

Thursday 18th August, 2016

9.00 a.m.

Grimsby Town Hall



Rob Walsh, Chief Executive
Municipal Offices, Town Hall Square, Grimsby, North East Lincolnshire, DN31 1HU.
Telephone (01472) 313131 Fax (01472) 324132 DX 13536 Grimsby 1

Our ref: Beverly Stanton Tel: 01472 32 6285

16th August, 2016

Dear Councillor,

Special Cabinet – 18th August, 2016

A special meeting of the Cabinet is to be held on **Thursday 18th August, 2016** commencing at **9.00 a.m.** in the Grimsby Town Hall.

The Agenda is set out overleaf.

Yours sincerely,

for Rob Walsh,
Chief Executive.

CABINET

7 Members

LABOUR

Chairman **Councillor R. Oxby**
Leader of the Council

Deputy Chairman **Councillor D. Watson**
Portfolio Holder for Energy and Environment

Portfolio Holders **Councillor R. James**
Children and Young People

Councillor H. Chase
Safer Communities, Public Protection and the
Visitor Economy

Councillor J. Hyldon-King
Health and Wellbeing

Councillor M. Patrick
Finance, Resources and Inclusion

Councillor P. Wheatley
Regeneration, Skills and Housing

FILMING OF PUBLIC MEETINGS

“The Council supports the principle of transparency and encourages filming, recording and taking photographs at its meetings that are open to the public. It also welcomes the use of social networking websites (such as Twitter and Facebook) and micro-blogging to communicate with people about what is happening, as it happens.

There is no requirement to notify the Council in advance, but it should be noted that the Chairman of the meeting will have absolute discretion to terminate or suspend any of these activities if, in their opinion, continuing to do so would prejudice proceedings at the meeting.

The circumstances in which termination or suspension might occur could include:

- public disturbance or suspension of the meeting**
- the meeting agreeing to formally exclude the press and public from the meeting due to the confidential nature of the business being discussed**
- where it is considered that continued recording / photography / filming /webcasting might infringe the rights of any individual**
- when the Chairman considers that a defamatory statement has been made**

In allowing this, the Council asks those recording proceedings not to edit the film/recording/photographs in a way that could lead to misinterpretation of the proceedings, or infringe the core values of the Council. This includes refraining from editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being photographed/filmed/recorded.

Those intending to bring large equipment, or wishing to discuss any special requirements are advised to contact the Council's Communications Team in advance of the meeting to seek advice and guidance. Please note that such requests will be subject to practical considerations and the constraints of specific meeting rooms.

The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.

At the beginning of each meeting, the Chairman will make an announcement that the meeting may be filmed, recorded or photographed. Meeting agendas will also carry this message.”

CABINET

DATE	18 th August 2016
REPORT OF	Councillor Watson, Portfolio Holder for Energy and Environment
RESPONSIBLE OFFICER	Angela Blake, Director of Economy & Growth
SUBJECT	The Silo, Victoria Mill, Grimsby
STATUS	Open
FORWARD PLAN REF NO.	Not included on the Forward Plan – to be considered under the Special Urgency rules of the Constitution with the permission of the Leader of the Council and the Chair of the Regeneration, Housing and Environment Scrutiny Panel

CONTRIBUTION TO OUR AIMS

This project will assist in achieving both a ‘Stronger Economy’ and ‘Stronger Communities’ by addressing the neglected condition of this nationally significant listed building set within a Conservation Area. It will improve the condition and appearance of this landmark building and will contribute towards its removal from the Council’s ‘Listed Buildings At Risk Register’, as well as improving the amenity of the built environment generally. The negative impacts associated with vacant property and the risk to the safety of people and property will be substantially reduced by ensuring urgent works are completed.

