

## APPENDIX Two - Scrutiny Review of Derelict Buildings : Enforcement Powers and Contacts

Legislation	Purpose of legislation/Pros and Cons/ Frequency of use/Lead Service & contacts	
Town and Country Planning Act 1990 – Section 215 and Section 219	Under Section 215 the local authority have the power to remedy land and buildings adversely affecting the amenity of an area. Notices are served by the local authority requiring defined works to be undertaken within a specified time period. Where notices are not complied with and not the subject of appeal landowners can be prosecuted and face the prospect of works being undertaken by the local authority in default and being charged for them under Section 219. Very frequently used.	
	<p>Pros. Simple procedure which has delivered over 400 improved properties in Hastings over 10 years.</p> <p>Cons. Difficulties can arise in finding the owner of a property and the stages required to achieve improvement if the owner appeals and it needs to go the magistrates Court for consideration. The Council can undertake direct action in default of the owner not undertaking the work but the Council would need to find funding and there is a risk of not being able to recover the debt immediately or ever if the property has other significant debts and/or a low value.</p>	<p>Planning Service Planning Enforcement Team Marcus Berrisford, Senior Planning Enforcement Officer – Development Control 01424 783255 <a href="mailto:mberrisford@hastings.gov.uk">mberrisford@hastings.gov.uk</a></p>
Town and Country Planning Act 1990 – Section 226	<p>Compulsory Purchase Order powers – To enable local authorities to acquire land and/or buildings compulsorily for development and other planning purposes. Compulsory acquisition of land for development and other planning purposes.</p> <p>A local authority shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area -</p> <p>(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,</p> <p>(b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.</p> <p>But a local authority must not exercise the power unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects—</p>	

	<p>(a) the promotion or improvement of the economic well-being of their area;</p> <p>(b) the promotion or improvement of the social well-being of their area;</p> <p>(c) the promotion or improvement of the environmental well-being of their area.</p> <p>Rarely used.</p>	
	<p>Pros. This is a powerful tool to achieve change.</p> <p>Cons. It can be costly and time consuming to carry out. It is usually important to have a development partner to take on the property and undertake any improvement works as part of a back to back deal where the Council acquires the property through CPO powers and then immediately passes the property on recovering its costs.</p>	<p>This procedure is not undertake very frequently and the team responsible will depend on the issues involved but the most likely lead services are:</p> <p>Planning - Tim Cookson Borough Planning Officer. 01424 783201 <a href="mailto:tcookson@hastings.gov.uk">tcookson@hastings.gov.uk</a></p> <p>Housing - Andrew Palmer Head of Housing. 01424 451316 <a href="mailto:apalmer@hastings.gov.uk">apalmer@hastings.gov.uk</a></p> <p>Regeneration - Monica Adams Acton Head of Regeneration and Community Services. 01424 451749 <a href="mailto:Madams-acton@hastings.gov.uk">Madams-acton@hastings.gov.uk</a></p>
Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 54 – Urgent Works Notices	Enables local authorities to execute any works which appear to them to be urgently necessary for the preservation of a listed building. If the building is occupied, the works may be carried out only to those parts not in use. Rarely used.	
	<p>Pros. This allows local authorities to pursue owners when listed properties need urgent works.</p> <p>Cons. It required work to identify what needs to be carry out urgently when can be costly and time consuming. There is a risk the Council will not recover its costs because the it is owned by an individual or company which is outside the jurisdiction of UK law abroad. It is possible to put a charge on the property for the costs owned but this depends on the</p>	<p>Planning Service Tim Cookson Borough Planning Officer 01424 783201 <a href="mailto:tcookson@hastings.gov.uk">tcookson@hastings.gov.uk</a></p> <p>Raymond Crawford Development Control Manager 01424 783251</p>

