

Urgent Works Notice re Pine Court, 84/85, 86/87, 88/89 and 91 Kirkgate, Leeds City Centre

Date: 29th July 2024

Report of: Team Leader Heritage Landscape and Biodiversity

Report to: Chief Planning Officer

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Pine Court, 84/85, 86/87, 88/89 and 91 Kirkgate are 18th century buildings at the southern end of Kirkgate in the City Centre Conservation area which has been the subject of longstanding regeneration initiatives. As such, they make a positive contribution to the setting of nearby listed buildings, including the recently restored grade II* First White Cloth Hall, as well as the wider City Centre Conservation Area. There has been a significant collapse of the frontage of 85 Kirkgate and the condition of the other properties is deteriorating, which detracts from nearby listed buildings and the conservation area, and is holding back regeneration.

It is recommended that the Council serves an urgent works notice on the owner and other interested parties, which would allow the Council to carry out specified emergency works should they not be implemented by the property owner. The Council would then seek to recover the costs of the works. Accordingly, this report also seeks authority to spend of up to £700,000 to cashflow emergency works if required.

Recommendations

The Chief Planning Officer is requested to :-

- a) Note, that, subject to approval by the Secretary of State for Housing, Communities and Local Government, an urgent works notice is served on the owner (City Fusion) and other interested parties in regards to Pine Court, 84/85, 86/87, 88/89 and 91 Kirkgate, Leeds City Centre.
- b) Note, that, in the event that the owner defaults on the notice, the Council will carry out the urgent works specified in the notice.
- c) Approve a transfer from the Strategic & Central existing capital programme of £700k, to City Developments 2024/25 Asset Management programme and grant authority to spend for up to £700,000, to cashflow emergency works if required.
- d) Note that the Council will seek to recover the cost of the urgent works.

What is this report about?

- 1.0 It is the Council's intention to promote the refurbishment and restoration of properties in Lower Kirkgate, Leeds' first street, and consolidate the positive restoration that has already been delivered such as the First White Cloth Hall. This report sets out the recent history and context of lower Kirkgate, detailing the regeneration initiative, the importance of Pine Court, 84-85, 86-87, 88/89 and 91 Kirkgate (hereafter referred to as "the Kirkgate properties"), the condition of the properties and the need to use the Council's statutory powers to ensure that emergency works are carried out to halt their deterioration, including at 84/85 which has partially collapsed.

Background

- 1.1 Kirkgate, meaning "Church Street" in Old Norse, has early medieval origins and is Leeds' first street. The south side of lower Kirkgate, including the properties that would be the subject of the urgent works notice, is particularly rich in heritage and has probably the most complete run of 18th century properties in the city centre.
- 1.2 Like most of the fringe areas of the city centre, lower Kirkgate was affected by deindustrialisation and depopulation after the Second World War which impacted upon the historic environment through clearance and disrepair. It has therefore been a longstanding priority to secure regeneration of the street. A Lower Kirkgate Planning Statement was adopted in 2011 to agree basic objectives and parameters for the sensitive regeneration and restoration of the area, providing informal guidance for developers and landowners, with the vision of securing the historic fabric of the lower Kirkgate and promoting sustainable development.
- 1.3 The area was the focus of a successful bid by the Council to the National Lottery Heritage Fund (NLHF) for a Townscape Heritage Initiative (THI) scheme, which began in 2013. This scheme seeks to drive heritage-led regeneration, predominantly through the repair of buildings, reinstatement of traditional features and public realm improvements.
- 1.4 There have been many successful outcomes from the scheme, including five refurbishments to a high-quality conservation standard which are occupied by independent businesses. Following the intervention of the Council, the grade II* First White Cloth Hall (formerly in the ownership of City Fusion) has been restored with a £500,000 grant from the THI scheme and further £500,000 secured from Historic England towards the redevelopment.
- 1.7 86/87 Kirkgate suffered a serious fire in 2023 and remains in a fragile condition. 84/85 Kirkgate has suffered a partial collapse and its perilous condition is threatening the stability of 84, and has further compromised the structural condition of 86/87. There have been other incidents of structural failure and fires affecting properties in the ownership of City Fusion, including the First White Cloth Hall which was partially demolished in 2011 following the collapse of the neighbouring 101 Kirkgate.
- 1.8 To ensure that there is no further collapse of 84/85 and to preserve the condition of Pine Court and 86/87, 88/89 and 91, the Council has asked the owner to carry out emergency works contained in a draft urgent works notice. To date, no works have been progressed.

