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# NORTH AYRSHIRE COUNCIL

8 December 2021

## North Ayrshire Council

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**Title:** 2 Montgomerie Road, Saltcoats - Compulsory Purchase

**Purpose:** To approve the compulsory purchase of the site of the now demolished 2 Montgomerie Road, Saltcoats KA21 5DJ.

**Recommendation:** That the Council resolves to make a Compulsory Purchase Order to be called "The North Ayrshire Council (2 Montgomerie Road, Saltcoats) Compulsory Purchase Order 2021" as detailed in the proposals section of this Report

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### 1. Executive Summary

- 1.1 Following the Cabinet approval at its meeting on 23 February 2021 as detailed in the attached report at Appendix 1, a demolition order was served and, after the time limit expired, Council officers arrange for the demolition of the property, which has now been completed.
- 1.2 It has not been possible to recover the demolition costs and to do so, it will be necessary for the Council to acquire the property by promoting a Compulsory Purchase Order.

### 2. Background

- 2.1 A Demolition Order was served on 2 Montgomerie Road, Saltcoats on 15 January 2015, due to the property being below the Tolerable Standard as defined in Section 86 of the Housing (Scotland) Act 1987. It was established that the owners were unmarried siblings without children and that both were deceased. However, other family members were identified and the Demolition Order was served on the solicitors who were believed to be acting for the next of kin of the deceased owners. The solicitors later confirmed that they did not have instructions to deal with the property and that the next of kin instructed that no further contact be made with them regarding the property. As the solicitors were not acting, the validity of this notice could not be relied upon.
- 2.2 The Cabinet of 23<sup>rd</sup> February 2021 authorised the serving of another Demolition Order and, in the absence of any known owners, this was served in February 2021 by affixing to the building requiring the demolition of that building within 6 weeks.

- 2.3 The Demolition Order was not complied with within the set timescale and the Council arranged for the demolition of the property. In the absence of any owners, the Council has not been able to recover the costs of demolition of the property.
- 2.4 As the Council has not been able to recover its costs by other means, a Compulsory Purchase Order (CPO) is now necessary to allow the Council to acquire the property.
- 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 that as the owners are deceased and that the Council have demolished the property there is a compelling case in the public interest for acquisition of the property to recover the expenses of demolition 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 any person having an interest in 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. The council would be entitled to deduct the full cost of the demolition from the amount of any compensation payable. In the absence of any owners, 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 Section 124 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 (2 Montgomerie Road, Saltcoats) Compulsory Purchase Order 2021" to purchase compulsorily ALL and Whole the site of the former dwellinghouse situated at 2 Montgomerie Road, Saltcoats KA21 5DJ shown coloured red on the attached Plan together with those rights in common to the entrance gates, access avenue, drying green and washhouse shown coloured blue on the said Plan specified in the Disposition by the Executor of William Barr recorded GRS(AYR) 2<sup>nd</sup> September 1970, 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 the demolition of the building was £21,341.80 and nothing was realised from the sale of materials. The likely costs of the pursuing the compulsory purchase order, assuming it is not contested, would be in the region of £1500.

##### **Human Resources**

4.2 None

##### **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. The Council are entitled to deduct from any compensation due for the site the amount of any unrecovered costs of the demolition.

##### **Equality/Socio-economic**

4.4 None

##### **Environmental and Sustainability**

4.5 None.

##### **Key Priorities**

4.6 Demolishing this property supports the Council plan priority outcome 'North Ayrshire is a vibrant, welcoming and attractive environment.

##### **Community Wealth Building**

4.7 There is no potential to include a community benefit clause within the compulsory purchase process itself.

#### **5. Consultation**

5.1 Consultation has been undertaken with Property Management and Investment Services was undertaken during both the progression of the case and development of the earlier Cabinet report.

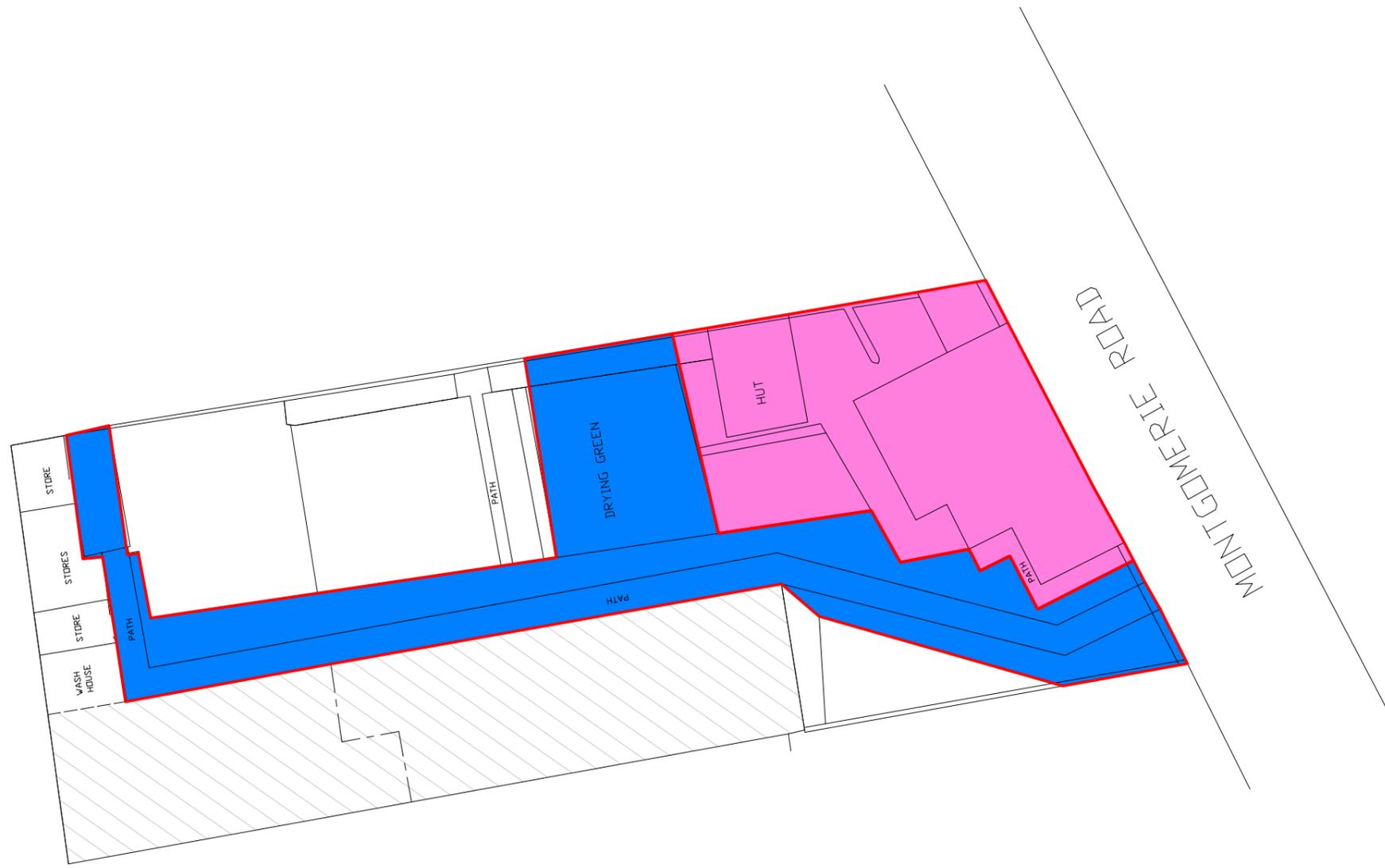
Aileen M Craig  
Head of Democratic Services