	future sale of the property and it having sufficient value on sale to cover its debts.	<a href="mailto:rcrawford@hastings.gov.uk">rcrawford@hastings.gov.uk</a>
Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 48 – Repairs Notices Section 47 – Compulsory acquisition of listed building in need of repair.	Enables local authorities to serve a Repairs Notice on the owner of a listed building specifying those works which it considers reasonably necessary for the proper preservation of the building. If after a period of not less than two months, it appears that reasonable steps are not being taken for its proper preservation, the local authority can begin compulsory purchase proceedings under Section 47. Rarely used.	
	Pros. Allows the local authority to seek repairs to listed buildings Cons. It can involve considerable time and expenditure in drawing up schedules of required repair works. It is usually a precursor to Compulsorily Purchase a property. Therefore the Council would need to realise it may end up owning the property unless it has arranged for a development partner to immediately take on the ownership through a back to back deal.	Planning Service Tim Cookson Borough Planning Officer 01424 783201 <a href="mailto:tcookson@hastings.gov.uk">tcookson@hastings.gov.uk</a> Raymond Crawford Development Control Manager 01424 783251 <a href="mailto:rcrawford@hastings.gov.uk">rcrawford@hastings.gov.uk</a>
Building Act 1984 – Section 76 – Defective premises	If a building is prejudicial to health or a nuisance the local authority may take action to remedy the defective state having given notice and allowed the owner the opportunity to remedy the matter prior to local authority action. Occasionally used.	
	Pros. Very similar to a Notice from Section 80 of the Environmental Protection Act (EPA) 1990 in what can be achieved under this. All costs are recoverable and a charge against the property (a first charge at the discretion of the Council) Cons. It can be used where using Section 80 of the EPA would cause undue delay, which is in practice is rare, so Section 80 is almost always used.	Housing Service Andrew Palmer Head of Housing. 01424 451316 <a href="mailto:apalmer@hastings.gov.uk">apalmer@hastings.gov.uk</a> Mark Preston Housing Renewal Manager 01424 451443 <a href="mailto:mpreston@hastings.gov.uk">mpreston@hastings.gov.uk</a> Environmental Health, Parking & Highways Service Mike Hepworth Head of Service 01424 783332 <a href="mailto:mhepworth@hastings.gov.uk">mhepworth@hastings.gov.uk</a> Gregory Casey Environmental Protection Manager 01424 783221 <a href="mailto:gcasey@hastings.gov.uk">gcasey@hastings.gov.uk</a>

Building Act 1984 – Section 77 - Dangerous building	Allows the local authority to apply to a magistrates' court for an order for a dangerous building or structure to be made safe or demolished. Only applicable where the building is actually dangerous, not merely dilapidated. Occasionally used.	
	Pros. If we get a court order, we can do the work if the owner defaults. Useful if there are multiple owners. No compensation (see s78). Cons. Have to apply to magistrate's court. Recovery of costs is by civil debt only.	Planning Service Brian Bristow Building Control Manager Building Control Section 01424 783280 <a href="mailto:bbristow@hastings.gov.uk">bbristow@hastings.gov.uk</a>
Building Act 1984 – Section 78 - Dangerous building – emergency measures	Allows the local authority to take steps to remedy a building or structure which is considered to be structurally dangerous and recover any reasonable expenses incurred. Before exercising their powers the local authority shall, if it is reasonably practicable to do so, give notice to the owner and occupier of the building or of the premises on which the structure is situated. The authority may be liable to pay compensation to recipient of notice if they have suffered loss as a result of the authority's actions. Only applicable where the building is actually dangerous, not merely dilapidated. Frequently used.	
	Pros. Immediate action can be taken. Can put a charge on the property for work done. Cons. Action has to be immediate (if not, use s77). Liability to pay compensation to third parties if access to their premises is denied.	Planning Service Brian Bristow Building Control Manager Building Control Section 01424 783280 <a href="mailto:bbristow@hastings.gov.uk">bbristow@hastings.gov.uk</a>
Building Act 1984 – Section 79 (Ruinous and dilapidated buildings and neglected sites)	If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner to execute such works of repair or restoration or to take steps to demolish the building or structure or part and remove any rubbish or other material resulting from or exposed by the demolition. Rarely used.	
	Pros. A means of requiring improvement to property by the owner. Cons. More limited in possible coverage than Section 215 of the Planning Act 1990.	Planning Service Planning Enforcement Team Marcus Berrisford Senior Planning Enforcement Officer – Development Control 01424 783255 <a href="mailto:mberrisford@hastings.gov.uk">mberrisford@hastings.gov.uk</a>
Law of Property Act 1925 – Section 103 Enforced sale	Power to force the sale of a property when a local authority is seeking to recover debt owed to the local authority having undertaken work directly to rectify a problem such as a dangerous structure or unsightly land and buildings adversely affecting the amenity of an area. The authority would have a charge registered against the title of the property. Rarely used at present but likely to be used more frequently.	
	Pros. Allows the Council to recover debt when work has been	A power not used by this Council but could be

