act can be served if the Council is satisfied that a statutory nuisance exists, or is likely to occur or recur (an abatement notice).

Under **s76** of the Building Act, the Council may issue an abatement notice when it believes that any premises are in such a state as to be prejudicial to health or a nuisance and unreasonable delay in remedying the defective state would occur by following procedure prescribed by s80 of the Environmental Protection Act. The Council can carry out the works in default nine days after service of the notice and may recover expenses incurred.

Where a building or other structure is in such a condition that it places people in immediate danger, the Council has legal powers, but not an obligation, under **ss77-78** of the Building Act to investigate and to take whatever action is necessary to remove the danger. Depending on the severity of the state of the building or structure, Building Control can either attempt to obtain a verbal commitment from the owner to remove the danger immediately, or employ a contractor to do the minimum amount of work necessary to remove the danger and recover the costs.

Under **s79** of the Building Act the Council may serve notice where a building or structure is in a ruinous or dilapidated condition, or where rubbish or other material resulting from, or exposed by, the collapse of a building or structure is lying on the site or on any adjoining land if it is seriously detrimental to the amenities of the neighbourhood. The notice can require the owner to execute works of repair or restoration and take such steps as may be necessary in the interests of amenity. The Council may recover expenses incurred in carrying out the works in default.

Under **s29** of the Local Government (Miscellaneous Provisions) Act the Council may where a building is unoccupied or the occupier is temporarily absent take action to secure the premise to prevent unlawful access or prevent it becoming

a danger to public health. This is normally only carried out where the owner and/or occupier has failed to comply with a notice issued but; where the Local Authority considers immediate action is required it can action the works without notice and will recover full reasonable costs incurred

A **Completion Notice** can be served where development has begun in accordance with planning permission but has not been completed, is adversely affecting amenity and the Council consider that the development will not be completed within a reasonable period. The notice states that the planning permission will cease to have effect at the expiration of a period, which is not less than 12 months after the notice takes effect.

Compulsory purchase powers are provided to enable Council's to compulsorily purchase land to carry out a function which Parliament has decided is in the public interest.

The Council should use its powers proactively; they should not just be complaint-led although quite often that is the case. Working across the Council should be encouraged by ensuring that all have knowledge of the powers at the disposal of other sections and what scope there is to use such powers so that complaints are passed on to other sections for consideration when appropriate.

The powers can only be used in certain circumstances, and cannot require work to be undertaken that would require the benefit of planning permission or listed building consent. In some cases the consequences of utilising a particular power may exacerbate the issues arising and as such there may be justification for not utilising the powers that are available. It is important, however, that where it has been decided that it is not appropriate to take action the reasons for that decision should be recorded. Similarly there should be a record of the reasons why particular steps are required (or not required) within a notice if served. The recording and sharing of such information will benefit all.

It is not always necessary to serve a notice as pre-notice discussions or 'first warning' letters can result in the issues arising being remedied as the mere threat of a notice may elicit the same response as actually serving the notice. However it should be acknowledged that serving a notice/s and the work that is then undertaken can result in a 'ripple' effect by encouraging improved standards and conditions over a wide area.

Direct action by undertaking works in default is sometimes appropriate, where prior warning has been given, although caution should be exercised. Before direct action is taken consideration must be given to whether there is an appropriate budget for such work, and who has the authority to make such a decision.

Invited Partners/Stakeholders/Residents

None.

Constraints

In all cases the powers available to the Council are discretionary and only apply in particular circumstances. The issues arising from a vacant and derelict building may go beyond the remit of a particular notice and careful consideration is required as to

what, if any, powers can be relied upon in order to effect a remedy. In some cases there may be no powers available to the Council, and appropriate powers to address the issues may rest with others.

In some cases costs cannot be immediately recovered where direct action has been undertaken. In such cases the Council has the option of registering a charge on the property, which would ensure that the land or property cannot be sold without the charge being shown. It can be some time before costs can be recovered therefore.

Conclusions

The Council has a number of powers that can be used in particular circumstances. Such powers should be used proactively and working across the Council should be encouraged. A greater understanding of the powers and scope of such powers would be beneficial.

Use or 'first warning' letters and pre-notice discussions should be considered as the threat of action may have the same result as taking formal action.

Direct action can be used, but this may be a last resort given the budgetary implications.

Relevant Portfolio Holder(s)

Cllr Terry Turner – Economic Development, Regeneration and Town Centres

Cllr Ann Beech – Environment and Recycling

Local Ward Member (if applicable)

n/a

Background Materials

Town and Country Planning Act 1990 Section 215 – Best Practice Guidance

Legislation listed above