

RECORD OF A DECISION TAKEN UNDER URGENCY PROVISIONS

EMERGENCY WORKS AT BIG MILL, CONGLETON

MATTER DECIDED

- 1) That the Council take immediate action to remove the danger to the public caused by the condition of Big Mill (otherwise known as Brooks Mill/Bossons Mill) Stonehouse Green in Congleton, Cheshire ("the Land"), and thereafter to take such steps as are necessary to remedy and adverse affect caused to the amenity of the area by the resultant condition of the Land utilising powers under Section 78 of the Building Act 1984 (dangerous buildings – emergency measures), Part VIII of the Town and Country Planning Act 1990 and all other enabling powers in statute and at common law.
- 2) For the avoidance of doubt, the actions hereby authorised embrace the full suite of measures that may be considered necessary to achieve the purposes set out above and any measures that are incidental or ancillary to the same or which are intended to facilitate or expedite achieving the same including but not limited to:-
 - a) Activating emergency planning processes and procedures for the protection of the public
 - b) The service of notices
 - c) The closure of highways
 - d) Entering into contracts or agreements
 - e) Entering (and authorising others to enter) on to land to undertake, facilitate or expedite surveys or works
 - f) Undertaking (or procuring the undertaking) of such works considered necessary or prudent to achieve the above purposes to include but not limited to:-
 - i) The protection of adjoining or adjacent buildings, structures and land
 - ii) The partial or full demolition of buildings or structures on the Land and the disposal of any resultant spoil

iii) Putting the Land in a condition such that it does not adversely impact upon the amenity of the area

- 3) That all steps be taken to recover all of the costs incurred in taking action to achieve the above purposes from the owner of the Land and/or any other appropriate person.

DECISION DATE

9 June 2016

DECISION TAKERS

Councillor Rachel Bailey – Leader of the Council

in consultation with

Mike Suarez – Chief Executive

Peter Bates - Chief Operating Officer (and Section 151 Officer)

Bill Norman – Director of Legal Services

AUTHORITY

Cheshire East Council Constitution dated 5 February 2016

Part 4 (Procedure Rules), paragraph 53.1 and Appendix 4 (Urgent Decisions – Executive Matters).

Authorising the urgent exercise of powers set out in Part 3 of the Constitution (Officer Scheme of Delegation) and in particular, paragraphs 1.10, 1.12, 1.29, 1.30, 2.10, 2.11, 3.19, 3.32, 3.33, 3.43, 3.52, 3.74, 3.75, 5.4, 5.6, 5.8, 9.7

KEY DECISION

No

THE DECISION

As set out in numbered paragraphs 1 – 3 above.

REASONS FOR THE DECISION

- 4) Big Mill is a Grade II listed building in a prominent location in Congleton Town Centre. It has been vacant for over 10 years. Given its heritage status, conservation area setting and prominent gateway location within the town centre, Big Mill is a key asset both for the town and within the regeneration programme

for Congleton. It is adjacent to a similar property which has already been converted for residential.

- 5) A building condition survey was commissioned by Cheshire East Council and undertaken on 13 March 2015, funded by Historic England and carried out by Buttress Conservation Architects. This survey revealed extensive deterioration of the condition of the building which required urgent works in order to address those issues which were estimated to cost approximately £450,000.
- 6) After the receipt of the final condition survey report, it was shared with the building's owner on 29 April 2015. A meeting was held with a representative of the owner on 14 May 2015 and a written response received from them on 20 May 2015 that stated the owner did not have the funds available to complete these works and disputing the costs included in the report.
- 7) After a follow up assessment of the urgent works by Historic England and dialogue and an exchange of correspondence with the owner, the Council served an Urgent Works Notice on the owner of the Mill on 29 October 2015, under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990. No action was taken by the owner to carry out these urgent works pursuant to that notice.
- 8) However, as a result of continued deterioration in the building's condition over this period, and in order to ensure the building did not partially collapse, emergency works under Section 78 of the Building Act 1984 were considered necessary and a notice served on the building owner on 14 October 2015, requiring the owner to undertake the works within seven days of the notice being served. No action was undertaken by the owner and works to stabilise two brick piers were subsequently undertaken by contractors working for the Council. The recovery of these emergency works costs, totalling £25,000, is being pursued by the Council against the owner.
- 9) The engineer supervising the emergency works noted further significant deterioration in the building since the original inspection on 13 March 2015 and, as a consequence, the proposed methodology for achieving the urgent works had to be modified and re-priced. The revised methodology resulted in an increased costs estimate for the urgent works to £760,000. Consequently, the Council, with Historic England, began to evaluate the options to undertake those urgent works in default and to secure the relevant approvals. Any such works would have been reliant upon grant funding receipts from Historic England which in itself required proposals to bring the building back into beneficial use, as opposed to merely undertaking works to prolong the structural integrity of the building in the short to medium-term.
- 10) In May 2016, as an integral part of working up proposals for the long term future of the building, a further updated condition survey was commissioned from