Heritage significance of Kirkgate properties

- 1.9 The Kirkgate properties are situated in the south-eastern fringe of Leeds City Centre separated from Leeds Minster by the Victorian railway viaduct (see attached location plan). They are of a similar appearance, consisting of party wall properties that form part of a continuous red brick frontage on the south side of Kirkgate shown in the attached photograph. They have double-depth floorplans (i.e. a room behind a room) or in the case of 91 Kirkgate

single-depth with later rear outshuts (rear extensions) with ridge lines running parallel to the street.

- 1.10 Kirkgate originated in the early medieval period, leading from the centre of the settlement to the parish church. The street was lined with tofts which were regular groups of long thin plots of land within which lay a rural domestic dwelling (croft). From the late medieval period, the street became associated with cloth manufacturing, and in 1711, the First White Cloth Hall was constructed on the street along with merchant's houses.
- 1.11 The present Kirkgate properties date from the second half of the 18th century when the wealth and size of Leeds increased dramatically and the medieval timber frame buildings were replaced with brick-built "polite" three-storey Georgian properties. These were mixed use properties with residential accommodation over shops to serve a burgeoning middle-class in search of consumer goods.
- 1.12 The north side of Kirkgate was moved back when the road was "improved" or widened to ease congestion, but the south side remains on its original building line. Although the plots have been redeveloped several times, it is still possible to discern the boundaries of the medieval tofts in regular intervals of the party walls and the jumps in the ridge lines as the properties manage the gentle slope of the street.
- 1.13 The regular rhythm of the façade lends a consistent and attractive townscape, further unified by the use of a bright orange/red brick and further enriched by individuality of detailing of each property. The tight enclosure of the street and the domestic scale contrast pleasingly with the larger Victorian buildings and civic scale of the spaces which characterise the majority of the conservation area.
- 1.14 In summary, the Kirkgate properties have historical significance as well-preserved examples of 18th century properties built as mixed-use accommodation with retail use at ground floor, which in their building line and property boundaries delineate the medieval layout of the street. They also have architectural value as part of an attractive and consistent piece of townscape. They contribute positively to the setting of the grade II* First White Cloth Hall and are positive features of the City Centre Conservation Area.

Condition of Kirkgate properties

- 1.15 The Kirkgate properties have not received regular maintenance for decades, which has resulted in their condition being poor - a situation significantly worsened by the sudden collapse of the façade of 84/85 and a serious fire at 86/87. All the buildings are unoccupied apart from 91, which has a shop at ground floor. The condition of the properties can be summarised as follows:
 - 84/85 Kirkgate: the façade of no85 collapsed in March and consequently the roof and the floor are lacking support. The adjacent 84 Kirkgate oversails Pine Court, which following the collapse of 84/85 is bearing precariously on a thin wall without lateral support.
 - 86/87 Kirkgate: this property suffered a fire in December 2023 that destroyed the roof and the floors and has left the interior exposed to the elements. The tops of the walls will be vulnerable to rain ingress and freeze-thaw resulting in the further decay of the fabric. The partial collapse of no85 has left the party wall without lateral support.
 - 88/89 Kirkgate: the roof of the property has been patch repaired many times and the junctions with the walls and chimney are open allowing rain to penetrate.
 - 91 Kirkgate: the rainwater goods (gutters and downpipes) are not working and the façade is showing signs of saturation.
- 1.16 Pine Court, 84/85 and 86/87 Kirkgate require urgent structural intervention to prevent further structural failure of the property and the neighbouring properties. 87/88 and 91 require repairs to halt the slow deterioration that, unchecked, would eventually lead to structural failure.