	<p>undertaken by the Council because the owner has been unwilling or unable to undertake.</p> <p>Is a relatively swift process, with minimal extra costs to the Council. The Council does not take ownership of the property but has the right to force the sale, usually by auction.</p> <p>Cons. Can be time consuming to pursue and can be costly in respect of undertaking any works required (though this is part of the original enforcement notice rather than the enforced sale). The property may not sell or the price achieved may not be sufficient to cover the debt. There is no control over who the future owner will be which means there is less certainty over the building being used for preferred purposes.</p>	<p>used in a number of situations where the Council is seeking to recover debt having undertaken direct action to rectify the relevant matter. The most relevant service users for derelict buildings are:</p> <p>Planning Service Tim Cookson Borough Planning Officer <a href="mailto:tcookson@hastings.gov.uk">tcookson@hastings.gov.uk</a> Housing Services Andrew Palmer Head of Housing 01424 451316 <a href="mailto:apalmer@hastings.gov.uk">apalmer@hastings.gov.uk</a> Mark Preston Housing Renewal Manager 01424 451443 <a href="mailto:mpreston@hastings.gov.uk">mpreston@hastings.gov.uk</a> Environmental Health, Parking &amp; Highways Service Mike Hepworth Head of Service 01424 783332 <a href="mailto:mhepworth@hastings.gov.uk">mhepworth@hastings.gov.uk</a></p>
Local Government (Miscellaneous Provisions) Act 1982 – Section 29 Protection of buildings	Where it appears to a local authority that a building is unoccupied and that it is not effectively secured against unauthorised entry or is likely to become a danger to public health, the local authority may undertake works to prevent unauthorised entry to it, or to prevent it becoming a danger to public health. Rarely used.	
	<p>Pros. Does not have to actually be dangerous. Can recover the costs from the owner of the property.</p> <p>Cons. Cannot put a charge on the property for work done.</p>	<p>Planning Service Brian Bristow Building Control Manager Building Control Section 01424 783280 <a href="mailto:bbristow@hastings.gov.uk">bbristow@hastings.gov.uk</a></p>
Housing Act 2004 - Sections 11 & 12 Improvement Notices.	<p>Powers to require improvements/repairs to residential buildings (whether empty or not). Powers to close or restrict the occupation of residential buildings (whether empty or not).</p> <p>Powers to make emergency repairs without prior notice if there is an imminent risk to safety, in residential</p>	

<ul style="list-style-type: none"> <li>- Sections 20, 21 and 43 Prohibition Orders.</li> <li>- Section 40 Emergency Remedial Action.</li> <li>- Section 46 Demolition Orders.</li> <li>- Sections 101 -131 Management Orders.</li> <li>- Section 132 Empty Dwelling Management Orders.</li> </ul>	<p>buildings.</p> <p>Powers to demolish residential buildings (connected with the Housing Act 1985).</p> <p>Sections 11 &amp; 12 used very frequently. Sections 20, 21, 43 &amp; 40 used frequently. Section 46 used occasionally. Sections 101 -131 &amp; 132 used rarely.</p>	
	<p>Pros.</p> <p>Wide application:</p> <ul style="list-style-type: none"> <li>– can be used to require improvements, repairs for a wide variety of issues.</li> <li>– used to restrict, limit or prohibit use of a property for uses or types of people, e.g. stop a 3<sup>rd</sup> floor being used for residential accommodation or stop a room from being used by a children, etc.</li> <li>– emergency powers for immediate action to either make repairs or close a property where there is an imminent risk to health and safety of the occupants.</li> <li>– can be used to require the demolition of property where this is the Most Satisfactory Course of Action, e.g. where the cost of renovation outweighs the value of the property.</li> </ul> <p>Works in default can be undertaken and the costs of this as well as the officer and administrative costs recovered</p> <p>Charges can be made for taking the various enforcement actions.</p> <p>All costs are a charge against the property (a 1<sup>st</sup> charge at the discretion of the Council)</p> <p>Cons.</p>	<p>Housing Services</p> <p>Andrew Palmer Head of Housing</p> <p>01424 451316</p> <p><a href="mailto:apalmer@hastings.gov.uk">apalmer@hastings.gov.uk</a></p> <p>Mark Preston Housing Renewal Manager</p> <p>01424 451443</p> <p><a href="mailto:mpreston@hastings.gov.uk">mpreston@hastings.gov.uk</a></p>

