

EXECUTIVE BOARD – 16 SEPTEMBER 2014

Subject:	Housing Enforcement Action – Cavendish Court, Woodborough Road		
Corporate Director(s)/ Director(s):	John Kelly, Corporate Director for Community Services Andrew Errington, Director of Community Protection		
Portfolio Holder(s):	Councillor Dave Liversidge, Portfolio Holder for Community Safety, Housing and Voluntary Sector		
Report author and contact details:	Martin Cooke, Team Leader, Environmental Health martin.cooke@nottinghamcity.gov.uk 0115 8761567		
Key Decision	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes
			<input type="checkbox"/> No
Reasons:	<input type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
			<input type="checkbox"/> Revenue
			<input checked="" type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes
			<input checked="" type="checkbox"/> No
Total value of the decision: £520,000 (estimated cost of £505,000 plus £15,000 contingency)			
Wards affected: Mapperley	Date of consultation with Portfolio Holder(s): 19 August 2014		
Relevant Council Plan Strategic Priority:			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input checked="" type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input checked="" type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input checked="" type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input type="checkbox"/>
Support early intervention activities			<input type="checkbox"/>
Deliver effective, value for money services to our citizens			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
Further to the resolution 143 of the Executive Board on 22 April 2014 this report presents the results of the statutory consultation undertaken by the City Council under the provisions of Section 289 of the Housing Act 1985 in relation to the proposed declaration of a Clearance Area relating to Cavendish Court, Woodborough Road, Nottingham.			
It recommends that the declaration of a Clearance Area be made as the most appropriate course of enforcement action under section 5 of the Housing Act 2004, and authorises the making of a Compulsory Purchase Order to ensure that the City Council can acquire any interests in the land which cannot otherwise be secured through negotiation.			
Exempt information:			
Appendix 3 of the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because the financial information relates to the private and personal circumstances of the owners and occupiers of the premises.			
Recommendation(s):			
1. To confirm that in light of its consideration of the Neighbourhood Renewal Assessment (NRA)			

<p>contained in exempt Appendix 3 and the representations received under section 289 of the Housing Act 1985:</p> <ol style="list-style-type: none"> a. it is satisfied that the premises situate and known as Cavendish Court, Woodborough Road, Nottingham, comprise residential buildings containing two or more flats, two or more of which contain category one hazards and that the garages associated with those premises are dangerous or harmful to the health or safety of the inhabitants of the area; b. it remains satisfied that the declaration of a clearance area is the most appropriate course of enforcement action to take in respect of the premises; c. it is satisfied that the Authority can provide, or secure the provision of, suitable accommodation for such persons who will be displaced by the clearance of the area in so far as such accommodation does not already exist; and d. the resources of the Authority are sufficient to carry these resolutions into effect
<p>2. To declare the area shown edged in red on the map at Appendix 2 to this report as the Nottingham City Council (Cavendish Court) Clearance Area 2014.</p>
<p>3. To delegate authority to the Director of Legal and Democratic Services and Director of Strategic Asset and Property Management to:</p> <ol style="list-style-type: none"> i) make any minor or technical amendments to the boundaries of the Clearance Area shown in Appendix 2 as may become necessary; and ii) purchase the land comprised in the Clearance Area by agreement or, if necessary, by the making and confirmation of a Compulsory Purchase Order under Section 290 of the Housing Act 1985 and the Acquisition of Land Act 1981 in order to facilitate the clearance of buildings within the Clearance Area, within the budget of £520,000.
<p>4. To delegate authority to the Corporate Director for Community Services, Corporate Director for Development and Growth, the Director of Legal and Democratic Services, and the Director of Strategic Asset and Property Management to take all necessary steps to secure the implementation of the Clearance Area, including the publication and service of all statutory notices and advertisements, the subsequent demolition of residential buildings and garages included in the Clearance Area, and the satisfactory development, use or sale of the cleared area, within the budget of £520,000.</p>
<p>5. To delegate authority to the Head of Housing Solutions to secure the provision of suitable accommodation in accordance with statutory requirements for such persons who will be displaced by the declaration of the Clearance Area in so far as such accommodation does not already exist.</p>
<p>6. To approve that Relocation Assistance and relevant compensation (detailed in paragraph 14.1.4, page 44, of exempt Appendix 3) is made available according to statutory requirements to qualifying parties and in line with relevant Nottingham City Council Policy.</p>