EXECUTIVE SUMMARY

This report provides an update on works undertaken to date, the Council’s legal position and options to address the outstanding issues relating to the building’s deteriorating condition. Recent works addressed the immediate issues which presented a danger to residents and neighbouring property and have been carried out under the Building Act 1984. The nature of this Act is to address immediate danger. This includes removing loose or unstable elements, but does not allow for repair or reinstatement. Therefore, the building has not been made watertight, meaning that it will continue to deteriorate. Should the owner persist in taking no action to safeguard the building, it is highly likely that the Council would be required to return to site within a relatively short period of time to carry out further works under this Act. Recent inspections by Building Control have produced evidence of further deterioration, which has resulted in additional immediate works. This report considers the options available to the Council and recommends a proactive approach using legislation under the Planning (Listed Building and Conservation Areas) Act 1990 to implement Urgent Works.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Authorises the carrying out of works in default (under Section 54 Planning (Listed Building and Conservation Areas) Act 1990) should the owner fail to put the works in hand, in accordance with the recommendations of the Conservation Accredited Structural Engineer, Conservation Officer and Historic England; and
2. Authorises the Section 151 Officer to make the necessary allocation in the capital programme in 2016/17 to fund the recommended works.

REASONS FOR DECISION

The owner has failed to take action to safeguard the building. Recent statutory interventions by the Council have addressed the immediate dangerous structural issues. The building has not been made water-tight and deterioration continues. It is now appropriate to consider the next steps to arrest deterioration and stabilise the structure. This report proposes a preventative strategy, in line with expert advice from a structural engineer. These works are considered both urgent for the preservation of the building and cost effective, particularly as the scaffolding which would be required to implement further works is already in place. The recommendations are made on the grounds that minimal or partial repair leaves residual risks and likely substantial future access and repair costs.

1. BACKGROUND

- 1.1 Victoria Mill is a Grade II Listed building in private ownership and one of the most distinctive and iconic buildings in the borough. Planning approval for a residential conversion of the property has now lapsed, likely due to a lack of commercial viability.
- 1.2 The building is currently vacant and has fallen into disrepair. The owners have failed to respond to legal action to make the building safe, including in October 2013, a Notice (under Section 215 of the Town & Country Planning Act) and in December 2014, a Court Order (under Section 77 of the Building Act 1984). Under the Planning (Listed Buildings & Conservation Areas) Act 1990, the Council has a statutory duty to utilise powers to ensure the building's condition does not deteriorate further.
- 1.3 The Council has been receiving specialist advice from a conservation accredited structural engineer on an on-going basis in identifying solutions to make the building safe and design urgent repair works.
- 1.4 Buildings either side of Victoria Mill have been converted for residential use and are in separate ownership. Whilst the building has been made safe, ongoing deterioration presents an increased risk to the public, adjoining property and residents of those adjoining properties.

- 1.5 In December 2013, Building Control responded to concerns over the condition of one of the dormers. Shortly afterwards one of the dormers collapsed.
- 1.6 In January 2014, a survey was carried out by drone to better understand the condition of the building. The structural engineer's recommendations formed the basis of a Court Order, obtained in December 2014, under Section 77 of the Building Act 1984. During this intervening period various activities took place including the serving of Section 78 Notices, the removal of rainwater goods by Building Control as a precautionary measure and dialogue with the owners which failed to result in any positive action being taken by the owner.
- 1.7 In February 2015, a main contractor was appointed and preparatory works commenced to provide safe access and facilitate further structural investigations.
- 1.8 In June 2015, Cabinet approved works to make the building safe based on the structural engineer's recommendations. In order to limit the Council's financial exposure, several access strategies were explored, including a cherry picker and steeplejacks. Due to the poor condition of the building, these methods were unable to provide sufficient detail to fully assess the structural condition or allow any intervention.
- 1.9 In November 2015, a Section 78 Notice of the Building Act 1984 was served and works were carried out to address immediate risks. Following this, the Council instructed the installation of a full internal and external scaffold which was the only means of achieving safe access. A number of measures were put in place to monitor the structural condition of the building, including daily inspections by Building Control and fixed electronic equipment which provides alerts should structural movement exceed limits set by the structural engineer.
- 1.10 In February 2016, during a period of high winds, sudden changes in readings from the monitoring equipment and previous advice from the structural engineer led to a decision to evacuate residents from the adjacent apartment buildings. Whilst the majority of residents were able to return home within 24 hours, 20 apartments were vacated for an extended period to allow emergency works to be undertaken. These temporary works were completed in May 2016, allowing residents to return to their properties.
- 1.11 Works carried out under the Building Act 1984 are limited in that they only allow for the minimum necessary to remove an immediate risk. Therefore, given issues with the building generally together with the roof structure and rainwater goods, the building is not watertight and deterioration continues. Ongoing resource is being utilised to closely monitor the building, both electronically and physically.
- 1.12 To date, the majority of expenditure has been incurred through works to provide safe access for investigation and site inspections. Following which temporary works to the gables, turrets and parapet were completed to address the immediate issues and protect residents and neighbouring property. The total cost of works to date is £1,031,422.

