

## REPORT TO CABINET

<b>Open – Report Exempt</b> – Appendices 1, 2,3, 6 & 7		Would any decisions proposed:  Be entirely within Cabinet’s powers to decide      NO Need to be recommendations to Council                YES			
<b>Any especially affected Wards</b> West Lynn	Mandatory/	Is it a Key Decision    NO			
Lead Member: Cllr Richard Blunt  E-mail: <i>cllr.richard.blunt@west-norfolk.gov.uk</i>		Other Cabinet Members consulted:  Other Members consulted:  Cllrs C Joyce and A Kemp as ward members			
Lead Officer: Stuart Ashworth E-mail: <i>stuart.ashworth@west-norfolk.gov.uk</i> Direct Dial: 01553 616417		Other Officers consulted: <i>Geoff Hall (Executive Director), Derelict Land and Buildings Group, Steven King (Conservation Officer), Matthew Clarey (Planning Enforcement Team leader)</i>			
Financial Implications YES	Policy/ Personnel Implications NO	Statutory Implications NO	Equal Impact Assessment NO If YES: Pre-screening/ Full Assessment	Risk Management Implications NO	Environmental Considerations YES
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is paragraph 3 – for the Appendices					

Date of meeting:        17 March 2020

### **COMPULSORY PURCHASE ORDER FOR 4 FERRY SQUARE, WEST LYNN, KING’S LYNN, PE34 3JQ**

#### **Summary**

The purpose of this report is to seek approval for the Borough Council to make use of the powers available to local authorities under the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”), Section 47 and to make a Compulsory Purchase Order (CPO) for 4 Ferry Square, West Lynn, King’s Lynn, PE34 3JQ (“the Land”) to enable it to be properly preserved and brought back into use.

#### **Recommendation**

1)That Cabinet agrees that officers seek to acquire the property voluntarily from the owners, and if after attempts to voluntarily acquire the property from the owners fail, to make a Compulsory Purchase Order (CPO) for the acquisition of the Land and its disposal at auction with appropriate conditions to secure its repair.2) That all aspects of the process are delegated to the Executive Director or Assistant Director for Environment and Planning, in consultation with the Portfolio Holder for Development.

#### **Reason for Decision**

The building is Grade II Listed and categorised as a building at risk because of its poor condition. It is unoccupied and reasonable steps are not being taken to properly preserve the building. In its current state it is also considered detrimental to the character, appearance and

general wellbeing of the village.

The Council considers that should voluntary acquisition fail, the compulsory purchase of the Land will facilitate the carrying out of restoration work which will secure the future of the listed building, make a positive contribution to the character and appearance of the area, and promote the social and environmental wellbeing of its area for the reasons explained in this report.

## **1.0 Background**

- 1.1 The Borough Council has a general duty with regards listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The council can exercise its statutory powers, under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”), to make a Compulsory Purchase Order (CPO) to properly preserve listed buildings through the service of relevant notices, if considered necessary.
- 1.2 In the case of 4 Ferry Square, a Grade II listed property, a listed building repairs notice was served in April 2019 to secure the necessary repairs to the building. A copy of the repairs notice is attached at **Appendix 1**. However, it is apparent that these repairs have not been carried out.
- 1.3 If it appears that following the service of the repairs notice reasonable steps are not being taken for the proper preservation of the Listed Building, and the Council are satisfied that it is expedient to do so, they may then apply to the Secretary of State for Digital, Culture, Media & Sport for authority to compulsory purchase the Building and Land in order to safeguard its future.
- 1.4 The property is situated in a prominent position within the village of West Lynn and has remained unoccupied for a number of years. It faces two public vantage points (St Peter’s Road and Ferry Square). The building comprises a semi-detached dwellinghouse circa 1700’s and later known as Ferry Side, originally forming one property with its neighbour, known as Ferry House both originally used as a public house. Ferry Square is a well visited area of the village as it is where passengers using the West Lynn to King’s Lynn pedestrian river ferry embark and disembark for which the car park is located nearby.
- 1.5 The two semi-detached dwellings also unusually contain a flying freehold resulting in part of the building being contained within the neighbouring property. It is considered that this arrangement might also lead to detrimental effects on the neighbouring/ adjoined dwellinghouse (also Grade II Listed) should the building fall further into disrepair.
- 1.6 The council is aware that there is local interest in the property and its condition, which supports there being a compelling case in the public interest for the council to exercise its powers of compulsory purchase as a last resort, should ongoing discussions with the owners and voluntary acquisition of the property fail.
- 1.7 In 2017 the council commissioned an engineering report to establish the condition of the property at that time, this report provides evidence that the property is in need of a comprehensive program of repairs for its preservation. The purpose of the compulsory purchase order is, as a last resort, to facilitate the repair and restoration of the property to safeguard its future as a unique

historic asset and bring it back into use for residential purposes. A copy of the engineering report is attached at **Appendix 2**.