For further information please contact **Jean Law, Solicitor, Legal Services**, on **01294 324325**.

**Background Papers**

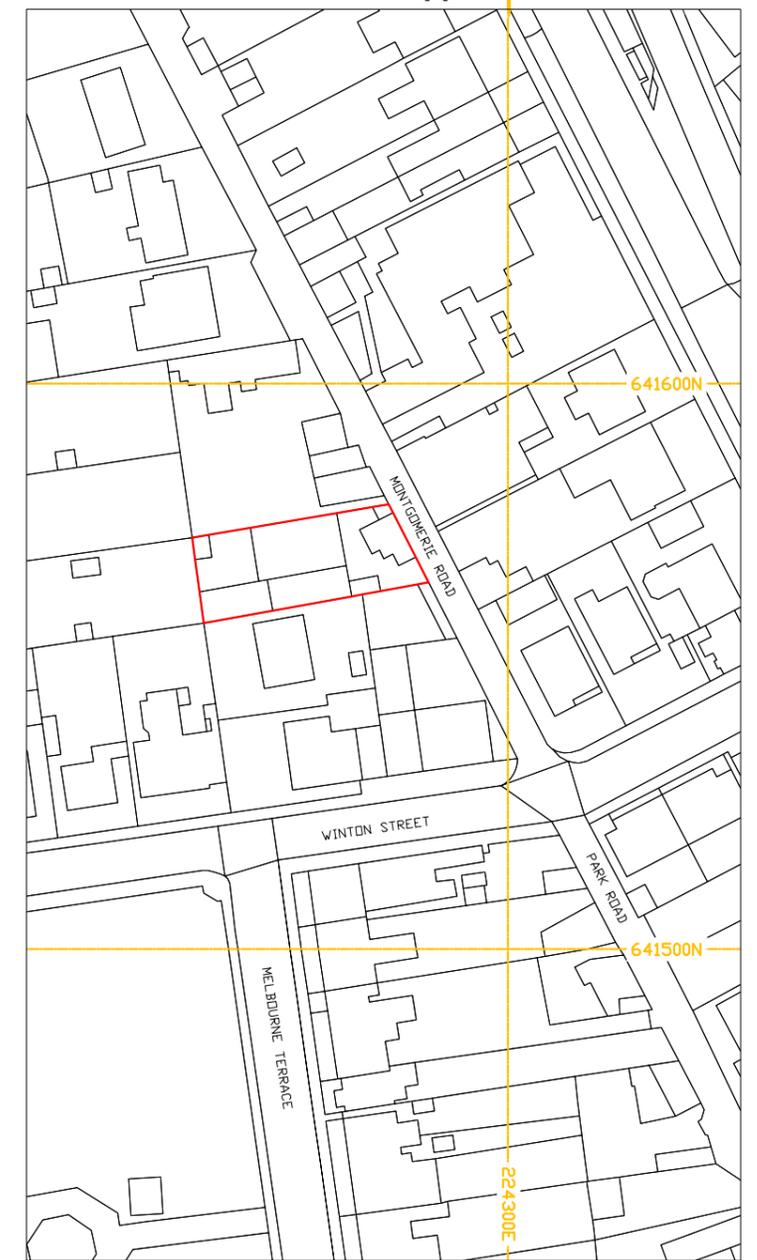
N/A

This is the plan referred to in the foregoing The North Ayrshire Council (2 Montgomerie Road, Saltcoats) Compulsory Purchase Order 2021

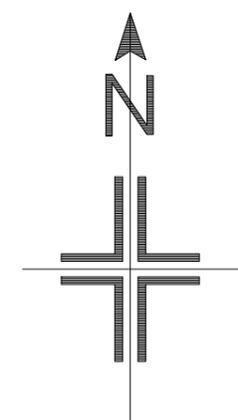


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Appendix 1



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