1 REASONS FOR RECOMMENDATIONS

1.1 The City Council has been involved with enforcement at this complex for some years. During this time the owners of the flats have taken no discernible action to address the serious structural disrepair and have made limited attempts to address other health and safety hazards. The City Council is under a statutory duty to assess the most appropriate course of enforcement action under the Housing Act 2004 to ensure that the residents and other parties are protected. Government guidance recommends that this be done by way of an NRA which addresses various conditions relating to an area including housing, environmental and socio-economic factors. An NRA has been produced by a multi-disciplinary team and has identified Clearance under section 289 of the Housing Act 1985 as the most appropriate course of action in respect of this property.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

2.1 This matter was originally reported to the Executive Board on 22 April 2014 when the Board authorised the Director of Community Protection to serve and advertise

notice of the Council's intention to declare a clearance area and invite representations on that proposal. Cavendish Court is a privately owned freehold property on an arterial route into the city. It comprises 15 flats let on 999 year leases, the majority of which are further sub-let on short-hold tenancies. The property is affected by serious disrepair including structural instability. The property is also affected by anti-social behaviour including repeated fly tipping and rubbish dumping, crime and vandalism. This presents a hazardous environment to those occupying the property and a detrimental image of the site to other citizens and visitors. There is a history of poor management of the premises and the existing 'persons responsible' have taken little or no action to prevent and remedy the conditions that exist, particularly in relation to the communal parts of the building and site. The Council (Community Protection) in its statutory role has taken action to remove immediate risks to safety including provision of structural support and structural safety works, gas safety work and electrical safety work but there are significant ongoing hazards that the City Council has responsibilities under the Housing Act to resolve.

- 2.2 Under Section 5 of the Housing Act 2004 the City Council must take "appropriate enforcement action" where it is satisfied that a Category 1 hazard (as defined by the Act) exists on any residential premises. A number of different enforcement options exist including emergency remedial action. As emergency action has already been taken on numerous occasions a longer term solution was felt to be appropriate and remaining options have been assessed in the attached exempt NRA (Appendix 3). Where more than one course of action is available the City Council must chose the "most appropriate".
- 2.3 The NRA process has included consultation not only with those who have an interest in the land but also with others in the surrounding area (Appendix 3 section 5). This process concluded that the declaration of a Clearance Area would be the most appropriate course of action. Clearance Areas can cover not only residential buildings (in this case the block of flats as 2 or more of those flats contain category 1 hazards) but also any other buildings which are dangerous or harmful to the health or safety of the inhabitants of the area. In this case it is felt that the associated garage block would fall within this description and that a Clearance Area could legitimately be declared covering the whole of the site as identified on the map in Appendix 2.
- 2.4 Consultation with the owners has taken place through formal notices and letters. Notices of the City Council's intention to declare the Clearance Area under Section 289 (2b) (a) of the Housing Act 1985 have been served on all parties having an interest in the flats and land where the residential block is situated. This gave them the opportunity to make representations to the City Council within a 28 day period.
- 2.5 The Executive Board must consider all representations received before it may declare a Clearance Area.

Three representations have been received:

Representation 1 (Appendix 1a)

From a group of 7 tenants stating that they would like the flats to remain.

Comment: it is understandable that residents will not all want to leave their homes but the NRA details the risks to the residents and the City Council cannot ignore

these risks. The other options open to the Council are not recommended, the reasons are discussed in the NRA.

Representation 2 (Appendix 1b)

From a leaseholder who rents one flat to tenants saying that they would like the flats to be retained.

Comment: despite being aware of the condition of the property for several years no significant steps have been made by any of the owners to take any action, this representation does not make any structured proposals towards identifying that action is likely to be taken by the owner making the representation or the owners as a group.

Representation 3 (Appendix 1c)

From an owner of several flats who proposes to manage the flats and bring them back into a habitable condition.

