

LOCAL GOVERNMENT ACT 2000

REGISTER OF URGENT  
DECISIONS TAKEN BY THE  
CHIEF EXECUTIVE

NORTH DEVON COUNCIL CONSTITUTION

– Part 3 Annexe 2: Officer Delegations –  
Chief Executive



Reference No:

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1) SUBJECT: Dangerous Structure Rustic Cottage Gunn  
Ref No. 20/0539/DS

2) REQUESTED DECISION:

Approval of instruction to contractor to carry out works to make the building safe at an estimated total cost of £65,789.00 + VAT without complying with the Contract Procedure Rules

3) STATEMENT OF THE REASONS FOR THE REQUEST AND WHY IT IS URGENT:

Rustic Cottage is in imminent danger of collapse which will impact both the adjacent highway and cause potential damage to the neighbouring semi-detached property. Action is required under Section 78 of the Building Act 1984 to remove the danger. There is an immediate danger and a cordon cannot be created to protect members of the public action is therefore required that cannot be delayed to enable a tendering process.

Work to demolish Rustic Cottage has already taken place at a cost of £27,370 plus VAT. However, this has left the former party wall which now forms the gable end to the neighbouring cottage exposed and the front elevation of the cottage in an unstable condition. Hence, in conjunction with the demolition works it is necessary to carry out reinstatement works to the gable end to ensure that it is left in a condition that prevents water ingress and ensures that it is structurally sound. Due to the water ingress into the cob construction this is a complex multi staged operation and the cost estimate is £38,419.00 plus VAT.

Complying with the Contract Procedure Rules by following a procurement process would not have been appropriate given the fact that the works are by definition urgent. Because of the prospect of worsening weather, the second phase of the works, to make the adjoining property weather proof, are also required urgently.

4) FINANCIAL IMPLICATIONS: (NOTE: Please state if there are any financial implications. If so, state whether there are sufficient funds within the agreed budget. If there are insufficient funds please state how the decision will be financed).

Under Section 78 of the Building Act the cost of emergency work can be recharged to the owner of the property.

There is a financial risk as the owner could potential legally challenge the Local Authority on the basis that the works were more than the minimum required to

make the structure safe. However, it is considered that this risk is mitigated by the supporting dangerous structure report 20/0539/DS

5) ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

1. Do nothing was considered but this was not viable due to the danger to the public.
2. Action under Section 77 of the Building Act to obtain a Court Order requiring the building to be made safe. This was dismissed as the building need to be made safe without delay.
3. Action under Section 78 of the Building Act 1984 to shore up the building was considered but dismissed due to,
  - Scaffolding would need to be extensive both internal and external
  - There is not a safe working environment to erect the internal scaffold
  - There is a history of the owner being unresponsive and therefore the scaffold would most likely remain in place resulting in on-going higher costs in the medium to long term.
  - Temporary works would not prevent further deterioration of the cob construction due to water penetration potentially leading to partial collapse of the neighbouring building.

6) A RECORD OF ANY CONFLICT OF INTEREST DECLARED:

None

7) A NOTE OF ANY DISPENSATION IF GRANTED:

None

8) LIST OF BACKGROUND PAPERS (but not including published works or those which disclose exempt or confidential information (as defined in paragraph 10.4 and 10.5 of the Access to Information Procedural Rules Part 4 of the Constitution):

Dangerous Structure Report 20/0539/DS

10) CONSULTATION UNDERTAKEN:

The following have been consulted on this urgent decision:

Consultee	Consulted Yes/No	Date
Leader of Council ( <i>or Deputy Leader</i> )	Yes	27.8.20

Chair of Committee (with the Authority to take the decision) (or Vice-Chair)		
Lead Member		
Ward Member (Cllr Luggar)	Yes	29/06/2020
Head of Service (Michael Tichford)	Yes	29/06/2020
Finance		
Legal (Trevor Blatchford)	Yes	22/06/2020

11) OFFICER REQUESTING URGENT DECISION TO BE TAKEN BY THE CHIEF EXECUTIVE:  
Mike Tucker – Building Control Manager

12) APPROVED BY CHIEF EXECUTIVE: YES or NO

13) DATE OF DECISION:  
28<sup>th</sup> August 2020



14) CHIEF EXECUTIVE'S COMMENTS:

It is essential that the works take place to protect the adjoining properties and the public and so I am happy to support this provided recovery from the landowner takes place..

15) DATE TO BE PRESENTED TO STRATEGY AND RESOURCES COMMITTEE:

October 2020

## GUIDANCE NOTES

NOTE:

PROCEDURE FOR URGENT DECISIONS:

1. Completed form to be passed to the Chief Executive following consultation with the interested parties.
2. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).
3. The Chief Executive will make his decision.

## **PROCEDURE FOR URGENT DECISION MAKING AS PER THE CONSTITUTION**

### **Officer Delegations: the Chief Executive:**

#### **Urgent Decision Making**

- 3.48 To take a decision on any matter falling within the remit of any Committee in cases of urgency where it is not reasonably practicable to obtain prior approval of a Committee SUBJECT TO:
  - 3.48.1 the prior consultation, where practicable, with the Leader or Deputy Leader and the Chair or Vice Chair of the relevant Committee, and
  - 3.48.2 the proviso that this power will not extend to the determination of any application submitted pursuant to the Planning Acts or under the Licensing Act 2003 or the Gambling Act 2005, and
  - 3.48.3 the decision being reported to the next meeting of the relevant Committee and the next meeting of Strategy and Resources Committee.