



## DEVELOPMENT CONTROL COMMITTEE

11<sup>th</sup> December 2007

### Joint Report of Head of Planning and Building Control, and the Interim Head of Delivery and Development - Regeneration

#### The former Mellish Road Methodist Church, Lichfield Road, Walsall,

#### 1.0 PURPOSE OF REPORT

The building is located in the Arboretum Conservation Area and is Grade II Listed as being of special architectural or historic importance. There have been serious problems of dis-repair and lack of maintenance.

#### 2.0 RECOMMENDATIONS

That Members note the actions taken to date, and support the on-going work...

#### 3.0 FINANCIAL IMPLICATIONS

None arising from the report itself. There are likely to be costs associated with the Repairs Notice and possible Compulsory Purchase Order.

#### 4.0 POLICY IMPLICATIONS

The report describes ongoing work to seek compliance with planning policies.

#### 5.0 LEGAL IMPLICATIONS

None arising from the report itself. Legal implications are various and have been considered in other reports

#### 6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

#### 7.0 ENVIRONMENTAL IMPACT

Work under section 215 'amenity notice' legislation, has brought substantial improvements to a prominent site on a key route into Walsall town centre, and further improvements are being sought. Reference to Urgent Works powers has also prompted some action by the owners to help preserve the building. Further environmental gains, and a long-term solution to the problems have been sought by serving a Repairs Notice and a subsequent on-going process which may lead to a Compulsory Purchase Order, as a means of bringing the building back into beneficial use and normal maintenance.

#### 8.0 WARD(S) AFFECTED

St Matthews

9.0 **CONSULTEES**

None

10.0 **CONTACT OFFICER**

Philip Wears/Joel Maybury  
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11.0 **BACKGROUND PAPERS**

None

David Elsworthy - Head of Planning and Building Control, Regeneration

Simon Tranter – Interim Head of Delivery and Development, Regeneration

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### 12 BACKGROUND AND REPORT DETAIL

#### History – the main reports, the notices and their origins.

- 12.1 In November 2000 the four current joint owners acquired the site at auction. In November 2001 planning permission was granted for change of use to a Community Business Centre. This consent was never implemented and has now expired.
- 12.2 The building is not in use, it has obvious structural damage, there are queries over the stability of supporting ground, and there is a significant level of disrepair. The land around the building has also been poorly maintained. These problems have occurred at a prominent site on the approach to the town centre.
- 12.3 In 2003 Officers met with one of the owners to review the problems in implementing the planning permission, which were reported to be the difficulty in securing sufficient funding for the necessary repairs and conversion works. The owners were urged to sell the site to an organisation with the necessary resources to carry out such a project.
- 12.4 In September 2004 the then Head of Planning and Transportation presented a report to your Committee regarding unsightly premises on main roads in the Borough. The church site was one of 47 which were considered to justify formal action under section 215 of the planning act. The variety of causes behind the visual problems necessitated a detailed and carefully structured approach and the notice was served in September 2005.
- 12.5 In February 2005 the Cabinet considered a report concerning the repair problems. The report noted that, according to a Council funded survey, the costs of the structural and general repairs could be up to £1.1 million. This figure included the cost of general repair and reinstatement works, but did not include the costs for conversion to a new use. It was noted that exploration of ground conditions was also recommended and would be likely to lead to additional costs. The report stated that the pursuance of a CPO could be a lengthy course of action, and that if an appeal were lodged then the process could take up to two years. It was also noted that the Council could explore the setting up of a 'back to back' sale wherein immediately after the Council acquired the site via CPO it would be sold to a suitably resourced third party. The implications of issuing a CPO without a prospective purchaser were also explored.
- 12.6 Authority was granted by Cabinet to serve a Repairs Notice, with a view to following this with a further report concerning making a Compulsory Purchase Order if there was no compliance. The repairs notice, with its detailed schedule of work, including underpinning, was served in February 2006.
- 12.7 In January 2007 officers reported to the Development Control Committee seeking authority to serve an Urgent Works Notice under listed building legislation. This type of notice is used to give a final opportunity for temporary, emergency repairs to be done, and to signal that the Council is prepared to carry

out the work itself if necessary Some work has been done and the notice has not yet become essential.

