

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

14 SEPTEMBER 2016
ALL WARD

UPDATE ON BIRMINGHAM BUILDING WATCH

1. Summary

- 1.1 An update report was requested to Committee on the Building Watch initiative, its current status and any involvement it may have had in protecting the Leopard Public House in Erdington.
- 1.2 This report outlines work undertaken by Regulation and Enforcement on the Building Watch initiative, aimed at reducing incidence of arson in void commercial and residential properties and protecting public safety.

2. Recommendation

- 2.1 That the report be noted.

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Originating Officer: Russell Davey, Environmental Health officer

3. Background

- 3.1 Building Watch began as a pilot in the Hodge Hill Constituency in 2007 in response to an increase in incidents of major fires and repeat anti-social behaviour fires primarily in void commercial properties.
- 3.2 The Building Watch initiative was coordinated by Officers from Regulation and Enforcement who worked closely with representatives from a range of partner agencies including West Midlands Police, West Midlands Fire Service as well as the City's own Planning, Building Consultancy and Empty Property Teams.
- 3.3 Whilst the main focus of Building Watch has been around void commercial properties, referrals relating to void residential properties have also been acted upon from time to time. Officers from the City Council Empty Properties Team have taken the lead on dealing with requests for assistance in relation to residential properties.
- 3.4 In 2008 following the success of the pilot initiative in the Hodge Hill Constituency the Building Watch was extended to include other areas of the City.

4. Aims and Objectives of Building Watch

- 4.1 The aim of Building Watch was to secure a reduction in arson and anti-social behaviour associated with void commercial and residential properties. It was appreciated that there were a significant number of void commercial and residential properties in the City. This risk of arson and anti-social behavior associated with these properties can vary considerably. As such the objective was to focus on properties which were of particular concern to partner agencies e.g. properties which have been or are most likely to become subject to arson, fly-tipping and other forms of anti-social behaviour/criminal damage.
- 4.2 A working group was formed which consisted of representatives from the partner agencies and the various service areas and a rolling list of void buildings that posed a significant risk in relation to arson and public safety was developed. Through partnership working direct action was used to bring about significant improvements to the most at risk buildings.
- 4.3 The primary prioritisation criteria for Building Watch was around:
 - Buildings likely to cause injury or death (whether by collapse or otherwise) to any person in it or to persons in other property; or in the event of fire; or unlawful acts that damage the environment; or potentially effect the business continuity of infrastructure of the locality.
 - Buildings that are dangerous (determined on the basis of legal classification under the Building Act 1984 or professional views of the respective partner agency representative).

- Buildings that are known (and can be evidenced) to be attracting significant nuisance/anti-social behavior, drug related activity, other criminal activity (in or directly associated with the building), involvement in more than one arson incident or have been void for over 6 months.
- Buildings posing a potential for level 1 and 2 asbestos classification if involved in fire.
- Buildings where the state of repair or level of nuisance or potential for nuisance is such that visual improvement and/or security is urgently required in terms of statutory provisions (Section 215 of the Town and Country planning Act 1990; Section 29 of the Local Government (Miscellaneous Provisions) Act 1982).

5. Funding for the Building Watch Initiative

- 5.1 Over the years Building Watch has been substantively funded by the Birmingham Fire Reduction Partnership (BFRP) through Neighborhood Renewal Funding and Reward Grants. In 2006/2007 and 2007/2008 the BFRP provided £20,000 per annum to support interventions. This primarily involved carrying out emergency works to secure the highest risk properties to prevent danger and to reduce repeat arson. In 2009/2010 BFRP enhanced its support by providing £90,000 which equates to £45,000 to fund a fulltime equivalent Officer within Regulation and Enforcement and £45,000 for associated enforcement intervention activities. In 2010/2011 the BFRP provided £45,000 continued support for the dedicated Officer post and £30,000 to support intervention activities. In 2011/2012 the funding for the Building Watch initiative substantially reduced to £15,000 for interventions and no funding for officer time. Funding was reduced further in 2012/2013 to £10,000.