2. URGENT WORKS

- 2.1 Full access to the building has enabled the structural engineer to identify a range of more detailed works to arrest deterioration. These are works deemed 'urgent works' under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and broadly include:
- Crack Stitching
 - Parapet and gable repairs
 - Roof repairs including rain water goods
- 2.2 Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990, enables Local Authorities to execute, in default, any works which appear to them to be urgently necessary for the preservation of a Listed Building in their area. As a result of inaction from the building owner, the Council has recently served first and second written warnings including a Schedule of Works required to avoid the service of an impending Urgent Works Notice.
- 2.3 The uppermost cost for completing these works is £1.21m. If the building owner does not respond to the most recent warning letter or act upon any service of an Urgent Works Notice, it is recommended that the Council undertake the works as failure to do so would result in the ongoing deterioration of the building and associated risks to the locality.
- 2.4 Given the nature of the building, there is an appropriate contingency included in the sum above. Again, due to the complexity of the building, the detailed works will be progressed on an incremental basis with works being approved by the Conservation Officer (in consultation with the structural engineer as appropriate) to ensure they are reasonably capable of being deemed 'urgent works'.
- 2.5 Officers will continue to follow procedures to recoup expenditure and will continue to pursue external funding opportunities for undertaking any urgent works.
- 2.6 The original procurement position has recently been reviewed. The costs incurred to date are due to the emergency interventions required and appropriate governance and cost monitoring has been in place throughout. If further works are approved, permission has been granted to proceed under the terms of the existing contract.

3. RISKS AND OPPORTUNITIES

- 3.1 Risk assessments are continuously updated in accordance with the Risk and Opportunities Management Framework.
- 3.2 The impacts of implementing the recommendation would be that the structural condition would be stabilised, risk to residents and neighbouring property

would be much reduced, the physical environment would be enhanced and 'At Risk' status would be removed.

4. OTHER OPTIONS CONSIDERED

4.1 Option 1 – Demolition. This would not be cost effective or easy to achieve and would require a permanent solution to be put in place to safeguard the adjacent residential buildings. Historic England has confirmed that they would not support demolition.

4.2 Option 2 – Leave the site and not undertake urgent repairs works. Prior to leaving the site the following works would need to be undertaken:

- repoint and replace brickwork where damage has occurred through the installation of scaffolding & intrusive surveys
- re-bed copings removed to reduce risk
- reinstate rainwater goods
- install netting to the roof and dismantle the scaffold.

This option is not consistent with the recommendations of the structural engineer, architect, the Conservation Officer or Historic England and would not make the building watertight or halt deterioration. It would instead leave residents, the public and adjacent property vulnerable and open to further disruption. Following dismantling of the scaffold, a safe means of access would be required to allow daily inspections, structural investigations, maintenance of the monitoring equipment and implementation of any reactive urgent interventions. Investigations have concluded that this can only be provided via a full scaffold at considerable cost. The building, in its current condition, requires constant monitoring and reactive works, for which there will be an ongoing and unknown financial commitment. This option would not provide a cost effective or sustainable solution.

The additional cost of undertaking this work is circa £300k.

5. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

5.1 There are potential negative and positive implications arising from the decision and an action plan is in place with the Council's communications team.

5.2 Failure to undertake appropriate works in line with the recommendations of the structural engineer, architect, Conservation Officer and Historic England could result in reputational harm. Residents, the public and neighbouring property would remain open to further disruption, the building would remain on the Council's 'At Risk' register and there could be significant costs for reinstating a full scaffold to undertake future works.

5.3 The implementation of timely interventions in accordance with the recommendations of the structural engineer, architect, conservation officer and Historic England would have a number of positive outcomes. These include achieving a cost effective and sustainable solution which would

remove the immediate risk and arrest deterioration, reduce the need for continuous monitoring, prevent further disruption to residents, the public and neighbouring property and remove 'At Risk' status.