	<ul style="list-style-type: none"> <li>– Is limited to residential accommodation though this can be empty and occupied.</li> <li>– Recovery of costs can be slow and are at risk if there is insufficient equity in the property to cover the costs.</li> <li>– Can't deal with the appearance of a property, unless its part of other works connected with improvements/repairs, e.g. rendering falling giving rise to a safety issue, which necessitates the need for the rendering to be renewed.</li> </ul>	
Housing Act 1985 – Section 17	Power to Compulsory Purchase (CPO power) residential buildings (and other associated land) (whether empty or not). Used rarely.	
	<p>Pros. This CPO power can be used to acquire a unit of residential accommodation or many units of residential accommodation and any associated land. This can then lead to refurbishment, demolition and development of other residential accommodation. The Council can apply conditions to the sale of the property, requiring renovation/use, etc. (this may have an adverse effect on the sale price). If the CPO is unchallenged can be a swift process.</p> <p>Cons. This CPO power is limited to the acquisition of residential property and associated land. It can be costly with extra costs associated with the legal process and proceedings unrecoverable.</p> <p>Can be time consuming to carry out, especially in the preparation of the supporting evidence to show the property fails the requirements of the Act and that CPO is the most satisfactory course of action to achieve the desired result (Neighbourhood Renewal Assessment).</p> <p>It is usually important to have a development partner (depending on the end use) to take on the property and</p>	<p>Housing Services            Andrew Palmer Head of Housing            01424 451316  <a href="mailto:apalmer@hastings.gov.uk">apalmer@hastings.gov.uk</a>            Mark Preston Housing Renewal Manager            01424 451443  <a href="mailto:mpreston@hastings.gov.uk">mpreston@hastings.gov.uk</a></p>

	undertake any improvement works as part of a back to back deal where the Council acquires the property through CPO powers and then immediately passes the property on recovering its costs.	
Local Government and Housing Act 1989 - Section 93	Compulsory Purchase Order powers in a Housing Renewal Area – land and buildings (and other associated land). Used rarely.	
	<p>Pros. This CPO power can be used to acquire premises and residential accommodation for the purposes of housing improvements, improving the wellbeing of persons and securing effective management of housing. It can also be used for the acquisition of land for the purposes of improvements to the amenities of the area.</p> <p>The Council can apply conditions to the sale of the property, requiring renovation/use, etc. (this may have an adverse effect on the sale price). If the CPO is unchallenged can be a swift process.</p> <p>Cons. This CPO power is limited to a declared housing renewal area, i.e. Central St Leonards. It can be costly with extra costs associated with the legal process and proceedings unrecoverable. Can be time consuming to carry out. It is usually important to have a development partner (depending on the end use) to take on the property and undertake any improvement works as part of a back to back deal where the Council acquires the property through CPO powers and then immediately passes the property on recovering its costs.</p>	<p>Housing Services            Andrew Palmer Head of Housing            01424 451316  <a href="mailto:apalmer@hastings.gov.uk">apalmer@hastings.gov.uk</a>            Mark Preston Housing Renewal Manager            01424 451443  <a href="mailto:mpreston@hastings.gov.uk">mpreston@hastings.gov.uk</a></p>
Environmental Protection Act (EPA) 1990 – Sections 79 – 82	Powers to deal with premises that are in a state prejudicial to health or a nuisance. Sections used frequently but not necessarily for derelict property issues.	
	Pros. Likely to be used when a property is physically	Environmental Health, Parking & Highways

	<p>affecting another. The Council can do the required work in default of the persons responsible.</p> <p>Cons. A high level of interference is required before such action can be taken. Costs may not be recovered for a considerable time.</p>	<p>Service</p> <p>Mike Hepworth Head of Service 01424 783332 <a href="mailto:mhepworth@hastings.gov.uk">mhepworth@hastings.gov.uk</a></p> <p>Gregory Casey Environmental Protection Manager 01424 783221 <a href="mailto:gcasey@hastings.gov.uk">gcasey@hastings.gov.uk</a></p>
Prevention of Damage by Pests Act 1949 – Section 4	<p>Power to require works to destroy and prevent rodents (rats and mice only) including proofing works to rectify damage and prevent entry by rodents. Used occasionally.</p>	
	<p>Pros. Can allow rapid action, No right of appeal against the notice.</p> <p>Cons. Limited to issues relating to rodents.</p>	<p>Environmental Health, Parking &amp; Highways Service</p> <p>Mike Hepworth Head of Service 01424 783332 <a href="mailto:mhepworth@hastings.gov.uk">mhepworth@hastings.gov.uk</a></p> <p>Gregory Casey Environmental Protection Manager 01424 783221 <a href="mailto:gcasey@hastings.gov.uk">gcasey@hastings.gov.uk</a></p>