Year	Funding type	Officer funding	Activity funding
2006/2007	BFRP		£20,000
2007/2008	BFRP		£20,000
2009/2010	BFRP	£45,000	£45,000
2010/2011	BFRP	£45,000	£30,000
2011/2012	BFRP		£15,000
2012/2013	BFRP		£10,000
2013/2014 to date	No further funding identified		£0

- 5.2 In addition to the above, additional funding in 2007 to 2011 was made available to the Building Watch through a number of other interventions funded through Neighbourhood Renewal and Reward Grant funding. This enables other interventions to be implemented, including targeting hardening, fly-tipping removal and the securing sites. Like the funding for the Building Watch initiative this funding ceased in 2013.

- 5.3 Since 2013 the City Council has not received any external funding for the Building Watch initiative. As a result the cost of interventions has had to be met from your Committee's budget.

6. Powers to Deal with Void Buildings

- 6.1 There are a number of powers available to the City Council to deal with issues commonly associated with void properties. These powers are delegated to Officers from Regulation and Enforcement, Planning and Regeneration and Building Consultancy (ACIVICO). A table highlighting the powers available together with the service area that hold these enforcement powers is shown in Appendix 1.
- 6.2. Your Officers have been unable to identify any legal powers available to them within the allocated Building Watch funding to require the owner of a void commercial property to bring it back into use. Therefore, whilst informal discussions can be held with land owners with regards to their intentions your Officers powers are limited to ensuring that a property is maintained in a safe and secure condition.

7. Achievements

- 7.1 Through the initiative your Officers have been able to bring about a number of significant improvements to a number of Building Watch referrals including the redevelopment of a number of sites:

The Beeches Public House, Frankley Beeches Road (2009)



- Multiple breaches of security. Worked with owners, but repeat property subject to repeat arson attacks and vandalism.
- Delay in demolishing and redeveloping site due to mobile phone mast (mobile phone masts can be disguised within building structure so may not be evident on first inspection when purchasing a property. High cost to break a lease may have a significant impact on the cost of redeveloping a site). Representation made to mobile telephone company.



- Multi agency working with WMFS, Police, Building Consultancy, Planning and Conservation has led to redevelopment of the site.

Wagon and Horses, Coventry Road, Sheldon (2008)



- Ongoing problem with site security.
- Premises repeatedly vandalized; no natural surveillance at the rear of the site.
- Worked with owners to ensure that regular re-securing works were carried out, perimeter fencing installed and security patrols were undertaken.
- Representation made to Planning Committee requesting that the owners should demolish the building following the granting of planning permission (typically an owner has 5 years to develop a site after receiving planning consent). Site has now been redeveloped as an Aldi store.



Ward End Ex-Servicemens Association Club, Ward End Park Road (Ongoing)



- Void social club; empty for years and several large fire incidents.
- Ongoing problem with arson and antisocial behavior.
- Premises dangerous inside.
- Ownership uncertain.
- Property repeatedly secured by Birmingham City Council. Additional works carried out to remove fly tipping from grounds and to fence off property.



- Sections of the property recently demolished by the City Council due to structural instability.



- Long term solutions are currently being investigated including the acquisition of this site by the City Council.

Gladiator/Phoenix Public House, Pound Road, Druids Heath

- Reports of anti -social behavior taking place at property.
- Property insecure and allowing unauthorized access.
- Significant damage caused as a result of individuals entering the property.



- Statutory powers used to require owner to re-secure property against unauthorised access.

Monaco House, Bristol Street, Birmingham



- Referral from West Midlands Police following reports of anti-social behavior.
- Evidence of small fires taking place within buildings.
- Significant evidence of drug use taking place on site.
- Worked with owner to re-secure premises against unauthorised access pending a long term solution for the site.

