
NORTH AYRSHIRE COUNCIL

9 June 2021

North Ayrshire Council

Title: Flat Ground East, 99 Nelson Street, Largs - Compulsory Purchase

Purpose: To approve the compulsory purchase of the Flat Ground East, 99 Nelson Street, Largs being a house and/or land required to provide housing accommodation in Largs

Recommendation: That the Council resolves to make a Compulsory Purchase Order to be called "The North Ayrshire Council (Flat Ground East, 99 Nelson Street, Largs) Compulsory Purchase Order 2021" as detailed in the proposals section of this Report

1. Executive Summary

- 1.1 The Council has acquired five flats in the building known as 99 Nelson Street, Largs with the intention of undertaking remedial and improvement works and providing housing accommodation. Unfortunately it has not been possible to acquire the ground floor east flat as the owner is deceased and he does not have any heirs who are willing to complete title to the flat and sell the property either to the Council or on the open market. Attempts to acquire the flat by agreement have accordingly been unsuccessful.
- 1.2 In order to secure the use of the building for housing accommodation the acquisition of the ground floor east flat is essential and a Compulsory Purchase Order is necessary to achieve this.

2. Background

- 2.1 North Ayrshire Council first became aware of problems with the condition of the tenement at 99 Nelson Street in 2017. It was initially hoped to reach agreement with the owners of the flats in the building to undertake appropriate works, but this proved difficult to progress, and instead the acquisition of the flats from the owners through the Council's approved 'Buy Back' process was progressed. Five of the flats in the building were acquired between January and May 2019, but it has not been possible to acquire title to the remaining flat.

- 2.2 The condition of the ground floor east flat continues to cause concern and complaints have been received from neighbouring residents. There has been water leakage from the flat and the condition of the tenement as a whole, and this flat in particular, has continued to deteriorate. As long as this flat remains empty it will continue to have an adverse effect on the remainder of the building and wider area. Remedial action to improve this flat and address the adverse impact its current condition has on the common parts of the building, particularly those areas adjacent to the flat, is accordingly considered necessary as a matter of urgency to prevent further deterioration.
- 2.3 The purchase of the remaining flat will allow the Council to undertake the necessary works to bring this empty property back into use and make the flat suitable for occupation for housing and to thereafter let the property for this purpose. As owner of the majority of flats in the building, the Council can at present instruct maintenance and repair works to the common parts of the building, but ownership of all the flats will allow the Council to undertake upgrading works where appropriate to improve the shared areas and enhance the accommodation in the building.
- 2.4 The flat will be purchased by the HRA and brought into the housing stock for social rent, funded by the HRA and Scottish Government grant monies.
- 2.5 The Compulsory Purchase Order will require to be advertised and notified to any person with an interest in the affected land. Thereafter there is a period for objection and any objections which cannot be resolved will in due course be determined at a public inquiry before a Reporter appointed by the Scottish Ministers. If the Order is confirmed there requires to be a further advert period prior to title being completed. Disputes in relation to compensation can also be referred to the Lands Tribunal for Scotland.
- 2.6 The rights of the owner of land or property under The Human Rights Act 1998 must be considered before deciding to make a Compulsory Purchase Order. In this connection, it is considered there is a compelling case in the public interest for acquisition of the ground floor flat to secure housing accommodation and a compulsory purchase order would strike an appropriate balance between the public and private interest. If the Order is promoted, as noted at 2.5 above, in terms of the legislation the owners and any other person having an interest on the land have the right to object to the proposed order at a fair, independent and public hearing and they are also entitled to statutory compensation in respect of their interest in the land. In the absence of agreement, compulsory purchase is accordingly considered to be both necessary and proportionate in the circumstances.

3. Proposals

3.1 The Proposal is that the Council make the following resolution: -

"That The North Ayrshire Council resolves in exercise of the powers conferred by Sections 9 and 10 of the Housing (Scotland) Act 1987 and in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to make a compulsory purchase order to be called "The North Ayrshire Council (Flat Ground East, 99 Nelson Street, Largs) Compulsory Purchase Order 2021" to purchase compulsorily ALL and Whole the ground floor east flat in the tenement known as 99 Nelson Street, Largs, KA30 9JF registered in the Land Register of Scotland under Title Number AYR46847 being property which is required to provide suitable housing accommodation in Largs, authorise and instruct a Proper Officer of the Council to sign the Order and Plan on behalf of the Council; affix thereto the Common Seal of the Council; submit the Order and Plan to the Scottish Ministers for confirmation; give the appropriate notice to the owners and occupiers of the subjects, insert the appropriate notice in the local press and certify to the Scottish Ministers that the subjects (a) do not belong to the local authority, (b) have not been acquired by statutory undertakers for the purposes of the undertaking, (c) do not form part of a common or open space (d) are not held inalienably by the National Trust for Scotland; and (e) are not listed as being of special historical or architectural interest under Section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and take all steps necessary to complete the compulsory purchase procedures".

4. Implications/Socio-economic Duty

Financial

4.1 The cost of compensating the land owner will be met from existing budgets as will the cost of the remedial and improvement works required in the property. The flat will be purchased by the HRA and brought into the housing stock for social rent, funded by the HRA and Scottish Government grant.

Human Resources

4.2 There are no human resource implications arising from this report.

Legal

4.3 A Compulsory Purchase Order is the only way to complete title to land if the owner is unwilling or unable to agree a voluntary transfer.

Equality/Socio-economic

4.4 There are no equalities implications. Making more flats available for affordable rent has positive benefits in terms of the Fairer Scotland duty.

Environmental and Sustainability

4.5 The proposed Compulsory Purchase Order has positive environmental benefits in terms of bringing a dilapidated building up to standard.

Key Priorities

4.6 This supports the Key Priority Outcome of having homes that meet residents' needs.

Community Wealth Building

4.7 There is no potential to include a community benefit clause within the compulsory purchase process itself. However if the purchase proceeds, the remedial works to the property will offer opportunities for Community Wealth Building through local employment and modern apprentices and any contract for the works will include community benefit clauses. Bringing the empty property back into use will also increase the affordable housing available for local residents.

5. Consultation

5.1 Consultation has been undertaken with Housing Services on the acquisition of this flat and the improvement of the tenement building to secure the six flats within the building for housing accommodation.

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For further information please contact **Rosemary Conner, Solicitor, Legal Services**, on **01294 324327**.

Background Papers

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