The summary advises amongst other areas that :

*.....clearly none of the ills will get better by themselves without being positively addressed. As such gradual deterioration of the property can be expected to occur as time passes if no action is taken.*

*The first priority is perhaps arguably to ensure the property is kept dry by having an adequate roof envelope.*

- 1.8 Although the property is registered with Land Registry with two owners, the council have communicated with only one of these as despite attempts to locate the second owner (believed to be overseas) their whereabouts remain unknown. As such the council will continue to try and resolve the matters voluntarily with the known owner who may or may not be in communication with the other owner, in tandem with the CPO process rather than simply pursue one approach.
- 1.9 One of the current owners of the property is aware of the Council's long-standing concerns, and he has met with officers at the property, and has allowed access to the property for a survey to be undertaken. However, after numerous discussions as well as further unsuccessful attempts to contact the owner, unfortunately there has been no progress, and the council has been forced to seek this CPO as a last resort.
- 1.10 Following the survey an advisory letter was sent to the owner with a schedule of works that the Council considered necessary to bring the property back to a condition that would safeguard its future. We then served the repairs notice on 23<sup>rd</sup> April 2019.
- 1.11 Despite assurances from the owner the council has been in contact with, that work on the property would be undertaken, the council has not witnessed any work or improvement to the condition of the property.
- 1.12 It is apparent that work to comply with the Listed Building Repairs Notice has not been undertaken to date.
- 1.13 Since the service of the Listed Building Repairs Notice, the owner the council is in contact with has been in contact with the department, and is aware that the council is seeking the authority for a CPO as described.
- 1.14 Should voluntary discussions fail and the property be acquired through compulsory purchase, it is intended that it is marketed through a public auction, with an undertaking that any new owner commits to carrying out the repair works to restore the property and bring it back into use.
- 1.15 Where possible the council will continue to work with and negotiate with the known owner to carry out the necessary works.
- 1.16 It should be noted that a council officer inspected the property on 13<sup>th</sup> February 2020, as it had been reported that a part of the boarded-up skylight in the front (eastern elevation) had become dislodged following recent stormy weather.

- 1.17 This was verified and as such an email was sent to one of the owners to bring this to their attention requesting that steps are taken to repair this in order to prevent further damage from occurring.
- 1.18 Should this repair work not be forthcoming it is likely that the council will need to consider serving an Urgent Works Notice in the short-term, pursuant to Section 54 of the Act that will allow the LPA to enter the land and repair the roof as necessary.
- 1.19 The recent damage highlights the fact that whilst the property remains uninhabited and not maintained its condition will only deteriorate further.
- 1.20 Photographs of the property, the list description and official register of title are attached as **Appendices 4, 5 and 6**.

## **2.0 Options Considered**

### **A. Do nothing**

This is not recommended as without the required works of repair and maintenance being implemented it is the council's opinion that this important listed building will fall further into disrepair.

### **B. Seek a CPO should voluntary discussions fail, to acquire and conditionally dispose of the property**

The council believes that unless this option is instigated the property is likely to deteriorate further, and if the owners do not restore the property voluntarily, this option will allow a suitable purchaser to acquire the property and fully restore it to be used a dwellinghouse once more.

## **3.0 Policy Implications**

- 3.1 Nothing in this report should be construed as having policy implications.

## **4.0 Financial Implications**

- 4.1 It is very difficult to precisely calculate the costs associated with the CPO, as it will depend on the process followed, in particular whether objections to a CPO are received. The best case scenario is that there are no objections and the CPO goes through without need for a Public Inquiry or Written Representations. Alternatively, at the other end of the scale if it is challenged and there is a Public Inquiry, then there will clearly be additional legal costs associated with this.

