

## ***FULL COUNCIL REPORT***

Date Written	16 <sup>th</sup> November 2015
Report Author	Geraint Morgan/Zoe Thomas
Service Area	Legal & Democratic Services/ Economic Development
Exempt/Non Exempt	Non Exempt
Committee Date	2 <sup>nd</sup> December 2015

*To: Mayor, Ladies and Gentlemen*

### **115 High Street**

#### **1.0 SUMMARY OF THE REPORT**

- 1.1 115 is a Grade II Listed Building which was included as part of the VVP Programme in early 2015.
- 1.2 Scaffolding has been present on the building for a number of years and since February 2013 the Council has been paying these costs.
- 1.3 The scaffolding costs now stand at £31,680.
- 1.4 Under section 48 of the Planning Act a local planning authority can serve a notice setting out the repairs needed for the preservation of a Listed building.
- 1.5 If the building is not repaired within two months, the local planning authority may then serve a compulsory purchase order under section 47 of the Act.
- 1.6 The process allows the local authority to ensure that a Listed building is properly preserved and not allowed to deteriorate by the owners inactivity whether by accident or design.
- 1.7 Back to back deals provide an alternative solution for Listed buildings where an identifiable market has shown an interest in acquiring a building.
- 1.8 A Structural Inspection Report was commissioned on the property in Autumn 2014.

- 1.9 A staged approach has been highlighted within the report on how the building can be brought back into use.
- 1.10 An additional £550,000 has been secured from Welsh Government as part of the VVP Programme leaving a budget of £658,954 for the implementation of the project.
- 1.11 To seek confirmation that Council raises no objection to (a) serving a repairs notice under s48 Listed Buildings and Conservation Area) Act 1990, (b) to seek authority to acquire 115 High Street (freehold and leasehold) by any appropriate means, including negotiation or through compulsory purchase, and (c) to negotiate a “back-to-back” sale of the 115 High Street, Merthyr Tydfil to a partner to secure the full repair of this Listed Building.

## **2.0 RECOMMENDATIONS that:**

- 2.1 A Listed Building Repairs Notice be served on the owner of 115 High Street, Merthyr Tydfil.
- 2.2 Authorisation be granted to seek to (i) acquire 115 High Street, Merthyr Tydfil by any appropriate means, including through negotiation or through statutory compulsory purchase, (if considered appropriate by the Head of Legal and Democratic Services in consultation with the Cabinet Member for Governance) and (ii) negotiate a “back-to-back” sale of 115 High Street, Merthyr Tydfil to a partner to secure the full repair of this Listed Building.

## **3.0 INTRODUCTION AND BACKGROUND**

- 3.1 115 High Street, Merthyr Tydfil is a Grade II Listed Building. Issues surrounding this Listed Building have been reported to Council 16<sup>th</sup> July 2014 and 11<sup>th</sup> March 2015. Councillors are referred to those reports.
- 3.2 Since reporting to Council in March 2015 funding from the Vibrant and Viable Places Programme (VVP) was sought to secure the repair of this building. Scaffolding has been present on this building for a number of years and since February 2013 the Council has been paying the scaffolding costs. As at 16<sup>th</sup> November 2015 these costs stand at £31,680. A sundry debt has been raised to collect this debt.
- 3.3 The powers available to local authorities in dealing with the problem of historic buildings that are considered to be “at risk” are contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 47-51 and 54-56 of the Act which deal with “the compulsory acquisition of listed buildings in need of repair”, and “urgent preservation” respectively.
- 3.4 These powers have considerable “teeth” since they are quite extensive and can be very far reaching for the owner of a listed building who chooses to ignore them. There are specific financial implications with the Council’s use of these powers. However, “back to back” deals in respect of listed buildings can be used to help alleviate fears of any possible financial implications.

