

**REPORT TO:** BEST VALUE SUB-COMMITTEE of the POLICY AND RESOURCES COMMITTEE - 11th November, 2004

**REPORT ON:** BEST VALUE REVIEW OF METHODS OF DEALING WITH DERELICT LAND AND PROPERTY IN DISREPAIR

**REPORT BY:** DEPUTE CHIEF EXECUTIVE (SUPPORT SERVICES)

**REPORT NO:** 731-2004

## **1.0 PURPOSE OF REPORT**

- 1.1 This report seeks approval of the Best Value Review of the current approach to tackling the problems with Derelict Land and Property in Disrepair and to the improved usage of legal powers, staff and financial resources as detailed below.

## **2.0 RECOMMENDATIONS**

It is recommended that the Committee:

- 2.1 Agree to the establishment of a permanent cross Departmental multi disciplined task team to be led by Support Services and to include representatives from Finance, Planning and Transportation, Housing, Environmental Health and Trading Standards, Waste Management and Communities Departments.
- 2.2 Agree that the task team members whilst continuing to be based in their respective Departments should operate on a 'virtual team' basis, meeting as required to progress solutions for each problem area of land or property in the short and/or long term.
- 2.3 Agree that the task team will be chaired by the Support Services Department Officer and will work on the basis of complaints or referrals of problem land and property to the Chair of the team from Elected Members, officers and members of the public.
- 2.4 Authorise such delegated powers as are necessary to allow the team to investigate problem areas and properties; to identify options in legal, financial and community terms; to identify and consult with appropriate parties; to take any action which is currently delegated to Officers and report to Committee(s) with proposals for any action which is not so delegated.
- 2.5 Authorise the team to second from time to time such Officers from other Departments as may be necessary.
- 2.6 Agree that, with the exception of dangerous buildings, no Department should use legal powers, staff or financial resources to deal with derelict land or buildings outwith the Council's ownership without referring the issue to the task team in the first instance. Thereafter, the task team will take or arrange for decisions to be taken and referrals will be made back to the appropriate Departments for implementation.
- 2.7 Agree that the task team will arrange for all available legal recovery actions to be taken against owners who fail to reimburse the Council for any costs and that this will include Charging Orders, Compulsory Purchase and selling of land and buildings.

## **3.0 FINANCIAL IMPLICATIONS**

- 3.1 Where the owners of the land or property cannot be found or fail to take the action specified in any notice which has been served, the Council may require to take direct action. This will incur expenditure initially although it is expected that most of it will be recovered either from

the existing owner or, where the Council acquires and resells the land, from a future purchaser. Initially the expenditure may be capable of being met from the following sources:-

Existing Departmental budgets;  
 Vacant and Derelict Land Fund;  
 Building Stronger, Safer, Communities Fund (if bids for these are successful);  
 Better Neighbourhood Services Fund;  
 or the Community Regeneration Fund which will succeed it in 2005.

The task team will determine the source of funding for each action and report to Committee for authorisation of any expenditure not delegated to Officers. The 'one stop' task team approach should eliminate duplication of action by different Departments and reduce the incidence of repeat actions thereby achieving savings.

#### **4.0 LOCAL AGENDA 21 IMPLICATIONS**

- 4.1 The focused, single task team approach will respond to public concerns about being passed from Department to Department and will allow for public consultation towards funding a sustainable outcome. The outcome of the actions taken should have a positive impact on the following Local Agenda 21 theme: all sections of the community are empowered to participate in decision-making. In some instances the action taken will assist with the implementation of Area Regeneration Plans for the targeted Better Neighbourhood Service areas.

#### **5.0 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 A number of the derelict areas and properties are located in neighbourhoods identified as falling within the most disadvantaged 15% of enumeration districts in the Deprivation Index recently released by the Scottish Executive. Repairs, improvements and redevelopment will assist the physical environment and help equal opportunities in these neighbourhoods.

