
To: Communities and Housing Policy Board

On: 22 August 2023

Report by: Director of Environment, Housing & Infrastructure

Heading: Housing (Scotland) Act 1987- Representation in Respect of a House Failing to Meet the Tolerable Standard

1. Summary

- 1.1 Following approval by the Housing and Community Safety Policy Board in 2014 for properties to be demolished as part of the Johnstone Castle Housing Regeneration programme, one property within the approved area at 26E Cedar Avenue, Johnstone remains under private ownership with no voluntary agreement in place to purchase, with the late owner's estate.
 - 1.2 It has been determined that the property, 26E Cedar Avenue fails to meet the Tolerable Standard, as defined within the Housing (Scotland) Act 1987, as amended and approval is being sought from the Board to issue a Demolition Order in terms of Section 115 of the Housing (Scotland) Act 1987 for the whole blocks at 24 and 26 Cedar Avenue, Johnstone, including 26E.
 - 1.3 Authorisation is also sought to promote a Compulsory Purchase Order to complement the Demolition Order process and bring the remaining privately owned property into Council ownership once the block, including 26E has been demolished.
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2. Recommendations

It is recommended that the Communities and Housing Policy Board:

- 2.1 approves a Demolition Order being issued for the properties at 24A – 24F and 26A – 26F Cedar Avenue, Johnstone, PA5 9TH.
 - 2.2 approves the Council carrying out the demolition of the blocks at 24A – 24F and 26A – 26F Cedar Avenue, Johnstone, PA5 9TH in the event that, subject to their right to appeal, the owners fail to demolish the block with the prescribed period.
 - 2.3 authorises the Director of Environment, Housing & Infrastructure to promote a Compulsory Purchase Order to compulsorily acquire the property at 26E Cedar Avenue, Johnstone.
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3. **Background**

- 3.1 The Housing and Community Safety Policy Board at its meeting on 26 August 2014 approved the demolition of properties within the Johnstone Castle Regeneration Area including the properties at 67 – 109 and 155-157 Elm Drive, 2 – 26 Cedar Avenue, 45 Sycamore Avenue, 18 – 22 Tower Road and 1 – 13 Maple Drive.
- 3.2 The blocks at 24 and 26 Cedar Avenue are, apart from 26E, under full ownership of the Council (all are vacant), however the death of the owner of 26E Cedar Avenue, Johnstone in 2015 has resulted in the voluntary purchase of this property stalling, with the outcome that the demolition of these blocks has also stalled.
- 3.3 The Housing Regeneration team have repeatedly attempted to engage with the family of the deceased, without being able to secure agreement to purchase the property. Accordingly, authorisation is sought to promote a Compulsory Purchase Order to compulsorily acquire the property at 26E Cedar Avenue, Johnstone to complement the promotion and service of the Demolition Order and, subject to the rights of appeal, subsequent demolition of the blocks at 24 and 26 Cedar Avenue, Johnstone.
- 3.4 The Housing (Scotland) Act 1987 places a duty on local authorities to secure that all houses within their district are closed, demolished or brought up to the Tolerable Standard within a period which is reasonable in the circumstances.
- 3.5 Section 115 of the Housing (Scotland) Act 1987, as amended makes provision for a local authority to issue a Demolition Order where it is satisfied that a house, or houses, do not meet the Tolerable Standard and ought to be demolished, further requiring that the building shall be demolished within six weeks after the expiration of a 28 day period (which is to allow for the properties to be vacated). The owner of any property has a period of 21 days to appeal to the Sheriff Court against the Demolition Order.
- 3.6 All properties within the building are vacant and there is no requirement to specify within the Demolition Order any period for the properties to be vacated.
- 3.7 The Tolerable Standard, as defined within Section 86 of the Housing (Scotland) Act 1987 is a basic minimum standard which all properties are required to meet and is reproduced for information within Appendix 1. As this is a condemnatory standard a property only requires failing to meet one element of it to fail the Tolerable Standard overall.
- 3.8 The flats within 24 and 26 Cedar Avenue generally are in a very poor condition and in respect of 26E it is noted that the roof is failing to prevent water ingress (ceilings can be seen to have fallen in), there is no supply of electricity or water to the building and Officers are therefore satisfied that the property 26E Cedar Avenue fails the Tolerable Standard on the following grounds:
 - It is not substantially free from penetrating damp;
 - It does not have satisfactory provision for artificial lighting and heating (due to there being no electricity supply);
 - It does not have an adequate supply of wholesome water available within the house;
 - It does not have a sink provided with a satisfactory supply of both hot and cold water;
 - It does not have a satisfactory supply of hot and cold water at any fixed bath, shower and wash hand basin;

