

APPENDIX I

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 2 SEPTEMBER 2008

Title:

UNDERSHAW, PORTSMOUTH ROAD, HINDHEAD, GU26 6AH

[Portfolio Holder for Planning: Cllr Mrs C Cockburn]
[Ward Affected: Haslemere Critchmere and Shottermill]

Note pursuant to Section 100B(5) of the Local Government Act 1972

The annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 6 of Part I of Schedule 12A to the Local Government Act 1972, viz:-

Information which reveals that the authority proposes -

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

Summary and purpose:

Undershaw is a Grade II listed building originally the home of Sir Arthur Conan Doyle. It was for many years used as a hotel, but has been vacant for more than two years. Vandalism and theft of lead from the roofs led very rapidly to deterioration of the building. An Urgent Works Notice (UWN) was served on the owner in December 2006 requiring measures to arrest damage and decay. The owner undertook some of this work but not the largest element, that of installing an effective temporary scaffold lid. The Council therefore commissioned this itself, and is seeking to recover the initial and ongoing costs from the owner. The UWN was upheld by the Secretary of State on 13 February 2008. The concern now is to ensure that the building is properly repaired, and is returned to use to ensure continuing proper maintenance and that the Council recovers its costs. This report is to update Members on the position regarding Undershaw and inform them of the steps that have been taken, or could be taken in future.

Environmental implications:

Protection of a grade II listed building and a tourism resource.

E-Government implications:

There are no e-government implications arising from this report.

Resource and legal implications

Officers have sought to work positively with the owner and have met him and his representatives on several occasions in pursuit of a solution. They have also had discussions with potential purchasers, about appropriate uses, alterations and the scope for extension of the historic building. Unfortunately their offers have not so far proved acceptable to the owner.

Existing temporary protection works were installed in accordance with an Urgent Works Notice served by the Council in December 2006 under provisions of Sections 54 and 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Notice was upheld by the Secretary of State in February 2008.

To date, the scaffold roof has cost the Council £22,242(excluding VAT) and ongoing rental costs for scaffolding amount to £6,840 that continue to cost in the order of £1,160 (excluding VAT) each month. The scaffold shrouding is now becoming insecure, and the scaffold itself has not recently been inspected for safety so there is an imminent need to check and service it at further cost. However, the owner has indicated that he intends to install a new close-fitting temporary roof and then reimburse Waverley for the historic scaffolding costs.

The Council also continues to take responsibility for a monitored alarm and emergency security service, which involves costs we are not entitled to recover.

A possible future action would be to serve a full repair notice on the owner. This would involve staff time and possible external legal advice. If a repair notice were not complied with, subject to various rights of appeal by the owner, the Council would be entitled to begin compulsory purchase proceedings. The purchase price would be determined by the District Valuer. Before purchase however, the Council could seek a suitable willing party to buy the property from us in an immediate back-to-back deal (by way of open competition / auction / sealed bids etc).

Introduction

1. Undershaw was built in 1893 for Sir Arthur Conan Doyle. It is sited to command the view down a secluded valley towards the South Downs. Though not the most handsome of Victorian architecture, it is a good example of the houses built by the intellectual and artistic community that colonized Haslemere around the turn of the 20th century. It was also expensively fitted out, including fine door furniture and heraldic stained glass windows relating to Conan Doyle's family and that of his wife.
2. The building is listed grade II. A recent request to upgrade, made by The Victorian Society to English Heritage, proved unsuccessful.
3. Since March 2004, the building has been in the ownership of Fossway Ltd, registered in the British Virgin Islands.
4. After the purchase by Fossway, the tenant continued to operate a restaurant for a while but the building became vacant more than two years ago. Its condition then suffered a steep decline having been broken into several times

and the roof severely damaged by attempts to remove lead. However, the Council's provision of a temporary roof and improved security has, to a large extent, prevented further deterioration. The previously saturated building has dried out well. The Urgent Works Notice has thus proved highly successful, albeit at a cost to the Council. Nevertheless, the appearance of the building, inside and out, is still very sad and, whilst unoccupied, it continues to be at risk of vandalism and malicious action.

5. Undershaw has been formally offered for sale since September 2007, and has been the subject of national and local newspaper articles. Numerous enquiries have been received by the owner's agent, and at least two enquiries have resulted in serious offers to purchase. To date, none of these offers have resulted in a sale but it is understood that the owner continues to negotiate with at least one interested party.
6. We have been in regular contact with the owner and his agents over the last two years. The most recent formal meeting was with the owner's planning consultant on 29 July 2008.

Recent development proposals

7. Planning permission and listed building consent applications were submitted in 2006 for a scheme to convert the main house into four dwellings, its garage lodge into two dwellings, and construct three detached dwellings in the rear garden. The owner claimed that this scheme would generate funds to repair the building.
8. These applications (WA/2006/1872 and 1873) were refused on 21 December 2006 for reasons including the effect on the character of the listed building and its setting, the effect on trees and the loss of tourist accommodation. These refusals were not appealed.
9. At that time, the owner indicated informally that he would be prepared to offer the historic building to a suitable conservation trust if he were allowed to develop the grounds. However, although there may be scope for very modest extension to the south-east and north of the historic house, the initial officer guidance was that any extensive development elsewhere in the grounds would seriously compromise the setting of the historic building.

Recent discussions concerning the Urgent Works

10. The owner indicated, in April this year, that he wished either:
 - to remove the scaffold and replace with a temporary felt roof, or
 - take over the contract for the scaffold (perhaps modifying it to create a working platform for future proper repair of the building).