#### **6.0 MAIN TEXT**

- 6.1 The Review Team was established following on a report approved by the Planning and Transportation Committee on 30th June, 2003. It is chaired by the Depute Chief Executive (Support Services) and has as its members, Depute Chief Executive (Finance), Assistant Chief Executive (Management), Director of Housing, City Engineer, Policy and Regeneration Manager (Planning and Transportation), Head of Communities, Environmental Health and Trading Standards Officer, City Architectural Services Officer and an Officer from Economic Development.
- 6.2 The method adopted for this review was for the review team to take on complaints and referrals from Elected Members and members of the public of problem sites to obtain a detailed picture of the issues and problems being faced by the Council. The Team reviewed twenty-two complaints and referrals relating to the condition of various areas of land and buildings in the City. Preliminary site visits were made, photographs taken and information gathered as to ownership, history, action already taken and any action currently planned. Residents and other owners/occupiers in the area and community groups were identified through the Team members whose Departments have/had prior involvement with the problem property and locality. SEPA (Scottish Environment Protection Agency), the Firemaster, Chief Constable and various Housing Associations were also approached for their views. A list of properties is attached (Appendix 1) showing most of the properties which were referred to the review team.

### 6.3 Issues Identified

The problems range from small pockets of abandoned land which have become overgrown and filled with rubbish, through to blocks of partially occupied or empty tenements in varying states of disrepair. All cause problems to those who live, work or own property in the vicinity. Apart from the obvious eyesore, these properties frequently represent a health hazard arising from waste products and vermin and some are structurally unsound. An additional risk also arises from vandalism and wilful fire raising.

6.4 In many instances the owner of the property is either unknown or not traceable. In the problem tenement blocks particularly there is a high turnover of tenancies and little interest in accepting responsibilities for the problems. Where owners are able to be traced some are unwilling to take any action whilst others are unable to do so either due to a lack of resources or lack of co-operation from adjacent owners.

6.5 The City Council, the Firemaster, the Chief Constable and SEPA have all expended resources in dealing with the problems, often repeatedly on the same property. Within the Council itself sometimes three or four Departments are engaged in taking action on the same property and on a number of different occasions. The use of regulatory powers across Departments at best only results in a short term solution with possible Departmental duplication of financial resources. Action to recover costs is also fragmented across the Departments.

6.6 The local authority has many statutory duties and powers which assist in tackling the problem of land and buildings in disrepair. A list of these is attached (Appendix 2). Currently these powers are exercised by each Department on an ad hoc basis in accordance with their own Departmental functions, priorities, staff and financial resources. The Review Team considered each property in context of all available powers, views of stakeholders, any long term planned development and availability of funding. The owners of the properties were all identified and notified, where possible. Thereafter, a course of action was agreed and initiated by the Team.

### 6.7 Option Appraisal

The options explored by the Review Team were:-

- (a) Status Quo. Each Department to continue to carry out its own functions as before, using powers and resources to take action in response to complaints and referrals.
- (b) A new multi-disciplined section or division be created, comprising staff from all of these Departments currently engaged in taking regulatory action in relation to derelict land and buildings in disrepair. The section would operate as a task team, taking a holistic approach to the problem properties with a view to finding the best short and/or long term solutions. The team would - consult with stakeholders; establish ownership of the properties; any intentions of owners to rectify the problem; any development plans for the locality; consult local/structure plan policies; second any other Departmental staff as necessary from time to time; identify the short and/or long term options; identify a source of funding for the action, and action for recovery of costs, and where there are delegated powers, instruct or implement the action(s), otherwise reporting to Committee for authorisation or instruction.
- (c) A 'virtual team' to be created with members who, whilst based in their own Departments, meet as required to progress action, all as at (b) above. This would effectively continue the work of the Best Value Review Team but with members drawn at an operational level.

6.8 Option 6.7(a) represents the least effective use of financial and staffing resources with duplication between Departments, short term ad hoc action(s) which often require to be repeated and recovery of costs being sporadic.

Option 6.7(b) will reduce the incidence of repeat actions, ensure the best use of financial resources by eliminating duplication and identifying the most appropriate use of legal powers, funding and staff to resource the action. Consultation with the community and other stakeholders should ensure that any short term action supports the realisation of the longer

term solutions identified. The disadvantages are that the workload for the team may be insufficient to justify its existence as a separate entity and that there would be little or no back up for staff or cover for holidays or sickness.

