

Report to	Planning Committee
Date	8 November 2018
By	Director of Planning
Title of Report	Listed Building at Risk: Former Post Office and adjacent cottage at West Ashling
Purpose of Report	To approve service of a Repairs Notice on the property.

Recommendation: The Committee is recommended to serve a Repairs Notice under S.48 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 to secure necessary repairs to the former Post Office and attached cottage, West Ashling.

I. Summary

- I.1 The former Post Office and attached House at West Ashling in Chichester District is a dilapidated vacant dwelling house, located in a prominent roadside position at the northern end of the village. It is a Listed Building at Grade II and occupies a focal point within West Ashling Conservation Area. The property is not registered at the Land Registry.
- I.2 It was first identified as a 'building at risk' during a survey undertaken by SDNPA in the winter of 2012-13. However, following repeated complaints from neighbours, Chichester District Council (CDC) had been in contact with the owner for many years and had previously served a S.215 notice under the Planning Acts in 2011 in an attempt to address the overgrown condition of the gardens and cosmetic shortcomings of the building's frontage. The person understood to be the owner did not comply over an extended period and CDC and SDNPA undertook direct action to ensure compliance with the notice in the first half of 2017.
- I.3 While the owner has repeatedly claimed to live at the property, CDC and SDNPA officers were obliged to employ statutory powers to enter it twice to facilitate the enforcement of the previous notice. Although containing furniture it was noted that the building was uninhabited and uninhabitable.
- I.4 In the Spring of 2017, with over grown trees and shrubs removed, it became possible to assess the condition of the rear of the building and its original outbuildings for the first time. It was observed that the condition of the rear, catslide roof pitch, one rear chimney and the rainwater goods to all elevations was extremely poor. The outbuildings are near-derelect. The interior of the principal building suffers from damp emanating from multiple defects. Water ingress from broken and missing windows has caused serious damage to some floors.
- I.5 Concern was sufficient to commission a schedule of condition from Julian Livingstone, an experienced Conservation Architect. An internal and external survey was undertaken on June 14 2017.
- I.6 His report, attached as Appendix I identified other problems with the building. These are prioritised into three categories of urgency, 'A' (urgent works), 'B' (works required within

twelve months) and 'C' (works desirable in the future but not essential to long-term stability). As expected, urgent works at category 'A' include repairs to roof framing, roof retiling, rebuilding the top seventeen courses of a twisted chimney stack and the renewal of rainwater goods. It also recommends further analysis of structural cracks and areas of potential timber failure.

2. Background

- 2.1 Chichester District Council first served a S.215 notice requiring clearance of gardens, the repair of a boundary wall and the painting of windows and external doors in February 2011, with a compliance period of six months. No appeal was received.
- 2.2 One of the consistent difficulties of the case has been identifying and contacting the owner. The land is not registered with the Land Registry and two separate individuals have come forward to claim ownership since 2006. One of these persons has consistently claimed to live at the property but letters and notices addressed to him at the property have never been responded to and inspections have established that it is not occupied.
- 2.3 In December 2011 Chichester DC issued notice of intention to carry out the works required by the S.215 notice.
- 2.4 However, no works ensued and the resultant impasse eventually led to the service of a second notice under S.215 in July 2014, requiring the clearance of untidy land to the rear of the property as well as those works unimplemented following the first notice.
- 2.5 At the conclusion of the compliance period Chichester District obtained a quote from a contractor to undertake direct action, which came in at £26,784.
- 2.6 This was considered a high figure for the envisaged scope of works and National Park officers were also unsure whether S.215 would prove the optimal response to the wider problems of the Listed Building. A joint inspection of the property was undertaken on 13 April 2015. On site it was concluded that the poor condition of the building would justify entry of the building under S.88 of the Planning (Listed Buildings and Conservation Areas) Act, 1990. Forced entry to allow inspection took place on 23 April, 2015.
- 2.7 A risk assessment was prepared in May 2015 which recommended continuation of the clearance of the rear garden under the provisions of the existing notice and consideration of an Urgent Works Notice to address the wider issues.
- 2.8 The matter was reported to the relevant committee of Chichester DC, including an update related to the condition of the building itself. With a lack of appreciable progress by the summer of 2016 SDNPA officers concluded that direct works to enforce the 2014 S.215 notice were unavoidable and, following a tender process, the required works began in January 2017 at a cost to the SDNPA of £9,220, now registered as a local Land Charge. Repair of the flint front garden wall could not be undertaken in winter weather but was completed by May 2017.
- 2.9 With overgrown trees and shrubs removed, the poor condition of the rear of the Listed Building became fully evident. Accordingly, Julian Livingstone, an experienced conservation architect was commissioned to survey the building, internally and externally on 14 June, 2017. His report assessed a wide range of problems with the building but recommended urgent attention to roof structure and the tiled roof coverings, rainwater goods, a twisted chimney stack and other specified items.