- 3.5 Under section 48 of The Planning (Listed Buildings and Conservation Areas) Act 1990 a local planning authority can serve a notice setting out the repairs needed for the proper preservation of a listed building. If the building is not repaired within 2 months, the local planning authority may then serve a compulsory purchase order under section 47 of the Act, and if confirmed by the Secretary of State, proceed to acquire the building in accordance with the Acquisition of Land Act 1981. In cases where it can be proved that the building was being neglected deliberately in order to justify demolition for redevelopment, the Secretary of State can direct that the owner be paid only minimum compensation if the compulsory purchase order is confirmed.
- 3.6 When the repairs notice is served, the owner has three main options: to comply with the notice; to do the works which he or she considers necessary but which are not included in the notice; or do nothing. The procedure is designed to allow a local authority to ensure that a listed building is properly preserved and not allowed to deteriorate by its owner's inactivity whether by accident or design. The mechanism involved is compulsory purchase initiated only after the service of a notice setting out the repairs needed.
- 3.7 Very few repair notices ever reach the stage where the Secretary of State confirms the compulsory purchase order. Even fewer buildings are retained by local authorities for repair because of the financial implications of such action. The aim is usually to dispose of the building immediately, to a purchase who will carry out the necessary repairs. Such deals are known as back to back agreements whereby the building is compulsorily acquired by the local authority and disposed of to a new owner. The government allows such special arrangements to help local authorities to carry out their enabling role for the preservation of historic buildings.
- 3.8 Where a local authority sells on an historic building that it acquired either by agreement or by compulsory purchase and the price received on resale is no more than the price paid, the capital receipt is unrestricted. This is so provided that the contract for disposal of the building is made within 2 years of the acquisition and completed within the third year. Any profit will be subject to the normal restrictions but allowance within made for incidental expenditure, such as legal costs.
- 3.9 If the resale of the listed building is simultaneous with the purchase, then there is no financial cost. However, if there is a period of time between the purchase and the resale then usable capital receipts could not be used by the authority for other purposes during that time. In addition, any loss of interest on the receipts being used might also need to be taken into account. Further, a listed building could be subject to price fluctuation in the intervening period that could result in a small loss being experienced by the local authority.
- 3.10 The serving of a repairs notice under section 48 does not commit the Council to compulsory purchase under section 47. At any stage before the confirmation of the compulsory purchase order the owner may carry out the repairs to the building.

- 3.11 Back to back deals provide an alternative solution for listed buildings where there is an identifiable market with individuals, companies or developers expressing an interest in acquiring such buildings. The service of a repairs notice and a back to back deal can result in the repair of such buildings.

## **4.0 CONSIDERATIONS**

- 4.1 A Structural Inspection Report of the building was undertaken in autumn 2014. The repairs required were scheduled in the report. The District Valuer has also prepared a report on the building and it is currently valued at nil value.
- 4.2 It was highlighted in the Structural Inspection Report that the building was in an extremely poor state of disrepair. At the time of the report, the property had stood empty for three years and during this time there was a deterioration of the front façade. This was exacerbated by water ingress through the roof, which resulted in further deterioration of the structure in the property. The deterioration has resulted in the erection of the façade retaining scaffolding and this cannot be removed without instant remedial works being undertaken on the front façade.
- 4.3 Capita, who undertook the Structural Inspection Report, has recommended a staged approach to bringing the building back into beneficial use especially due to the importance of the property from a historical point of view, with it being Grade II Listed:
- Stage 1 would consist of leaving the building in a safe condition by removing the façade retaining scaffolding. The total cost proposed for this would be £314,932 including fees.
  - Stage 2 would consist of leaving the building structurally stable and watertight following the completion of stage 1. The total cost proposed for this would be £40,836 including fees.
  - Stage 3 would consist of bringing the building back into use. The total cost proposed for this would be £311,287.
- 4.4 Following receipt of the Report and the recommendations included, an additional £550,000 was requested from Welsh Government as part of the VVP Programme to fully implement the 115 project, and this approval was awarded in September 2015. There is a total of £658,954 available for the project from VVP and any additional funding will be identified within budgets from the partner organisation, earmarked to deliver this project.
- 4.5 It is proposed that upon completion the building will become 3 housing units and will create enterprise space available for test trading on the ground floor. The building is adjacent to Merthyr Tydfil Enterprise Centre at 114 High Street therefore linkages will be made between the partner organisation and Tydfil Training. The funding will also help preserve an historic asset and bring a derelict building back into use.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications on the local authority. £658,954 has been secured as part of the VVP Programme and approved by Welsh Government to deliver this project. These costs will accommodate the acquisition of the building

and the renovation works. Any additional match funding will be identified by the partner organisation.

## **6.0 SINGLE INTEGRATED PLAN AND SUSTAINABILITY IMPACT SUMMARY**

6.1 The proposal should have a generally positive impact both from a social, health and an economic standpoint.

## **7.0 EQUALITY IMPACT ASSESSMENT**

7.1 An Equality Impact Assessment (EqIA) form has been prepared for the purpose of this report. It has been found that a full assessment is not required at this time.

**ELLIS COOPER**  
**CORPORATE DIRECTOR (PLACE AND TRANSFORMATION)**

**COUNCILLOR CHRIS BARRY**  
**CABINET MEMBER FOR REGENERATION, PLANNING AND COUNTRYSIDE**

<b>BACKGROUND PAPERS</b>		
<b>Title of Document(s)</b>	<b>Document(s) Date</b>	<b>Document Location</b>
<b>Does the report contain any issue that may impact the Council's Constitution?</b>		<b>No</b>

***Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.***