Option 6.7(c) has all the advantages of Option 6.7(b) but by operating as a 'virtual team' it does not have its disadvantages. This Option is, therefore, recommended for selection.

## 6.9 **Implementation Plan**

A permanent multi disciplined task team will require to be established comprising representatives from Support Services, Finance, Planning and Transportation (from both Planning and Engineering Divisions), Housing, Environmental Health and Trading Standards and Communities Departments. Departmental Heads will require to identify these representatives. They will also require to ensure that any issues pertaining to derelict land and buildings in serious disrepair are referred to the task team in the first instance rather than dealing with them under their Departments' usual powers and duties. The exception to this will be buildings which the City Engineer determines are dangerous in terms of Section 13 of the Building (Scotland) Act 1959. The task team will progress the action underway for all properties identified in Appendix 1 and will identify appropriate action for each new property referred to them. After seeking any authorisations necessary from Committee the task team will then remit to the appropriate Department(s) for that action to be taken. Thereafter the task team will collate the costs and arrange any action for recovery.

## 7.0 **CONSULTATIONS**

7.1 The Chief Executive, Depute Chief Executive (Finance), Assistant Chief Executive (Community Planning), Assistant Chief Executive (Management) and Departmental Directors represented in the Review Team have all been consulted.

## 8.0 **BACKGROUND PAPERS**

8.1 Planning and Transportation minute of meeting of 30th June, 2003.

**PATRICIA McILQUHAM,**  
**Depute Chief Executive (Support Services)**

19th October, 2004.

**PROPERTIES REFERRED TO REVIEW GROUP**

1. 10 Nelson Street
2. 264 Hilltown
3. 28 Nelson Street
4. 30 Nelson Street
5. 69/83 Ann Street
6. Carnegie Square
7. Jamaica Works
8. North Ellen Street
9. Alexander Street
10. 225 Clepington Road
11. Ground to Rear of Traquair Gardens
12. Land Adjacent to Dighty Burn
13. Ground Adjacent to Quarryside
14. Garages and Ground at Wellgrove Street/Wellburn Street, Lochee
15. Derelict Mill and Ground at Pitlalpin Street/Donald's Lane/Stewart's Lane
16. 8 Craigmount Avenue
17. 98 Logie Street
18. Rosebery Street/Cleghorn Street
19. 51 Benvie Road
20. 4 Duncan Street
21. Ground Adjacent to Phin's Yard, Liff Road
22. Derelict Playpark, Birnam Place

## PROPERTY AND LAND IN DISREPAIR - STATUTORY POWERS

The principal statutory powers available to the Council are as follows.

### 1. **Town and Country Planning (Scotland) Act 1997, Section 179- Amenity Notice**

This allows the Council to serve an Amenity Notice (also known as a Wasteland Notice) on the owner/lessee/occupier where it appears that the amenity of any part of their area or an adjoining area is adversely affected by the condition of any land in their area. An Amenity Notice can also be applied to buildings and other structures. The Notice specifies the steps to be taken to abate the adverse effect.

The Notice does not come into effect until a period of time specified by the Council (which must not be less than 28 days) elapses after service and thereafter the owner/lessee/occupier has a further period of time specified by the Council to carry out the works.

If the owner/lessee/occupier does not comply direct action can be taken by the Council and the Council's expenses in doing so can be recovered from the owner/lessee/occupier.

An appeal may be made to the Scottish Ministers at any time before the Notice comes into effect.

The legislation is currently enforced by Officers within the Planning Division.

### 2. **Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Sections 43 and 49 - Repairs Notice**

This allows the Council to serve a Repairs Notice on owners of listed buildings or buildings within conservation areas to effect repairs that are considered reasonably necessary for the proper preservation of the buildings.

When the building is unoccupied the Council may execute works which are urgently necessary for the preservation of the building but the owner of the building must be given not less than 7 days' notice of the Council's intention to carry out the works.

