

ENVIRONMENT CABINET MEMBER MEETING

Agenda Item 80

Brighton & Hove City Council

Subject:	2 St George's Place – Urgent Works in Default		
Date of Meeting:	11 December 2008		
Report of:	Director of Environment		
Contact Officer:	Name:	Tim Jefferies	Tel: 29-3152
	E-mail:	tim.jefferies@brighton-hove.gov.uk	
Key Decision:	No		
Wards Affected:	St Peter's and North Laine		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report seeks approval to carry out urgent works to secure the preservation of an unoccupied listed building, which is included in the council's register of Buildings at Risk, and to recover the cost of carrying out those works from the owner of the building.

2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment agrees to the carrying out of urgent preservation works to number 2 St George's Place, Brighton under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2.2 (2) That the Cabinet Member for Environment agrees that action be taken to recover the costs of carrying out urgent preservation works from the owner of number 2 St George's Place, Brighton under Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Number 2 St George's Place, Brighton is a grade II listed building forming part of a listed terrace within the Valley Gardens conservation area. The building has been vacant since at least 2001.
- 3.2 The established use of the property is non-self contained accommodation on the basement, ground and first floors, with a maisonette on the second and third floors. In 2004 planning permission was refused for conversion of the property to form six self contained flats, due to the loss of non-self contained accommodation and the harmful impact on the interior of the listed building arising from the over-intensive sub-division.

- 3.3 Since that refusal, conservation officers have met with the owner's agents on several occasions in order to seek a solution to the reasons for refusal, but no further application has been submitted.
- 3.4 Officers became aware that the external condition of the building was deteriorating during this period and in July 2008 the property was included in the council's register of listed Buildings at Risk, which was approved by the Cabinet Member for Environment at the meeting of 4 July 2008. The accompanying report advised that in all cases where it was proposed to carry out works in default a report would be brought before a Cabinet Member Meeting.
- 3.5 On 19 August 2008 officers arranged to inspect the property, internally and externally, together with the owner's agent. This inspection revealed that the property has not been maintained for some years and is suffering from various defects that could result in harm to the fabric of the building. It was also noted that the entrance to the property was no longer securely boarded.
- 3.6 On 21 August 2008 the owner and agent were informed in writing of the council's concerns and were sent a draft Schedule of Urgent Works. They were given an opportunity to carry out the works, or comment on the schedule, and advised that, failing action, the council would consider carrying out the works in default.
- 3.7 In a letter dated 1 September 2008 the agent informed the council that they were intending to carry out their own inspection of the property to assess the needs for works and this claim was repeated in an e-mail dated 21 October 2008. However, to date the council has not been advised of the results of any such inspection and only some minor works have been carried out to the building, which have not addressed the majority of items on the draft Schedule.
- 3.8 A revised Schedule of Urgent Works is attached at Appendix 1. These are considered to be the minimum works necessary in order to make the property secure and weather tight. With regard to the long term future of the building, officers have offered to discuss this with the owner and/or his agents in order to find an appropriate use for, and degree of alteration to, the listed building. To date, however, this offer has not been taken up.

4. CONSULTATION

- 4.1 Ward councillors have been consulted on the matter. Support for the action has been received from Councillor Ian Davey.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables the expenses incurred by a Local Planning Authority, in carrying out the specified works, to be recovered. The council would seek to recover the costs from the owner in the first instance by way of a simple contract debt via the courts. If payment was not forthcoming a charge would be placed on the property. This would be a Local land Charge and would therefore not have priority over any mortgage debt.

- 5.2 The owner may within 28 days of the serving of the Section 55 notice represent to the Secretary of State that some or all of the works were unnecessary, temporary works have continued for too long, the amounts were unreasonable or recovery would cause hardship. The Secretary of State has the authority to change the amount recoverable.
- 5.3 The cost of carrying out the works in default has been estimated at £X. Any non-recoverable costs incurred will be funded from existing revenue budgets.

Finance Officer Consulted: Patrick Rice

Date: 24/11/2008

Legal Implications:

- 5.2 Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows a local authority to “execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area”. Section 55 of that Act allows for a local authority to recover the expenses of such works.
- 5.3 As set out in the Financial Implications above, it is possible to pursue the recovery of the cost of the works through the Courts and, if necessary take a charge on the property. A pre-existing mortgage secured on the property will take priority over any charge that the council secures so it is not possible to guarantee full recovery of costs.

Lawyer Consulted:

Elizabeth Culbert

Date: 05/11/08

Equalities Implications:

- 5.4 None have been identified. An Equalities Impact Assessment has not been carried out because the report does not concern matters of new policy.

Sustainability Implications:

- 5.5 The proposals in this report have no substantial impact upon the four priorities of the UK’s Sustainable Development Strategy. But in terms of Sustainable Consumption and Production, the retention and timely repair of existing buildings reduces construction and demolition waste.

Crime & Disorder Implications:

- 5.6 The proposed works would make the building more secure, would improve its public appearance and would reduce the impact of its vacancy on the surrounding area. This would have the effect of lessening the scope for crime and anti-social behaviour in and around the building.

Risk and Opportunity Management Implications:

- 5.7 The failure to retain and maintain listed buildings could lead to significant adverse publicity for the council.

Corporate / Citywide Implications:

- 5.8 The proposals accord with the priority to protect the environment whilst growing the economy and also accord with the priority of fair enforcement of the law, by ensuring that formal action is based upon openness and transparency.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The only alternative option would be to continue to press the owner and his agent to carry out the works voluntarily, but this has not been successful to date.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Works are needed to ensure that this listed building is weather tight and secure. Officers are concerned that if works are not carried out urgently, the condition of the building will deteriorate significantly over the winter. The owner has, to date, been unwilling to carry out the works.

SUPPORTING DOCUMENTATION

Appendices:

1. Schedule of Urgent Works

Background Documents

1. Report to the Cabinet Member Meeting for the Environment on 4 July 2008 entitled Maintenance of Historic Buildings.
2. Correspondence with the owners of 2 St George's Place and their agent.