An indication of the costs associated with compulsory purchase action are as follows:

- Legal costs obtaining a CPO – dependant on whether the CPO is appealed/ contested
- Advertising costs
- Defending a potential appeal cost
- Land transfer costs
- Compensation costs

- 4.2 Given the above it is estimated that the costs of obtaining the CPO could therefore vary between £9,700 - £28,500. However, the council would recoup the main cost which is the market value of the property from the auction, although it will incur auction house fees.
- 4.3 The council has been advised by one of the owners that they are subject to bankruptcy proceedings and this information is available publicly via The Insolvency Service.
- 4.4 However, it should be noted that as the property is jointly owned and the council does not know the whereabouts of the second owner; this might lead to complications when trying to sell the property, because neither the council (nor anyone else) would be able to purchase the property voluntarily without both owners agreeing to its sale. As such it is the council's opinion that the CPO process should continue even if the one owner is made bankrupt.
- 4.5 At the end of 2019 the council received a valuation report that had been commissioned in order to correctly market the property during the CPO process. A copy of the valuation report is attached as **Appendix 3**.
- 4.6 As stated above the estimated costs of the CPO process are very difficult to confirm, although a breakdown of the costs in the various different scenarios is set out in **Appendix 7**. Reference is made in the breakdown to the Land Tribunal in the event that the council's valuation, post CPO, is contested. However it is considered unlikely that this will be necessary, particularly if an auction is used to establish the market value of the property.

## **5.0 Personnel Implications**

- 5.1 Nothing in this report should be construed as having staffing implications.

## **6.0 Environmental Considerations**

- 6.1 It is considered that these will be positive as it will lead to a significant visual enhancement of the local environment.

## **7.0 Statutory Considerations**

- 7.1 The Council is empowered to make Compulsory Purchase Orders by virtue of section 47 of the Listed Buildings Act, which provides for compulsory acquisition by the appropriate authority of a listed building in need of repair, where service on the owner of a notice and inclusion of a direction for minimum compensation has taken place.
- 7.2 At least two months before making an order under section 47 of the Listed Buildings Act the acquiring authority must, under section 48, serve a notice on the owner as defined in section 91 (2) of the Listed Buildings Act.
- 7.3 When an order made under section 47 of the Listed Buildings Act is submitted to the Secretary of State for Digital, Culture, Media & Sport for confirmation, a copy of the notice served in accordance with section 48 must be included with all the supporting documents.

7.4 It should be noted by Members that the procedure for obtaining a confirmed Compulsory Purchase Order (CPO) can be complex as it requires much supporting documentation such as a statement of reasons, certificates in support, and for a personal notice of the making of the Order to be served on all interested parties.

## **8.0 Equality Impact Assessment (EIA)**

8.1 There are no significant implications.

## **9.0 Risk Management Implications**

9.1 The main risk will be if the property does not sell at auction, although it is considered that this is unlikely. It should be noted that when the property was previously up for sale there were bids at auction but in that case a reserve was put on the property by the owner, so it did not sell. That would not be the case in the event of an auction following a CPO.

## **10.0 Declarations of Interest / Dispensations Granted**

10.1 None.

## **11.0 Background Papers**

The Ministry of Housing, Communities & Local Government Guidance on Compulsory Purchase Process and the Crichel Down Rules July 2019.

Stopping the Rot – A Guide to Enforcement Action to Save Historic Buildings, April 2016 (Produced by Historic England)

- Appendix 1 Repairs Notice
- Appendix 2 Engineers Report
- Appendix 3 Valuation report
- Appendix 4. Photos
- Appendix 5. Listing
- Appendix 6. Land Registry
- Appendix 7 Estimated Costs

**Pre-Screening Equality Impact Assessment**

Borough Council of  
**King's Lynn & West Norfolk**



Name of policy/service/function	Potential Compulsory Purchase Order (CPO) at 4 Ferry Square, West Lynn				
Is this a new or existing policy/service/function?	New				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service is rigidly constrained by statutory obligations</p>	<p>Should ongoing discussions fail on voluntarily remedying the repairs and refurbishment of 4 Ferry Square, West Lynn, a grade II listed building, then authority is sought to carry out the compulsory purchase and then selling through auction of the property.</p> <p>There are strict statutory obligations to adhere to when undertaking a CPO.</p>				
<b>Question</b>	<b>Answer</b>				
<p><b>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</b></p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
	Other (eg low income)			x	





