

ANGUS COUNCIL

NEIGHBOURHOOD SERVICES COMMITTEE – 16 APRIL 2009

CLOSING ORDER

REPORT BY THE DIRECTOR OF INFRASTRUCTURE SERVICES

ABSTRACT

To make a Closing Order on a house reported herewith which fails to meet the “Tolerable Standard”.

1. RECOMMENDATIONS

1.1 It is recommended that Members approve the making of a Closing Order on:-

- (i) First Floor Flat, 9 Victoria Street, Forfar, Angus, DD8 3HU

2. BACKGROUND

2.1 The Housing (Scotland) Act 1987 (as amended) makes provision for the local authority to place a closing order on a house, if the authority is satisfied that the house is unfit for human habitation whereby it fails to meet the Tolerable Standard as prescribed in the Act. The property details are as follows:-

- The property is unoccupied.
- The property is a stone built first (upper) floor flat with slated roof. It consists of an entrance hallway, living room, kitchen and three bedrooms and a shower room with toilet, basin and shower.
- The property is not substantially free from rising or penetrating damp. High moisture level readings were identified on internal wall and ceiling surfaces and exposed roof trusses were also assessed as being significantly damp.
- The property had no fixed space or water heating appliances other than an unsatisfactory hot water heater supplying the wash basin in the shower room.
- The owner of the property is Mr Colin McCafferty, 68 Gray Street, Lochee, Dundee, DD2 2QZ

3. HUMAN RIGHTS

3.1 Article 1 of The First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions. By making a closing order on this property, the Council would be denying the owners the right to occupy their property. It is a criminal offence to occupy property which has a closing order made over it.

3.2 The Article is, however, qualified in that it allows the State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. It is suggested that due to the nature of the defects referred to above, the Council would be entitled to make the Closing Order notwithstanding that the property is unoccupied.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications.

5. EQUALITIES IMPLICATIONS

5.1 The issues dealt with in this Report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

6. SINGLE OUTCOME AGREEMENT

6.1 This report contributes to the following local outcome(s) contained within the Single Outcome Agreement for Angus.

- Good quality housing is available throughout Angus.

7. CONSULTATION

The Chief Executive, Director of Corporate Services, Head of Law and Administration and Head of Finance have been consulted on the contents of this report.

Eric S Lawson
Director of Infrastructure Services

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

E&CP/IW/GK
26/02/2009