8. Current Situation with Regards to Building Watch

- 8.1 As identified in paragraph 5.1, BFRP funding for the Building Watch initiative ended in March 2013. As such the cost of any enforcement activities and interventions undertaken by your Officers now has to be met from your Committee's approved resources.
- 8.2 Under the Local Government (Miscellaneous Provisions) Act 1982 your Officers have the power to serve a 48 hour notice on a land owner to requiring their building to be "effectively secured" against unauthorised entry. Where a notice is not complied with your Department can undertake the works in default and recover the cost in doing so from the landowner. Where your Officers follow this process it can take many years to recover their expenditure. Debts such as these are usually paid at the point of sale of a property when they are identified during the local searches as part of the conveyancing process. Where significant expenditure is incurred your Department can instruct the City Council Solicitors to actively cover the debt from the landowner although in most instances the legal costs associated in doing this are not recoverable.
- 8.3 Since external funding for the Building Watch initiative ended in 2013, the group no longer meets on a formal basis. Officers have continued to work closely with partner agencies, particularly the West Midlands Fire Service with regards to securing improvements in the most at risk buildings in the City to mitigate; the worst anti-social behavior; the pollution from fires; and the dangers to the public and Fire Officers tackling fires.
- 8.4 Officers respond to void commercial properties referred to us primarily by West Midlands Fire Service and occasionally by the Police. Only interventions where statutory powers are available to require works have been undertaken. All of the additional funding has ceased which previously enabled significant problem solving. Where possible Officers have attempted to work with land owners to secure void properties and maintain them to a reasonable standard to minimise the impact on their locality. This financial year your Officers have responded a number of requests for assistance including the Gladiator/Phoenix Public House, Pound Road, Druids Heath and Monaco House, Bristol Street, Birmingham.
- 8.5 The cost of securing void commercial properties can be significant. Due to budgetary pressures, where referrals indicated that significant expenditure, Officers have sought the assistance of colleagues in Building Consultancy (ACIVICO) who have dedicated financial resources in place to fund work where a building is in a dangerous condition and secure it where necessary. The cost of undertaking such work can again in most instances be recovered from the landowner.

9. The Leopard Public House, Jerrys Lane

- 9.1 The Leopard Public House, Jerry's Lane was brought to the attention of Building Watch by Cllr Moore in 2014 following reports of fly-tipping and anti-social behavior taking place.
- 9.2 Following receipt of the request for assistance a visits was undertaken to the property. At the time of the visit the property was found to be effectively secured against unauthorised access and there was minimal evidence of fly-tipping and anti-social behavior taking place. Contact was also made with the owner who advised that they were looking to sell the property. As part of the Building Watch process a further 5 visits were undertaken to the property during 2014/2015. On each occasion the property was found to be secure and there was minimal evidence of fly-tipping and anti-social behavior taking place. Contact was made with the owners and they were advised about the City Council's and residents' concerns about the property.
- 9.3 In April 2016 a further request for assistance was received from Cllr Moore in relation to the Leopard Public House. A visit was undertaken and at the time no formal action was deemed possible as the property was found to be secure and there was no significant evidence of fly-tipping or taking place. A further 3 visits were undertaken to the property in between April and June as part of the ongoing monitoring of void buildings. In June work was undertaken to remove a small amount of inert fly tipped materials that had accumulated on the car park. At the time of these visits the property was found to be secure. There was no indication that the property was likely to become subject to arson as there were none of the signal crimes that you would usually associate with arson such as low level anti-social behavior , graffiti, fly-tipping, evidence of drug use or rough sleeping. The building had suffered minimal vandalism and was effectively secured against unauthorised entry.
- 9.4 On 7th July 2016 the Leopard Public House was subject to a substantial fire. Due to the extensive damaged that had been caused to the property a referral was made to Building Consultancy to make the building safe. As there was an imminent risk of injury from falling roofing materials and timbers emergency works were carried out to install HERRAS fencing around the property. These emergency works were carried out by the City Council's appointed contractor with a view to recovering the cost of doing so from the land owner. It was established that a new owner had purchased the building. Notice was also served on that owner to undertake works to remove loose and damaged roofing slates and timbers. This work is in progress. It is understood that authorisation to demolish the public house was granted in 2014 and it is still in place. Planning permission to convert the existing public house to create 7 self-contained one bedroom apartments and the erection of a three storey building to provide 6 self-contained one bedroom apartments was granted in May 2016. The planning permission lasts for a period of 3 years from the date of being granted. The owner has advised that it is their intention to progress with the redevelopment of the site as soon possible although the recent fire has set back their plans.