If direct action is taken the Council can recover its expenses from the owner.

An appeal may be made to the Scottish Ministers within 28 days of service of the Notice.

The legislation is currently enforced by Officers in the Planning Division.

### 3. **Civic Government (Scotland) Act 1982, Section 87 - Buildings in Need of Repair**

This allows the Council to serve a Notice on the owner of a building requiring him to rectify such defects as are necessary to bring the building into a reasonable state of repair.

The Council can carry out the work without first serving Notice if it believes this is in the interests of health and safety or of preventing damage to another building.

The Council can recover its expenses from the owner of the building.

An appeal may be made to the Sheriff within 14 days of service of the Notice.

The legislation is currently enforced by Officers in the City Engineer's Division and the Environmental Health and Trading Standards Department.

**4. Building (Scotland) Act 1959, Section 13- Dangerous Buildings**

This allows the Council to serve a Notice on the owner of a building requiring him to carry out works to a dangerous building in order to remove the danger.

The Notice must give the owner 7 days after service to start the works and a further specified period (being not less than 21 days) to finish the works.

In default the Council can make an Order requiring the owner to do the works and in the event of continuing default the Council can do the works itself and recover its expenses from the owner.

An appeal may be made to the Sheriff within 21 days of the making of the Order.

The legislation is currently enforced by Officers in the City Engineer's Division.

**5. Roads (Scotland) Act 1984, Section 93- Dangers Near a Road**

This allows the Council to take action to remove any danger adjacent to a road.

The Council may recover their expenses from the owner of the land if they do the works themselves.

An appeal may be made to the Sheriff within 28 days.

The legislation is currently enforced by Officers within the City Engineer's Division.

**6. Housing (Scotland) Act 1987, Section 108 - Repair Notice**

This allows the Council to serve a Repair Notice on the person having control of a house which is in a serious state of disrepair.

The Notice specifies the period (not being less than 21 days) within which the repairs must be completed.

In default the Council may do the works themselves and recover their expenses from the person having control of the house.

An appeal may be made to the Sheriff within 21 days after service of the Notice.

The legislation is currently enforced by Officers within the Housing Department.

**7. Local Government in Scotland Act 2003, Section 20- Power to Advance Well-Being**

This creates a new discretionary power enabling the Council to do anything they consider is likely to promote or improve the well-being of their area and/or persons in it.

**8. Housing (Scotland) Act 1987, Section 125- Demolition of Obstructive Buildings**

This allows the Council to serve a notice on the owner of a building which is believed to be injurious or dangerous to health advising him of the time (not being less than one month after service of the notice) when the demolition of the building will be considered by the Council.

The Council may then resolve to demolish the building and require it to be vacated within two months from the date of their resolution. If the owner subsequently offers to sell the building to the Council the Council must generally purchase it and then demolish it. If the owner does not do so the Council must demolish the building and then pay compensation to the owner.

**9. Health and the Environment**

The Environmental Health and Trading Standards Department and the Waste Management Department enforce various pieces of legislation, including the Prevention of Damage by Pests Act 1949, the Control of Pollution Act 1974, the Refuse Disposal (Amenity) Act 1978 and the Environmental Protection Act 1990 which enable them to take action to ensure that public health and the environment are protected against risks caused by, amongst other things, land and property in disrepair.

**10. Compulsory Purchase Orders**

It may be appropriate to promote Compulsory Purchase Orders to acquire land and property in disrepair.

The Scottish Executive have confirmed that in their view a local authority may use the Power to Advance Well-Being in conjunction with Section 71 of the Local Government (Scotland) Act 1973 as an additional means to consider compulsory purchase of land. However, existing powers of compulsory purchase are not affected by the Power.

The Council have wide powers of compulsory purchase for planning purposes under Section 189 of the Town and Country Planning (Scotland) Act 1997 where land is required for development, redevelopment or improvement and under Section 10 of the Housing (Scotland) Act 1987 where land is required for housing accommodation. In addition, the Council have the power to compulsorily acquire buildings which they have had to demolish under the Building (Scotland) Act 1959 because they were dangerous in certain circumstances.