3. Options Open to the Planning Authority

- 3.1 There is no legal obligation on any owner of a listed building to keep it in good condition. Up to this point the Authority has enforced compliance with S.215 notices and monitored the gradual decline of West Ashling Post Office. However, statute law does provide Local Planning Authorities with two remedies in cases where an owner appears to be neglecting his property to such an extent that its future appears to be compromised, as is considered to be the case here.

- 3.2 The full Repairs Notice can require extensive restoration of the property within a given timescale. The owner has a minimum period of two months to comply with the notice. If there is no progress towards compliance the only remedy open to the Authority is to proceed to Compulsory Purchase. It is open to the Authority to withdraw from proceedings at any time, a course which would be recommended by officers if substantive progress by the owner towards repair was made. Thus, S.48 Repairs Notice carries potentially grave consequences for any owner, though does incorporate a degree of limited flexibility in practice.
- 3.3 Alternatively, an Urgent Works Notice may be served to secure immediately necessary repairs to an unoccupied listed building. While the owner has persistently claimed that he resides at the property, internal inspection on successive occasions and accumulated photographic evidence indicates quite clearly that he does not.
- 3.4 Under the Urgent Works Notice repairs must be assessed very carefully as to their necessity, as works deemed merely desirable can be open to challenge. When assessing West Ashling Post Office, the Category 'A' repairs described in the Livingstone report were thought capable to be deemed sufficiently 'urgent' for inclusion in an Urgent Works schedule.
- 3.5 However, the Urgent Works Notice requires a specified schedule of repairs to be started in a fixed and short timescale, normally fourteen or twenty-one days from the date of service. If the owner does not comply, the Authority is obliged to carry out the works itself, at its own cost, to the same specification and timescale. For that reason, a contractor employed by the Authority must be in position to commence works on a specified day.
- 3.6 In such circumstances it is open to the Authority to attempt recovery of its reasonable costs from the owner, or place a charge on the property to recover its costs on any subsequent sale. The cost of undertaking proposed category 'A' works at West Ashling Post Office to a standard commensurate to its status as a listed building are estimated to stand at approximately £65,000 to £80,000.
- 3.7 However, there are reasons to suppose that cost recovery may be challenging in this instance and public money could be effectively frozen as a land charge for a period of years.
- 3.8 The property is a four bedroomed period house with a potentially attractive yard and generous side garden in one of the most desirable villages in West Sussex. Were it to be offered on the open market in its current, unimproved condition for restoration the property would command a sum considerably in excess of the cost of category 'A' repairs. Therefore, this is not a case in which a 'conservation deficit' would apply. Fully restored, the house might be valued at a sum in excess of £600,000.

4. Assessment

- 4.1 Close consideration has been given to the most applicable notice to employ, under guidance of legal advice. The full Repairs Notice under S.48 of the Act would allow all the works identified in the Livingstone report to be addressed. These comprise:
- Scaffolding for safe access to the roof and gutters
 - Strengthening the framing of the roof
 - Replacement of a rotten ceiling beam (and associated asbestos testing)
 - Re-tiling most roof pitches on new battens and re-ridging all pitches
 - Repair of cast-iron rainwater goods, supplying new where missing
 - Rebuilding the upper section of a twisted rear chimney stack
 - Repairs to windows and external doors
 - Renewal of a hazardous bathroom floor
 - Removal of an insecure gas water heater
- 4.2 The likelihood that the owner would comply or begin to comply with such a notice within three months is considered to be low, given previous experience of his response to the S.215 notice. This leaves the Authority two options, to let the matter drop, which would neglect the importance of protecting the character, appearance and preservation of the

Listed Building, or to proceed directly to Compulsory Purchase. Depriving any owner of his property is never a matter to take lightly, particularly given some lack of knowledge about his circumstances or even his current whereabouts. Given the long history of inactivity on this site and the declining condition of the heritage asset there is considered to be little other option if it is to be saved.