Buttress Conservation Architects. Regrettably, that survey (received on 1 June 2016) revealed that the state of the building is such that:-

- a) 'continuing deterioration **will** result in **uncontrolled collapse**'
 - b) 'the **timing** of such collapse is **indeterminate**'
 - c) that this '**could readily occur** in the **near future**'
- 11) The report concluded that the building is in danger of collapse and that the collapse could occur without warning, particularly during a period of prolonged rain and/or high winds.
- 12) Between 1 June and 9 June a series of discussions took place to ascertain from the Council's structural engineering and building control advisors as to whether there was sufficient time to:-
- a) to design and install a package of structural support works
 - b) embark upon the process set out in Section 77 of the Building Act 1984 to apply for an order from a magistrates' court to require the owner to execute those works or to demolish the building
- 13) The clear advice received on 9 June was that there was insufficient time to embark upon that process and that the only option now available to the Council was for it to exercise powers under Section 78 of the Building Control Act 1984 to make the building safe by taking immediate action to procure its demolition.
- 14) Whilst there is provision to recover costs incurred in undertaking this action (currently understood to be in the region of £600,000, but with the potential for that to increase to a sum not expected to exceed £1 million) there is always a risk that some or all of these costs will remain unrecovered. Much will depend on the financial status of the owner, or other identifiable persons against whom costs can be recovered, and the level of any residual value in the Land. However, in the circumstances, it is considered that there is little alternative other than to take this action in the interests of the safety of those living, working and passing within the vicinity of the building.

Background documents

Appendix A: Structural Report 1 June 2016

Appendix B: Building Control Report 9 June 2016

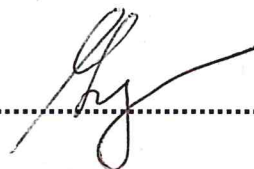
Signed by the Decision Taking
Officer



Councillor Rachel Bailey

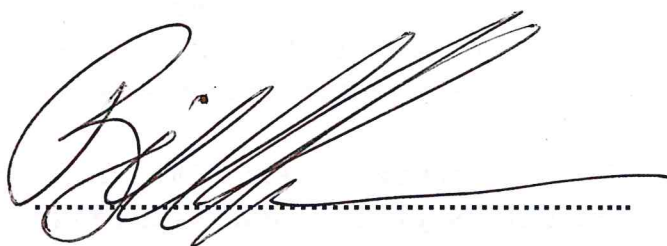
Leader of the Council

Having consulted and taken advice
from:



Mike Suarez

Chief Executive



Bill Norman

Director of Legal Services



Peter Bates

Chief Operating Officer and S151
Officer

NOTES

(1) Please record here the relevant paragraph of the Officer Scheme of Delegation within the Constitution under which the officer is acting and/or confirm that the officer is acting under a sub-delegation from another officer. If acting pursuant to a sub-delegation please ensure that a copy of the sub-delegation is appended to the decision form. If an officer is unsure about his/her powers to take the decision, he/she should seek advice from the relevant officer in Legal Services.

(2) The Constitution provides that certain decisions may be taken by an officer with the approval of another officer. For example, the decision to institute legal proceedings may be taken by CMT members with the approval of the Head of Legal Services. In such cases the form should be signed by the approving officer in addition to the decision-maker.

(3) The Constitution provides that certain decisions may be taken by an officer in consultation with the relevant Cabinet Member. In such cases the form should be signed by the Cabinet Member prior to the decision-maker in order to evidence the consultation with that Cabinet Member.

(4) Where the decision is a "Key Decision" a copy of this record must be sent to the Borough Solicitor and the Director of Finance and Business Services as soon as it has been signed to enable the decision to be published by the Borough Solicitor within two working days of it being made. The call-in period of a further five clear working days will then operate. This period cannot start until the decision is published. A decision here must not be implemented until the call-in period has elapsed (normally five clear working days in all) and no notice has been served. If a call-in notice is served you will be advised of the process and no action must be taken on the decision which is technically suspended.

(5) For Key Decisions, any relevant supporting papers, or document references (background documents), should be described (with details of where they can be accessed – e.g. file number) to this document and where they were a material consideration leading to the decision.

DEFINITION – "KEY DECISION"

A decision which is likely to (a) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.