- It does not have satisfactory facilities for the cooking of food (due to there being no electricity supply)
 - It does not have satisfactory equipment installed for detecting, and for giving warning of, fire or suspected fire.
- 3.9 Authorisation is therefore sought to issue a Demolition Order in respect of numbers 24A – 24F and 26A – 26F Cedar Avenue, Johnstone and to demolish the block. Demolition of this block is in accordance with the approved Johnstone Castle Regeneration strategy.
- 3.10 The Council would seek to recover the expenses of demolition via the statutory powers available to it.

Implications of the Report

1. **Financial** These recommendations will be funded within the Housing Capital Investment Plan 2023/24 to 2027/28 as approved by Council on 2 March 2023
2. **HR & Organisational Development** - None
3. **Community/Council Planning –**
Creating a sustainable Renfrewshire for all to enjoy- Improving and maintaining neighbourhoods and homes.
4. **Legal** – The Demolition Order may require input from Legal Services in relation to valid service and promotion of the Order and any appeal. There will be a requirement for Legal Services to carry out conveyancing work to voluntarily or compulsorily acquire the property at 26E Cedar Avenue.
5. **Property/Assets** – Eleven of the twelve flats in the blocks at 24 and 26 Cedar Avenue are Council owned.
6. **Information Technology** - None
7. **Equality & Human Rights**
(a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for example it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** - None
9. **Procurement** - None
10. **Risk** – The owner of the property 26E has a right of appeal against the Demolition Order which, if exercised, could delay the works for a significant period.
11. **Privacy Impact** - None
12. **Cosla Policy Position** – not applicable.
13. **Climate Risk** - None

List of Background Papers

- (a) Background Paper 1 Report to the Housing and Community Safety Policy Board entitled, Housing Regeneration: Johnstone Castle, on 26 August 2014
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Appendix 1 – Tolerable Standard Definition

Tolerable Standard as Defined in S86 of the Housing (Scotland) Act 1987, as amended.

(1) Subject to subsection (2), a house meets the tolerable standard for the purposes of this Act if the house—

- (a) is structurally stable;
- (b) is substantially free from rising or penetrating damp;
- (c) has satisfactory provision for natural and artificial lighting, for ventilation and for heating;
- (ca) has satisfactory thermal insulation;
- (d) has an adequate piped supply of wholesome water available within the house;
- (e) has a sink provided with a satisfactory supply of both hot and cold water within the house;
- (f) has a water closet, or waterless closet available for the exclusive use of the occupants of the house and suitably located within the house;
- (fa) has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house;
- (g) has an effective system for the drainage and disposal of foul and surface water;
- (ga) in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installation for the purposes of that supply;

“the electrical installation” is the electrical wiring and associated components and fittings, but excludes equipment and appliances;

“the relevant requirements” are that the electrical installation is adequate and safe to use;

- (h) has satisfactory facilities for the cooking of food within the house;
 - (i) has satisfactory access to all external doors and outbuildings;
 - (j) has satisfactory equipment installed for detecting, and for giving warning of, fire or suspected fire;
 - (k) has satisfactory equipment installed for detecting, and for giving warning of, carbon monoxide present in a concentration that is hazardous to health,
- and any reference to a house not meeting the tolerable standard or being brought up to the tolerable standard shall be construed accordingly.