- 4.3 As officers have inspected the interior and are confident it is not occupied, the service of an Urgent Works Notice under S.54 of the Act has been considered. By resolving immediate structural threats and obviating water ingress to the property it would address those defects likely to result in a rapid decline towards outright dereliction. These works would have entailed likely expenditure in the region of £65,000 to £80,000. While the costs incurred could be placed as an additional charge on the property recoverable on subsequent sale, there would be little leverage or control over the timing of this event. There is also no reason to assume that the upkeep of the property and its grounds would improve in the intervening period, implying that further notices, officer time and public funds would be required as the years pass.
- 4.4 The fact that the value of this particular property generously exceeds the cost of the required works makes this a rare case. There are only eleven dwellings on the 'at risk' list within the National Park and each case exhibits different characteristics but this is the only one to exhibit a long history of previous attempts to improve upkeep. It is also a relatively straightforward case to address by service of a full Repairs Notice. Officers recommend this course. The necessary Repair Schedule to accompany the notice is attached as Appendix 2.
- 4.5 Service of such a notice would concentrate the mind and crystallise the intentions of the owner. He would face the choice of either repairing the property, under guidance of the notice schedule, or placing it on the open market at a realistic price. If he does neither, the Full National Park Authority would be recommended to proceed to Compulsory Purchase at a subsequent meeting.
- 4.6 In such circumstances and on successful completion of these procedures, the Authority aim would be an early disposal by sealed bids, with land covenants requiring appropriate building repairs to a strictly fixed timescale. Over the medium term, it is not expected that the Authority should realise a financial loss.
- 4.7 To be clear, it is also open to the Authority to take no further action at the present time, other than to monitor any further decline in the condition of the Listed Building. However, this may result in criticism from neighbouring owners and wider reputational damage. There are about seventy Listed Buildings at risk from neglect or decay across the National Park, but the overwhelming majority of these are structures of little or no economic use. This is one of only a handful of properties that would quickly find a beneficial use if it were placed on the open market.
- 4.8 This case has been considered by the Enterprise and Investment Task and Finish Group due to the eventual potential for proceedings to Compulsory Purchase.

5. Conclusion

- 5.1 Officers conclude that a prolonged decline in the condition of West Ashling Post Office and attached House, combined with the owner's demonstrated lack of commitment to maintain the property would justify service of a Repairs Notice under Section 48 of the Planning (Listed Buildings and Conservation Areas) Act, 1990.

6. NPA Considerations

- 6.1 Should the owner fail to comply with the Repairs Notice, a further report will be prepared and presented for consideration.

7. Other Implications

Implication	
Will further decisions be required by another committee/full authority?	If the owner fails to comply with the notice, a further report will be presented given the possibility of compulsory purchase of the property.
Does the proposal raise any Resource implications?	<p>Yes. The recommended action carries a staffing resource implication, which should be contained within the existing budgets of the planning department. In addition, legal costs will be incurred if recourse to Compulsory Purchase becomes necessary. The cost of acquisition would come from planning reserves in the first instance and should be recouped on sale of the property.</p> <p>There would be a short period of ownership in which costs of garden clearance, insurance, survey and sale fees will be incurred, but these also should be recouped in sale receipts.</p>
Has due regard been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	The processes followed are compliant with the Authority's Public Sector Equality Duty.
Are there any Human Rights implications arising from the proposal?	The interference with an owner's human rights entailed by service of the S.48 notice is considered to be proportionate to the aims sought to be realised, to secure the long-term future of this listed building.
Are there any Crime & Disorder implications arising from the proposal?	The owner has reported thefts and a burglary at the property in the past. The long-neglected appearance of the land and building is likely to have exacerbated the occurrence of these events and carries the risk of continued criminal activity. Bringing the building back into beneficial use will contribute towards meeting this obligation.
Are there any Health & Safety implications arising from the proposal?	Yes, the Repair Schedule requires working at heights, but stipulates appropriate provision of scaffolding to ensure safe access. It may also become necessary to undertake a professional asbestos survey at some stage of the process.
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy.	Yes, bringing an unused and neglected building back into beneficial use protects a designated heritage asset, benefits the cultural heritage of the National Park and enhances the character and appearance of the Conservation Area. Recycling these assets, where ever possible, is inherently sustainable.

8. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Without action, building and land remain in declining condition for the indefinite future.	High	Medium	Likely need for expenditure of officer time and public funds on future S.215 or S.54 Notices.
Without action, risk of roof collapse leading to outright dereliction.	Medium	High	Recommended action now will become unavoidable at much higher cost at a later date.
Following the action recommended, adverse publicity raised by the owner or others, aggrieved by the notice.	High	Low	Explanation of the clear reasons for the notice and the extended period in which threats to the future of the property have developed.

TIM SLANEY

Director of Planning

South Downs National Park Authority

Contact Officer: Michael Scammell
 Tel: 01730 814932
 email: michael.scammell@southdowns.gov.uk

Appendices
 1. Livingstone Survey Report, 2017
 2. Repairs Schedule for service with S.48 Notice

SDNPA Consultees
 Legal Services; Chief Finance Officer; Monitoring Officer; Director of Planning

External Consultees
 None

Background Documents
 The Section 215 Notice, previously served by CDC in 2014.