

 Executive Report June 2016		Agenda Item No. <h1 style="text-align: center;">10</h1>
Title	The repair of listed boundary walls, Barford House, Wellesbourne Road, Barford	
For further information about this report please contact	Nick Corbett, Principal Conservation and Design Officer	
Wards of the District directly affected	Barford	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Planning Committee, 31 st March 2015 Executive Report, 13 th January , (Review of the Historic Building Grants Scheme)	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	Yes/No (If No state why below)

There are no implications for Equality and Sustainability

Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	19/05/16	Bill Hunt
Head of Service	19/05/16	Tracy Darke
CMT	19/05/16	
Section 151 Officer	19/05/16	Mike Snow
Monitoring Officer	19/05/16	Andy Jones
Finance	19/05/16	Mike Snow
Portfolio Holder(s)	19/05/16	Councillor Stephen Cross

Consultation & Community Engagement

The proposals have been discussed with the Portfolio Holder, Councillor Stephen Cross.

Final Decision? Yes

Suggested next steps (if not final decision please set out below)

1. **SUMMARY**

- 1.1 To agree to fund repairs required by an urgent Section 54 Repair Notice, served under the Planning (Listed Building and Conservation Areas) Act 1990 on the owner of listed walls at Barford House, Wellesbourne Road, Barford.
- 1.2 Following a tender exercise the cost of repair work is known to be £133,675. Approximately £70,000 of this cost will be met from the entire budget allocated to the Historic Building Grant scheme in 2016/17 - plus underspend from the previous year.
- 1.3 This report seeks agreement to fund the balance of costs from the Council's Capital Investment Reserve. A notice will be served on the property owner (and subsequently, if necessary, a charge will be placed on his property) to reimburse the Council its costs.

2. **RECOMMENDATIONS**

- 2.1 Executive agrees that if the landowner does not enter into a suitable contract to start repair works and begin work on site within one month, then an amount up to £64,000 (on top of the figure of £70,000 identified in paragraph 1.2) is drawn down from the Capital Investment Reserve to meet the cost of repairing the listed boundary wall at the park of Barford House, as identified on the attached plan (Appendix 1).
- 2.2 Subject to agreeing recommendation 2.1, Executive notes the process outlined under Section 3 of this report for ensuring the Council is reimbursed its costs.
- 2.3 Executive authorises the Head of Development Services to negotiate with contractors to reduce the price of the works by omitting the return section of wall, along Insons Yard, which serves private dwellings but which is not a public thoroughfare.

3. **REASONS FOR THE RECOMMENDATIONS**

- 3.1 On 31st March 2015 Planning Committee authorised the Head of Development Services to serve a Section 54 Repair Notice on the owner of the land requiring the urgent repair of the listed boundary walls, (Appendix 1) within the curtilage of the Grade II* listed Barford House. The repair works are urgently necessary for the proper preservation of this listed heritage asset.
- 3.2 The Section 54 Repair Notice requires the owner to take action within seven days, after which the Council may undertake the work and serve notice on the Owner to pay the Council's costs.
- 3.3 Due to the owner's inaction, the Section 54 Repair Notice was finally served on him on 16th February 2016, and the Council may now undertake the works itself.
- 3.4 The owner still has not appointed contractors to undertake the work, but he has now asked a contractor to provide him with a quote. If the landowner enters into a suitable contract for the works to be completed and if works are seriously underway within the next month, then the Council may not need to undertake the works itself and the funds will not be required.

- 3.5 The repair of this wall is considered to be a high priority not only because of its significance as a protected heritage asset, but because of public safety; it is a seriously dilapidated wall where members of the public have immediate access to it, and where they frequently gather beside a bus stop.
- 3.6 The process for recovery of the Council's costs incurred in carrying out the work will be as set out in Section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This involves the Council serving a notice on the landowner that requires him to reimburse the Council for the cost of the works. The Owner may then appeal this notice to the Secretary of State on any of the following grounds;
- (a) that some or all of the works were unnecessary for the preservation of the building; or
 - (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or
 - (c) that the amount specified in the notice is unreasonable; or
 - (d) that the recovery of that amount would cause him hardship
- 3.7 Grounds (a), (c) and (d) are likely to present the most risk to the Council. The risk of a successful challenge on Grounds (a) are mitigated by the fact that the works specified in the repair schedule are the minimum necessary to safeguard the structure, in accordance with the professional views of the Council's Officers, and an expert consultant engineer. The risk of challenge under (c) is mitigated by the fact the Council followed due process and entered into a competitive tender exercise to ensure best value. Ground (d) is a risk that is beyond the control of the Council and could potentially result in it not recouping the expenditure, but this is unlikely given the fact that planning permission has been granted for eight dwellings on the owner's neighbouring land.
- 3.8 The Council would be able to apply for a charge to be placed on any property owned by the landowner if the debt remained unpaid; this would follow after the notice is served, and after any appeal is determined in the Council's favour.