Urgent works notice

- 1.17 The statutory power best suited to preserve the Kirkgate properties (see 6) is s.54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), which enables a local authority to carry out urgent works for the preservation of listed buildings in their area after giving notice to the owner. These powers can be used only in respect of an unoccupied building, or the unused part of a partly occupied building.
- 1.18 As the Kirkgate buildings are not listed, the Council must seek the permission of the Secretary of State to direct (after consulting Historic England) that the s.54 powers shall apply to unlisted buildings in a conservation area, making the case that their preservation is important for maintaining the character or appearance of that area. The Department for Science, Innovation and Technology and Department for Culture, Media and Sport statutory guidance says that the Secretary of State will "consider sympathetically requests to make such a direction in respect of an unlisted building which makes a positive contribution to a conservation area".
- 1.19 The attached schedule of urgent works is the same schedule that was attached to the draft urgent works notice previously issued to the owner. The works comprise a security fence on the rear boundary of the properties, temporary propping and shoring of Pine Court, 84/85 and 86/87 Kirkgate to prevent further collapse, a temporary protective canopy erected over 84/85 and 86/87, fixing a temporary roof covering and new gutter and downpipe to 88 Kirkgate and new gutter and downpipe to 91.
- 1.20 The Act requires the notice to be served on the owner or occupier and anyone else with a legal interest in the land (e.g., a mortgagee, tenant or executors of the owner) either as shown on the Land Register or revealed as the result of a Requisition for Information Notice from the freeholder. The owner must be given a minimum of seven days' written notice of the intention to carry out works and in this case it is recommended that the minimum period is specified given the urgency of the required works.
- 1.21 The Council can recover from owners the cost of urgent works carried out under these provisions, subject to the owner's right to make representations to the Secretary of State. Representations may be made on the grounds that:
- some or all of the works were unnecessary for the preservation of the building; and/or
 - in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; and/or
 - the amount specified in the notice is unreasonable; and/or
 - the recovery of that amount would cause them hardship.
- 1.22 The Act provides that the Secretary of State will take all such representations into account before determining the amount to be recovered and will be particularly concerned to establish whether the works carried out were the minimum required to secure the building's preservation and prevent further deterioration. If an authority intends to attempt to recover the cost of the works, the financial circumstances of the owner should be taken into account at the outset and any sums the authority wishes to recover from an owner should not be unreasonable in relation to his or her means.

What impact will this proposal have?

2.0 The service of an urgent works notice enabling the Council carry out emergency repairs in default will help to secure the preservation of positive buildings in the City Centre Conservation Area. The repair of the buildings will also decrease the risk of further building failure and the threat to public safety and allow the re-opening of lower Kirkgate to traffic. It will also improve the trading conditions of local businesses and safeguard the regeneration of this part of the city centre.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

Health and Wellbeing

Historic buildings are part of the cherished local scene and their repair and retention enhances the feeling of belonging and shared ownership of the built environment.

Inclusive growth

The repair of historic buildings is labour intensive, often drawing on the skills of local subcontractors. The scale, arrangement and cost of listed buildings also tends to suit local start-up firms rather than national companies.

Zero carbon

The repair and re-use of listed buildings is an intrinsically sustainable form of development, minimising the use and waste of scarce resources associated with demolition and redevelopment and helping to achieve sustainable growth.

What consultation and engagement has taken place?

Wards affected: City and Hunslet

Have ward members been consulted? Yes No

Ward members have been consulted as part of best practice via a Teams Meeting where two ward members attended. They were supportive of the Council taking action and serving an urgent works notice.

Councillor Pryor, Portfolio Holder, and Councillor Bithell, Scrutiny Chair, have been consulted and are supportive of an urgent works notice being served.

The Chief Financial Officer has been consulted in respect of the financial implications arising from this action.

What are the resource implications?

3.0. As previously detailed, this report seeks authority to spend for up to £700,000 from the Council's existing capital programme to provide the necessary cashflow to undertake the works at pace.

3.1 In the event that the Council has to carry out the works, it will seek to recover the costs from the owner.

3.2 The Chief Finance Officer has been consulted and is supportive of this approach.

Capital funding and cash flow table

Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2024 £000's	FORECAST			
			2024/25 £000's	2025/26 £000's	2026/27 £000's	2027 on £000's
LAND (1)	0.0					
CONSTRUCTION (3)	700.0		700.0			
FURN & EQPT (5)	0.0					
INTERNAL DESIGN FEES (6)	0.0					
OTHER FEES / COSTS (7)	0.0					
TOTALS	700.0	0.0	700.0	0.0	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2024 £000's	FORECAST			
			2024/25 £000's	2025/26 £000's	2026/27 £000's	2027 on £000's
LCC Corporate Borrowing	700.0		700.0			
Revenue Contribution	0.0					
Capital Receipt	0.0					
Total Funding	700.0	0.0	700.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0

3.3 There are no revenue implications within this report.

What are the key risks and how are they being managed?