10. Consultation

10.1 The report is for information and no consultation has been undertaken.

11. Implications for Resources

11.1 BFRP funding for the Building Watch initiative ended in March 2013. As such the cost of any enforcement activities and interventions now has to be met from your Committee's approved resources.

12. Implications for Policy Priorities

12.1 The Building Watch initiative has measurable impacts on public safety, environmental blight and adverse economic impact on the City.

13. Public Sector Equality Duty

13.1 No specific implications have been identified.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

APPENDIX 1

Service Area	Legislation	Use
Building Consultancy – Acivico (lead)/ Environmental Health/ Empty Property Team	Section 29, Local Government (Miscellaneous Provisions) Act 1982	Can be used to re-secure buildings which are not effectively secured against unauthorised entry. Involves the service 48 hour notice on the owner/occupier requiring works to be undertaken. Where works are not completed they can be undertaken in default, the cost of which can be recovered from the owner/occupier. Typical works undertaken under a notice could include the boarding up buildings with wooden boards or metal screening.
Building Consultancy - Acivico	Section 77, Building Act 1984	Potential danger to public: Power to deal with a building or structure which is in such a state as to pose a potential danger and requires further action to remove the danger. If the owner/occupier does not remove the danger the Council have to seek Magistrates approval to do the work and recover the costs from the owner/occupier. Works required under this section may include taking down loose areas of brickwork, rebuilding sections of wall which are required for the structural stability of a building, shoring an unstable structure etc.
Building Consultancy - Acivico	Section 78, Building Act 1984	Imminent danger to public: Power to deal with a building or structure which is in such a state as to be dangerous and require immediate action to remove the danger. Dependent on the severity of the problem this can involve immediate action by the City Council. Works required under this section may include taking down loose areas of brickwork, rebuilding sections of wall which are required for the structural stability of a building, shoring an unstable structure etc. Where an owner/occupier fails to undertake works then these can be carried out in default, the cost of which can be recovered from the owner/occupier.
Planning Enforcement (lead)/ Environmental Health/ Empty Property Team	Section 215, Town and Country Planning Act 1990	Powers to require works to land and buildings where their condition is considered to have a significant impact on the amenity of a wider area. A notice served under this section shall specify such steps that are required to remedy the condition of the land. Where a notice is not complied with then City Council can undertake works in default and/or prosecute the

		owner or occupier. Case Studies within the Best Practice Guidance issued by the government show that this legislation is best applied to prominent sites whose appearance serves to tarnish the amenity of an area rather than less obvious or concealed sites.
Environmental Health	Section 4, Prevention of Damage by Pests Act 1949	Power to require an owner/occupier to undertake works to destroy rats or mice on land or otherwise take steps to keep land free from rats and mice. Work required under this section may including carrying out treatments for rats and mice or removing materials that are likely to provide sustenance or harbourage. Where a notice is not complied with then the City Council can undertake works in default and/or prosecute.
Environmental Health	Section 59, Environmental Protection Act 1990	Power to require an occupier of land to remove waste or undertake steps with a view to eliminating or reducing the consequences of the deposited waste. In order to use this section the City Council must show that the occupier either deposited the waste themselves or knowingly caused or permitted the waste to be deposited on the land. Where a notice is not complied with then the City Council can undertake works in default and/or prosecute.