

Officer Non Key Executive Decision

Relevant Chief Officer (Decision Maker):	John Blackledge, Director of Community and Environmental Services
Relevant Cabinet Member (for consultation purposes):	Councillor Mrs Christine Wright, Cabinet Member for Housing
Report Author (Officer name and title):	Sharon Davies, Senior Licensing Solicitor
Implementation Date of Decision:	19 February 2018

ENFORCED SALE – 31 ELIZABETH STREET

1.0 Purpose of the report:

- 1.1 To describe the enforced sale procedure and to advise of the intention to use such procedure to acquire 31 Elizabeth Street to recover debts and to bring the property back into beneficial residential use.

2.0 Recommendation(s):

- 2.1 That a notice under section 103 Law of Property Act 1925 be issued in respect of monies owed to the Council and registered as local land charges.
- 2.2 On the expiry of the three month period following service of the above notice, if no payment has been made, the Head of Legal be authorised to proceed with the enforced sale of 31 Elizabeth Street pursuant to the Law of Property Act 1925.

3.0 Reasons for recommendation(s):

- 3.1 There is a history of problems associated with 31 Elizabeth Street and notices under the Town and Country Planning Act 1990 and the Environmental Protection Act 1990 have been served on a number of occasions since 2012. Because the notices were not complied with the Council arranged for works to be carried out in default. The premises has been split into two flats both of which are currently empty following the service of an Emergency Prohibition Order under the Housing Act 2004 being served in August 2016. The property continues to deteriorate. The enforced sale procedure will permit the Council to sell the property to bring it back into residential use and recover the outstanding debts.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

The only alternative would be to not pursue a sale. This would result in the building continuing to deteriorate and the Council not being able to recoup the monies spent to date on undertaking works in default.

4.0 Council Priority:

4.1 The relevant Council Priority is:

"Communities: Creating stronger communities and increasing resilience"

5.0 Background Information

5.1 The main aim of the enforced sale procedure is to bring sub-standard properties and derelict land back into use through the recovery of an outstanding local authority debt. This procedure can be used whether even if the whereabouts of the property owner cannot be ascertained.

5.2 Debts owed to the authority are registered as charges on the property. This is done at the time the works in default are completed. These charges take effect as if they are a deed of mortgage under the Law of Property Act 1925 - this permits an enforced sale.

5.3 Before the power of sale can be exercised a notice must be served under section 103 Law of Property Act 1925. This notice explains that money is owed and unless it is paid off within 3 months the Council may sell the property to recover the money.

5.4 When the property is in a position to be sold, it is important that the best price is obtained. The Council has a duty to the owner of the property (as would any bank/building society in the case of a mortgage default) not to sell at under value. Once the property has been sold the following can be deducted from the sale proceeds -the original works in default costs, the legal costs in undertaking the enforced sale, conveyancing costs in connection with the sale, auctioneer's or other marketing cost in connection with the sale and other debts owed to the Council. Any remaining funds would be paid to the ex-owner of the property. If the identity of the owner is not known, the money would be retained by the Council. After 12 years the right to claim it would be lost.

5.5 In this case the property, 31 Elizabeth Street has been empty since 2016. The total costs of the work undertaken in default of statutory notices amounts to £3764.80. The property is owned by two people. Although the Council holds a number of addresses for them, their exact whereabouts are unknown.

5.6 Does the information submitted include any exempt information? No

5.7 **List of Appendices:**

None.

6.0 **Legal considerations:**

6.1 There is a statutory process for obtaining an enforced sale which must be complied with. A notice under section 103 Law of Property Act 1925 must be served requesting payment within 3 months together with a warning that if payment is not forthcoming the property will be sold. If payment is not received within that period the Council's charge must be registered against the title at the Land Registry. Once the registration is received from the Land Registry arrangements can be made to sell the property. Once the debts and any expenses have been deducted from the proceeds of sale, the balance must be paid to the ex-property owners. If they cannot be found the money/their share must be kept for 12 years in an interest bearing account. If no claim is made within that period the money reverts to the Council.

7.0 **Human Resources considerations:**

7.1 There are no Human Resources considerations.

8.0 **Equalities considerations:**

8.1 There are no equalities considerations.

9.0 **Financial considerations:**

9.1 The costs of the procedure can be deducted from the proceeds of sale. The procedure will also enable the Council to recover unpaid debt.

10.0 **Risk management considerations:**

10.1 There are no risk management considerations

11.0 Ethical considerations:

11.1 There are no ethical considerations

12.0 Internal/ External Consultation undertaken:

12.1 There have been extensive discussions between Council departments to identify the most appropriate way to deal with the issues presented by the property and its owners.

13.0 Decision of Chief Officer

13.1 That a notice under section 103 Law of Property Act 1925 be issued in respect of monies owed to the Council and registered as local land charges.

13.2 On the expiry of the three month period following service of the above notice, if no payment has been made, the Head of Legal be authorised to proceed with the enforced sale of 31 Elizabeth Street pursuant to the Law of Property Act 1925.

14.0 Reasons for the Decision of the Chief Officer

14.1 There is a history of problems associated with 31 Elizabeth Street and notices under the Town and Country Planning Act 1990 and the Environmental Protection Act 1990 have been served on a number of occasions since 2009. Because the notices were not complied with the Council arranged for works to be carried out in default. . The premises has been split into two flats both of which are currently empty following the service of an Emergency Prohibition Order under the Housing Act 2004 being served in August 2016. The property continues to deteriorate. The enforced sale procedure will permit the Council to sell the property to bring it back into residential use and recover the outstanding debts