- 4.0 There is a risk that the Secretary of State may determine that not all the costs incurred may be recovered from the landowner. To mitigate this risk, the Council will ensure that the works are limited to those permitted under the Act and that it has evidence to counter any representations made to the Secretary of State by the landowner and has carried out financial due diligence in respect of the landowner.
- 4.1 The amount that can be recovered will be secured by a local land charge, in the event that this security needs to be called on to recover any Council monies expended on the works.

What are the legal implications?

- 5.1 From the date of the Secretary of State's determination the expenses and any interest are, until recovery, a charge on the land on which the building stands. The charge takes effect at that time as a legal charge which is a local land charge. The local land charge will bind existing and future owners and other parties with existing interests in the land at the date of creation of the local land charge (including existing mortgagees). The local land charge will take priority over existing legal charges.
- 5.2 As the local land charge is a financial charge, the local authority has all the remedies available to a mortgagee under section 101 of the Law of Property Act 1925. A financial charge takes effect as if it had been created by deed of charge by way of a legal mortgage (section 7, Local Land Charges Act 1975)
- 5.3 The proposal constitutes a key decision. A key decision may be Exempt from Call In if the decision taker considers that the decision is urgent (i.e. that any delay would seriously damage the Council's or the public's interests). This decision is exempt from call-in as the works required to prevent further deterioration of the properties are urgent and any delay would seriously prejudice the Council's or the public's interests. For this reason, it is proposed that this report should be considered to be of special urgency and is exempt from Call-in.
- 5.4 If a matter which is likely to be a Key Decision has not been included in the List of Forthcoming Key Decisions for 28 clear calendar days before the decision is planned to be taken and the decision must be taken by such a date that it is impracticable to defer the

decision until the decision has been included in the List of Forthcoming Decisions for 28 clear calendar days, the decision may still be taken if:

- a) a copy of the agenda for the meeting or the delegated decision notice has been forwarded to the chair of the relevant Scrutiny Board; and
- b) a copy of that agenda or delegated decision notice has been published on the Council's website; and
- c) at least 5 clear working days have elapsed since compliance with these requirements.

Options, timescales and measuring success

What other options were considered?

6.0 There are various statutory powers that the Council could use to secure improvements to the Kirkgate properties which have been discounted in favour of the recommended urgent works notice:

- Section 78 Building Act notice (dangerous structure) relates to emergency measures to remove danger to the public. The closure of lower Kirkgate has removed the danger posed to the public and the need to take further action through the Building Act has been averted.
- Section 79 the Building Act notice where a building or structure is, by reason of its ruinous or dilapidated condition, seriously detrimental to the amenities of the neighbourhood. This notice carries the risk that the owner can choose to demolish the building rather than carry out the specified works for repair or restoration.
- Section 215 notice (otherwise known as an untidy land notice) to secure the external visible appearance of land or building. This option would not address the poor condition of the properties and halt further deterioration and is therefore not considered to be the best statutory provision for the Kirkgate properties.
- Repairs notice to specify repairs for the long-term preservation of the building. This option cannot address unlisted buildings in a conservation area and is therefore not applicable to the Kirkgate properties.

How will success be measured?

7.0 The success of serving an urgent works notice can be measured through the implementation of the emergency works specified in the notice, either by the owner or the City Council in default. Following implementation, the Kirkgate properties will be the subject of regular inspections to monitor their condition and further action taken if necessary.

What is the timetable and who will be responsible for implementation?