### **The Notices served and initial responses to them**

- 12.8 The section 215 notice served in September 2005 was necessary because there was an urgent need for cosmetic works to improve the appearance of the site in the short term. At the same time the notice should not overlap with works that might be required under listed building legislation. The notice therefore required replacing unsightly boarding of windows and doors and removing objects and vegetation from the grounds.
- 12.9 The owners appealed against the section 215 notice to the Magistrates Court. The owners did not attend the Court and the appeal was dismissed on 1<sup>st</sup> March 2006. Compliance was then due by 1<sup>st</sup> May. The owners advised that they would comply.
- 12.10 In mid March 2006 work commenced to comply with the section 215 notice. Unfortunately some boarding was incorrect. In April 2006 the Development Control Committee agreed that if compliance was not obtained direct action could be taken. However, the owners then resumed work themselves on a better basis.
- 12.11 The owners had a meeting with the Executive Director for Regeneration to discuss all aspects of the problem in June 2006. By that time many of the windows had been boarded in general conformity with section 215 notice. Some additional windows had also been boarded.
- 12.12 Prior to the meeting the owners had not complied with the Repairs Notice and had claimed that the building was beyond economic repair and should be demolished. The meeting identified a need for the owners to carry out additional structural survey work, ground investigations, and consultant reports if they were to proceed any further down this route. A target date was October 2006. The meeting also confirmed a continuing need for Urgent Works and for full compliance with the section 215 notice, as many items in this notice remained outstanding, in particular, the boarding of the lower-level large windows on Butts Road. Prosecution for non-compliance with 215 notice was not considered appropriate at that time as work had commenced.
- 12.13 Progress on all matters was less than had been hoped for. An inter-disciplinary project team was formed to meet regularly to review and plan progress in all three areas of endeavour..

### **The Mellish Road Church project team**

- 12.14 This team meets under the leadership of the present Interim Head of Delivery and Development. It includes officers from various disciplines including built conservation, planning enforcement, engineering, development team, estates, and legal services.
- 12.15 In connection with the Repairs Notice and potential CPO the team has progressed with an approach that recognises that the owners may not satisfactorily assemble the information to support formal applications seeking

either demolition of the building, or a satisfactory repair and conversion scheme. To ensure that the whole future of this problem site is resolved it is recognised that the Council must proceed along the route to towards a CPO.

- 12.16 A CPO must be based on a clear strategy but it has been recognised that there is insufficient information on which to decide whether the future of the building lies with repair and re-use or demolition. Listed building legislation and government advice however contain a strong presumption that a listed building will be preserved, unless the problems are insurmountable.
- 12.17 The group have commissioned a ground study, and an economic appraisal which is expected in January 2008.
- 12.18 As regards Urgent Works, at the end of April 2007 the owners carried out some substantial temporary roofing work towards the rear of the building. This was a positive improvement although subsequently some water ingress has still been visible. The entry points to the building for intruders were made more secure.
- 12.19 Letters have spelt out the remaining items needing work to comply with the section 215 notice, and there has been a renewed undertaking to comply. Unfortunately there was delay in responding to the remaining water ingress and section 215 items while the owner leading on this had a long trip abroad in the summer.
- 12.20 A further meeting took place between the owners and the project team in November 2007. All aspects were discussed and the owners again expressed their concerns about the structural soundness of the building. They undertook to carry out further structural monitoring. There had been further work to window boarding and the vegetation in the grounds was also tidier.

#### **The remaining matters for resolution**

- 12.21 The feasibility of pursuing a CPO is being investigated. A consultants report will compare the likely value of the church once converted to a likely alternative use, with costs of repairs and ground stabilisation. If the economics are found to be reasonably favourable, further ground survey work may be recommended. However, if the economics appear beyond all reasonable reach, then the option of demolition must be considered.
- 12.22 As regards Urgent Works, following a site meeting in November 2007 the owners are expected to carry out further temporary roofing work. The continuing entry of water near the previous roof work appears likely on investigation to be due to the rainwater discharging onto a flat roof below, at points where there happens to be serious localised disrepair. The other more minor entry points for water are being monitored to see if the leaks are serious enough to justify Urgent Works.
- 12.23 The level of compliance with the section 215 notice is now fairly high in terms of the number of items tackled. Compliance with the details of the notice has been poor for some items, and for these it remains to be seen how well the visual improvements will weather. It is intended to up-date Members at the meeting

regarding the latest situation with the remaining section 215 items and Urgent Works issues.

### **Conclusions – the difficulties**

- 12.24 Members have requested some comment on the difficulties involved in remedying the problems with the site.
- 12.25 In respect of the need for repairs and re-use of the building, the question of whether this is possible, or whether demolition is the best solution, is complex. The financial implications are large, and the question must be resolved in the context of strong legislation and government guidance. At present there is simply not enough survey and financial information on which to base a sound recommendation. However, Cabinet will receive a report in early 2008.
- 12.26 In respect of the section 215 notice, prosecution was not considered appropriate. in mid 2006 as compliance had commenced, and the level of compliance has subsequently increased. Therefore action has become less justified. While in law the scope for prosecution still exists today, negotiations are yielding results and it remains to be seen in the remaining weeks of December 2007 whether a satisfactory level of compliance will have occurred. It is very likely that some further compliance will have taken place.
- 12.27 It has not yet become necessary to serve an Urgent Works Notice as the owners undertook some work voluntarily , possibly influenced by the fact that authority for this formal action had been given. The resolution of remaining problems is being monitored.