6. FINANCIAL CONSIDERATIONS

If required, the implementation of urgent works supports the Council's key financial aim to align its financial resources to its priorities. Specifically, the Stronger Economy priority by reducing the number of vacant and derelict properties.

The proposed course of action will be funded through the capital programme and lead to additional costs estimated to be £1,21m. As a consequence the Council will have less capacity to fund other schemes that may be forthcoming within the financial year. The action will however reduce the risks to public harm and any future claims against the Council.

Action is ongoing to undertake enforcement measures and ensuring every option to maximise both the chance and amount of any funds expended by the Council pursuant to the 1990 Act being recovered.

There is an ongoing dialogue with Historic England and there may be an opportunity to obtain grant funding to underwrite any irrecoverable costs in undertaking urgent works.

7. CONSULTATION WITH SCRUTINY

- 7.1 There has been no consultation with Scrutiny due to the nature of the works and legislation the Council has been acting under. It is however proposed that a report on the potential uses for the building be taken to a future meeting of Scrutiny when information is available.

8. FINANCIAL IMPLICATIONS

The Council has a statutory duty to make a building safe and secure should a landlord fail to comply in a timely manner with an enforcement notice. This situation has arisen in respect of the Victoria Mill building. Whilst the recommended works are significantly more than Option 2 detailed above, Option 1 not really being an option, expert advice received from the structural engineer advises that a risk remains with Option 2 and that the works would not protect the building from deterioration in the short to medium term.

In respect of the various options proposed the financial implications are as follows:

The current approved capital programme keeps costs within an affordable financial envelope. Option 2 above can be accommodated from the existing funding approved in the capital programme. The recommended works costing £1.21M will require the Section 151 Officer to increase the borrowing requirement of the current approved programme. Should this be progressed this will result in an increase in the capital financing costs, a revenue cost.

Depending on the type and tenure of any borrowing the revenue costs are approximately £65,000 for every £1m borrowed. This additional revenue cost would need to be met from the overall revenue budget.

Should any external funding be received then this would mitigate the additional financial impact, capital and / or revenue, on the Council.

9. LEGAL IMPLICATIONS

- 9.1 It must be remembered that the Council do not own this site although the Council has wide obligations and duties to protect and promote public health and safety. Whilst the theory exists for the recoupment of funds from a recalcitrant owner the ability to recoup is predicated on the resources and assets of such an owner. In connection with the works carried out to date proceedings are on-going in the Property Chamber (First Tier) to achieve a charge/mortgage over the site. Any such proceedings carry a “litigation risk” in that there are no guarantees as to outcome.
- 9.2 Further, the reliance on other public sources (Historic England etc) should not be relied upon as a panacea. There has been no assurance as to availability of funds through grants etc.
- 9.3 The law is set out to a large extent in the body of the report. Under the auspices of s54 Planning (Listed Buildings and Conservation Areas) Act 1990 “a local authority may execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area”. Therefore the Council is able (subject to notice on an owner) to execute works urgently necessary for the preservation of a building such as this and a mechanism exists (s55) requiring an owner to pay those expenses. However the comment above continues to apply in that the owner may not have the ability to meet such costs.
- 9.4 The availability of scaffolding, both internally and externally, to facilitate such works (if they are approved) cannot be understated given the significant costs involved in dismantling and then re-erecting such scaffolding in the short term.
- 9.5 The decision to issue an urgent works notice as described above is constitutionally the remit of the Director of Economy and Growth in consultation with the Monitoring Officer. That decision has already been made by those officers. In default the matter would fall to Planning Committee to decide. It is the authorities sought in the recommendation to empower the making available of resources to accommodate the consequential issues that arise from the urgent works notice that rest with Cabinet.

10. HUMAN RESOURCES IMPLICATIONS

- 10.1 There are no direct HR implications arising from the content of this report.

11. WARD IMPLICATIONS

11.1 This proposal impacts upon West Marsh ward.

12. BACKGROUND PAPERS

12.1 Report to Cabinet, 17 June 2015

13. CONTACT OFFICERS

Director – Economy and Growth	Head of Regeneration
Angela Blake	David Brierley
Place Directorate, NELC	ENGIE
01472 324741	07837 319222

Councillor Watson
Portfolio Holder for Energy and Environment