11. He also indicated that, at the same time, he would take over responsibility for the alarm system. He commissioned architects Nye Saunders to investigate the possibilities for a new temporary or permanent roof. Nye Saunders have now prepared proposals and sought estimates for the work. Officers are satisfied that such a roof (together with minor repairs to tiling and roof drainage) is now appropriate, the underlying structure having dried out well. Estimates are now being considered by the owner and it is understood that he hopes to proceed with one of the options, and then reimburse the Council for the scaffolding costs. Further information is set out in (Exempt) Annexe 1.

Recent discussions on long-term future of the house

12. Also in April 2008, the owner indicated that he wished to submit his own proposals for the premises with a hotel/restaurant/conference use. We are aware of no progress on such a scheme. The owner's planning consultant has informed us that the owner is again now negotiating to sell to a prospective purchaser. However, serious potential purchasers have in the past found such negotiations frustrating and unproductive because the owner's aspirations as to price, especially in an economic downturn, do not reflect the investment needed to repair and adapt the building to an economic use.

Possible future steps

13. Officers can continue to advise potential future purchasers, and the current owner, on acceptable uses for the building and the scope for adaptation and extension.
14. However, an owner of a listed building has no duty to maintain it. A local authority can intervene by serving an urgent works notice requiring emergency mothballing measures of a vacant property (which Waverley has done) and/or by serving a repairs notice requiring proper permanent repair of a building (whether or not occupied).
15. A repairs notice, under the Planning (Listed Buildings and Conservation Areas) Act 1990 s48, offers an owner the opportunity to undertake proper and reasonable and necessary permanent repair. Architects Nye Saunders produced a condition survey for the Council in January 2007, recommending appropriate works of permanent repair. This would need only a little updating to form the basis of a formal repairs notice.
16. If the owner fails to undertake the items specified in a repairs notice the sanction is that the Council may, subject to various rights of appeal, begin compulsory purchase proceedings. Compulsory purchase would be at a price determined by the District Valuer, and would take account of the condition of the building but also the reasonable planning potential of the site. If a local authority has no need of the property for its own use, the usual practice would be first to identify a suitable party prepared to buy the property in an immediate back to back deal by way of open competition / auction / sealed bids etc.

17. The action of serving a repairs notice should only be taken where there is an intention to proceed to Compulsory Purchase. It should be added that guidance from English Heritage indicates that often, a written warning of an impending repairs notice and possible compulsory purchase will be sufficient to encourage the owner to repair the property, or alternatively to sell it to a third party who will undertake the repairs. The guidance recommends that, if informal negotiations fail, written warnings should precede service of a formal notice.
18. Officers are aware that there are potential users willing and anxious to buy. Officers are also aware that there are limits to prospective purchasers' patience and that with prolonged delay they could lose enthusiasm and invest elsewhere.
19. It should be noted also that if the owner complies with a repairs notice, but does not choose to put the building into occupation and economic use, Undershaw would continue to be at risk from the same agencies of rapid decay. In particular, a new lead roof on an unoccupied building would be an immediate target for theft. Whilst there are alternatives to lead, these would not be satisfactory in terms of the character of the listed building. Although appropriate as an interim measure, they should not be considered to offer a permanent solution.

Resource and Legal Implications

20. Officers are reporting on ongoing costs as set out in the table below and the implementation of measures, to recover costs as set out in (Exempt) Annexe 1 to this report. In February 2007, the Council agreed a supplementary capital estimate of £64,000 (excluding vat) to carry out the works.

Undershaw Hotel - Costs to August 2008

		<u>Breakdown of Expenditure (excl VAT)</u>					
		Alarm	Temporary Roof	Tree Cutting	Scaffolding	Other Building Works	Total Quarter
Year	Quarter						
2007/2008	Quarter 1		16,620.00	300.00		1,327.13	18,247.13
2007/2008	Quarter 2	3,880.00	2,200.00			202.25	6,282.25
2007/2008	Quarter 3	3,179.00	3,422.00		1,520.00		8,121.00
2007/2008	Quarter 4	3,133.00			2,280.00		5,413.00
2008/2009	Quarter 1	3,527.00			1,520.00		5,047.00
2008/2009	Quarter 2	2,629.50			1,520.00		4,149.50
Total Expenditure		16,348.50	22,242.00	300.00	6,840.00	1,529.38	47,259.88

21. It can be seen from the above table that the ongoing costs relate to the provision of an alarm/security system with a monthly bill typically in the order of £1,160 (excluding VAT) for rental and attendance, and scaffolding with a monthly bill typically in the order of £620.

Conclusion

22. The preferred solution for this building would be for the matter to be satisfactorily resolved without the need to pursue the issue of Compulsory Purchase. As stated above, the consequence of serving a repairs notice is that if the owner fails to comply, Compulsory Purchase proceedings would need to be actively considered. Then the issue is to consider this option alongside the concerns regarding the current and future state of the building. Whilst officers remain concerned about the current situation, the conclusion is that in view of the fact that the owner is still in discussions regarding the possible sale of the building, the matter should be kept under review.

Recommendation

It is recommended that the Executive:

1. Notes the success of the Urgent Works Notice;
2. Notes that to date the owner has failed to fully repair the property, or sell/let to someone prepared to use and repair it, but that negotiations with potential purchasers continue; and
3. Instructs the Head of Planning to keep the situation under review and if the building is not satisfactorily repaired within 6 months to bring a further report to the Executive to seek authority for further enforcement action (i.e. the serving of a repairs notice) by the Council.

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