4. **POLICY FRAMEWORK**

- 4.1 The maintenance of the historic environment is highlighted in the Warwick District Council's Local Plan and also forms part of the National Planning Policy's Framework objectives to maintain heritage assets. The listed, historic boundary walls around Barford House are highly visible and their poor condition is of concern to the wider local community.
- 4.2 Adopting a proactive approach to protecting the historic environment makes a positive contribution towards the Council's vision for making Warwick District a great place to live, work and visit.

5. **BUDGETARY FRAMEWORK**

- 5.1 The proposed works will cost £133,675, approximately £70,000 of this will be paid for from the transfer of the Historic Building Grant budget from 2016/17 (plus underspend), and the balance is proposed to come from the Council's Capital Investment Reserve.

6. **RISKS**

- 6.1 Following the Council serving notice (under Section 55 of the Act) on the landowner, and following determination of any appeal he might submit to the Secretary of State being determined in the Council's favour, if the debt remained unpaid the Council could then apply for a charge to be placed upon any property owned by the landowner. The Council would then be reimbursed its costs following the sale of this property. There is a potential risk that the landowner does not own any property assets to the value of the costs incurred by the Council, but this is unlikely given that planning permission has been granted for eight dwellings upon land in his ownership on the other side of the park surrounding Barford House. There is also a risk that the landowner never sells his property, in which case the Council may have to sue the landowner to recover its costs.
- 6.2 It should also be noted that any existing charges and restrictions on the owner's property may take priority. As such careful searches will have to be undertaken before deciding which property to place the charge upon.

7. ALTERNATIVE OPTION(S) CONSIDERED

- 7.1 The option of doing nothing is not considered to be appropriate as it would be contrary to the expressed wishes of Planning Committee, and it would result in serious harm to heritage assets. (It should however be noted that, whilst the Planning Committee has exercised its discretion to serve the notice, this does not bind the Executive to incur expenditure to carry out the works).
- 7.2 The preferred option is for the landowner to undertake the works but he has continued to procrastinate; one option would be to give him a time extension, but over one year has already passed since Planning committee authorised the S54 Repair Notice and contractors are still not on site, and the timescale for completing works this calendar year is closing.

8. BACKGROUND

- 8.1 On 31st March 2015, Planning Committee authorised the Head of Development Services to serve a Section 54 Repair Notice on the owner of the land requiring the urgent repair of the listed boundary walls (identified in Appendix 1) within the curtilage of the Grade II* listed Barford House.
- 8.2 Officers produced a detailed repair schedule outlining the minimum work necessary to safeguard the listed walls, and expert conservation engineer advice was incorporated into this.
- 8.3 Delays have been incurred due to the lack of clarity about when, and if, the landowner would commission the repair works himself.
- 8.4 Following the grant of planning permission on 9th December 2015, for eight dwellings (Application: W/15/1294) on a neighbouring site within the park of Barford House, in the same ownership of the walls subject to the Section 54 Repair Notice, it was anticipated the owner would have the financial means to repair the walls.
- 8.5 Due to the owner's inaction, the Section 54 Repair Notice was finally served on him on 16th February 2016, and the Council may now undertake the works itself.

- 8.6 The owner still has not appointed contractors to undertake the work, but he has now asked a contractor to provide him with a quote. If works are seriously underway within the next month, then the Council may not need to proceed with the works itself and the funds will not be required.
- 8.7 Given the fact that contractors are still not on site, and given the limited window for undertaking the works (the use of lime mortar requires the works to be undertaken when there is no risk of frost), the Council will need to instruct contractors within six weeks if the works are to be undertaken this calendar year.
- 8.8 The repair of the wall is considered to be a high priority because of its serious dilapidated condition where members of the public have immediate access to it, and where they frequently gather beside a bus stop. The following photographs show the condition of the wall, which has holes within its structure and bricks can literally be taken out by hand due to the lack of mortar.

Wellesbourne Road, (beside the bus stop)