Comment: the author has been asked to produce third party evidence that he has taken significant steps towards his objectives. Evidence obtained by Environmental Health suggests that his assertions are without any substance:

- two owners have contacted us separately saying that they have had no contact with the author and stating that they have no intention of joining such a scheme;
- the freeholder advises us that there was an attempt to buy the freehold over a year ago but the offer was rejected by the freeholder and no further negotiation or contact has been made.

It is open to the Board to conclude that, in light of the representations, another option would be more appropriate but the Board would also need to give reasons as to why that option had been selected.

2.6 Before a Clearance Area may be declared the Board must also be satisfied that:

- i) in so far as suitable accommodation does not already exist for persons who will be displaced by the clearance of the area, the authority can provide, or secure the provision of such accommodation in advance of displacement; and
- ii) the authority has sufficient resources to carry the resolution declaring the clearance area into effect.

With regard to i) The Council's Housing Solution Team are aware of this project and will offer re-housing to displaced tenants. This may be in appropriate private rented accommodation.

With regard to ii) The resource position is covered in section 4.

The authority will also be required to send a copy of the resolution, together with a statement of the number of persons occupying the premises comprised in the Clearance Area, to the Secretary of State.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

3.1 The Council is under a statutory duty to take some form of enforcement action under the Housing Act 2004. Hazard Awareness Notice, Prohibition Notice,

Improvement Notice and Demolition Order are the other legal remedies that have been considered in the NRA. None of these options are, on balance, felt to be as appropriate as the declaration of a Clearance Area.

4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)

- 4.1 The cost of clearance is estimated to be £520,000. There is provision for this cost included in the current Capital Programme element of the Medium Term Financial Plan as approved by Executive Board in July.
- 4.2 There is no specific funding for the scheme and so the cost will be met from the resources allocated to funding the programme which were included as part of the same report as referred to above (4.1). However, the Council will own the land, valued at £130,000, on completion of the Clearance option.

5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)

- 5.1 As outlined in the main body of the report the Council is under a statutory duty to take some form of enforcement action in relation to these premises and must determine to take what it considers to be the most appropriate form of action. Each of the options available to the Council carries some form of appeal procedure or right of challenge. Because of the number of persons who have an interest in the property, there is potential for multiple challenges which may delay the implementation of enforcement action and have financial consequences which ever option is taken. In addition the decision as to what constitutes the most appropriate course of action is susceptible to judicial review and, therefore, if the recommended course of action is not followed the Board should give reasons for why it believes another course of action to be more appropriate.
- 5.2 In the event of multiple challenges being received attempts will be made to consolidate them with a view to trying to minimise the time and cost spent in defending them.
- 5.3 In determining the most appropriate course of action regard should be had to the owners and occupiers human rights. These issues are addressed more fully in sections 15.2.3 and 17 of the exempt NRA.
- 5.4 In the event that the Board determines that the declaration of a Clearance Area is the most appropriate course of action it needs to be satisfied that the block of flats contains at least two flats which contain a Category 1 hazard and that any other buildings to be included (e.g. the garages) are dangerous or harmful to the health or safety of the inhabitants of the area. These issues are addressed in the exempt NRA.
- 5.5 Carrying out a robust solution will reduce crime and disorder in the immediate vicinity of Cavendish Court.

6 SOCIAL VALUE CONSIDERATIONS

- 6.1 The exempt NRA (Appendix 3) is a tool which considers social value which is, in part, why the Clearance Area option is recommended.

7 REGARD TO THE NHS CONSTITUTION

- 7.1 Although not directly relevant it should be noted that there is a very strong link between health and housing. The flats pose a serious risk of physical injury and also impacts on health related to excess cold.

8 EQUALITY IMPACT ASSESSMENT (EIA)

Has the equality impact been assessed?

- (a) not needed (report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council)
- (b) No
- (c) Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in any attached EIA.

9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

- 9.1 None

10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

Housing Act 2004
Housing Act 1985
Housing Health and Safety Rating System Enforcement Guidance
Neighbourhood Renewal Assessment - Guidance Manual 2004

11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT

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Colleagues from the following teams have had input into the NRA:

Legal Services
Housing Strategy
Major Programmes
Planning