

DRAFT REPORT TO DEVELOPMENT CONTROL COMMITTEE

REPORT OF: PRINCIPAL CONSERVATION OFFICER

REPORT NO: PLA 1002

DATE: 6th August 2013

TITLE:	Service of Urgent Works Notice under Sections 54 -55 of the Listed Buildings Act 1990 in respect of the Grade II listed building known as Toll House Cottage, Bourne Road, Folkingham, Sleaford, NG34 0HA	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr Frances Cartwright Grow the Economy, Economic Development Portfolio Holder	
CONTACT OFFICER:	Ian Wright –Principal Conservation Officer 01476 46389 i.wright@southkesteven.gov.uk	
INITIAL IMPACT ANALYSIS:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity	Not applicable	
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Listed Buildings Act 1990 http://www.legislation.gov.uk/ukpga/1990/9/contents Stopping The Rot – English Heritage Guidance Guide To Enforcement Action To Save Historic Buildings http://www.english-heritage.org.uk/publications/stoppingtherot/	

1. That:

- a) authorisation be given to the service of an Urgent Works Notice under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 on the owner of the Toll House Cottage
- b) in the event of the Authority having to appoint contractors to undertake the works to recover the costs of the works specified in the Urgent Works Notice from the owner of Toll House Cottage

2. PURPOSE OF THE REPORT

- 2.1 This report seeks Committee authorisation for the service of an Urgent Works Notice for works that are considered by the Authority the minimum necessary to prevent the further deterioration of a grade II listed building.

3. DETAILS OF REPORT

- 3.1 Toll House Cottage is a Grade II listed building. It was listed in 1987, the list entry reads as follows:

“Toll house, now cottage. Late C18. Colourwashed brick. Pantile roof hipped to east, gabled to west with single hip stack and decorated eaves. Single storey, 3 bay front with central doorway with plain doorcase and panelled door. Doorway flanked by single glazing bar sashes.”

- 3.2 The building clearly has severe structural problems, caused primarily by a tree that has been allowed to grow to maturity against the southern wall.
- 3.3 The property only became vacant in 2010 when the occupier of many decades, an elderly lady then in her nineties moved into a nursing home. Since then the owner has been trying to sell the property although there has been no ‘For Sale’ board displayed.
- 3.4 In accordance with relevant English Heritage guidance, informal discussions have taken place with the owner over a period of time and he has been advised of the concerns about its condition.
- 3.5 The Authority is aware of interest from at least three prospective purchasers since 2010, two of which did not proceed and the third is, as far as we are aware, still considering whether to purchase.
- 3.6 Since the building was vacated in 2010 its deterioration has accelerated and some intervention is needed to ensure its continued survival. The owner is reluctant to undertake any works and is hoping for a sale. The current situation cannot be allowed to continue indefinitely.
- 3.7 Until such time as the future of the building is decided through a statutory process, it needs to be protected from further deterioration and if the owner is not willing to undertake such measures then the Council has to consider whether to exercise its powers under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and serve an Urgent Works Notice.
- 3.8 Works under an Urgent Works Notice can only be carried out to unoccupied buildings or parts of occupied buildings that are not in use.
- 3.9 A Notice must specify the works believed to be urgently necessary. The building has been inspected by one of the Authority’s Principal Building Control Officers who recommends that the following works need to be undertaken to prevent any further deterioration:

- Shoring-up of the south and east walls
- Propping the roof, following agreement on the best position to install the props
- Temporary covering to the eastern and southern roofslopes, to prevent rainwater ingress
- Repairs to the verge of the roof
- Repairs to guttering
- Boarding of the windows to prevent access by vandals and for Health and Safety purposes

3.10 It is estimated that the costs of the above works would be no more than £10,000.

3.11 If the owner does not comply with the Notice and carry out the works of his own volition within a specified period, the Council are empowered to undertake the works specified above and, under Section 55 of the Act, recover the expenses incurred from the owner. Failure to pay Section 55 costs could result in a local land charge being placed on the property.

3.12 The owner can appeal against a notice to recover costs if they consider the works were unnecessary for the preservation of the building, the works being sought are unreasonable, or that the recovery would cause undue hardship. In the event of an appeal the Secretary of State would determine what costs should be paid. Failure to pay Section 55 costs could result in a local land charge being placed on the property.

3.13 The owner has previously been advised that at some point the Council would have to consider the service of an Urgent Works Notice if the necessary works were not undertaken. As this has not happened, it is recommended that authorisation be given to the service of an Urgent Works Notice in respect of Toll House Cottage, in order to ensure its preservation as a building of special architectural or historic interest.

4. OTHER OPTIONS CONSIDERED

4.1 Do not serve an Urgent Works Notice and rely on negotiations with the owner and prospective purchasers to secure the necessary works. However, despite over two years of negotiations these have not resulted in the building being protected from further deterioration.

5. RESOURCE IMPLICATIONS

5.1 The Council will incur costs in the event that the owner fails to carry out the works within the specified period and the Council has to step in to implement the schedule of works identified. However, as set out in the report, there are legal provisions for these costs to be recovered from the owner through a land charge on the property.

6. RISK AND MITIGATION

6.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Regulatory – the Council has a duty to ensure the preservation of listed buildings within its area	Monitoring of condition of buildings at risk and, if required, serving of notices to secure preservation of the building

7. ISSUES ARISING FROM IMPACT ANALYSIS

7.1 Not applicable.

8. CRIME AND DISORDER IMPLICATIONS

8.1 None arising from this report.

9. COMMENTS OF FINANCIAL SERVICES

9.1 The Council will incur costs in the event that the owner fails to carry out the works within the specified period and the Council is required to implement the schedule of works identified. However, as set out in the report, there are legal provisions for these costs to be recovered from the owner through a land charge on the property should the owner fail to repay the Council for the works.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

10.1 On the facts reported it is considered appropriate to serve an urgent works notice. In the event that the owner fails to carry out the works in accordance with the notice within the specified period the Council has the power to carry out the works in default and recharge to the owner or in the event that the costs cannot be recovered from the owner, the Council can register a local land charge against the property.

11. COMMENTS OF OTHER RELEVANT SERVICES

N/A