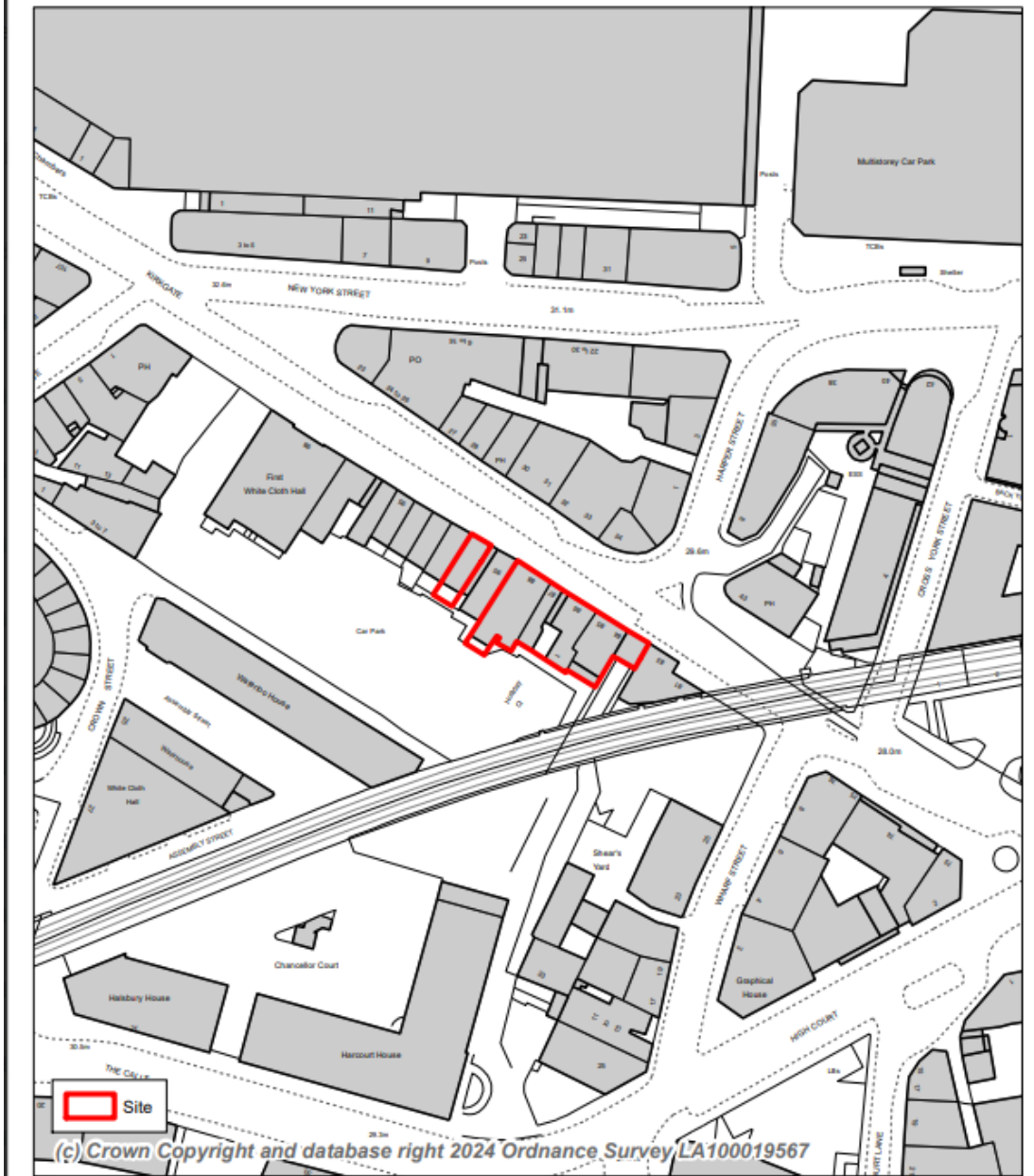
8.0 The timescale is unknown until a full scope of works is agreed and instructions provided. The service of the urgent works notice is the responsibility of Conservation Team in Planning Services and the procurement of a contractor and the contract administration would be Asset Management & Regeneration.

Appendices

Background papers

- Location plan
- Photographs of Kirkgate properties and First White Cloth Hall
- Schedule of urgent repairs

Location Plan



Plan to accompany Section 54 Urgent Works Notice

Site Address: y
84-85, 86-87, 88 and 91 Kirkgate
Leeds City Centre

Plan No 5912
Scale1:1000
Date24/07/2024
O.S. Grid RefSE3033
North▲

Planning Services
Merrion House
110 Merrion Centre
Leeds
LS2 8BB



Produced by City Development, Location Intelligence Team, Leeds City Council

Kirkgate properties



First White Cloth Hall



Schedule of urgent works

84-85, 86-87, 88 Kirkgate

1. Erect palisade, anti-climb mesh fence or solid metal hoarding fence of no less than 2.4m in height on rear boundary of properties.

84-85 Kirkgate

1. Prop exposed floors and building over undercoft to Pine Court to prevent collapse and install shores to provide lateral restraint to party walls of Pine Court and 86-87 Kirkgate.
2. Erect a temporary sheeted structure such as corrugated steel, corrugated aluminium or flexible plastics designed to provide cover over the area of the building to protect it from the effects of weather. It may stand on the ground or on top of the building or be an extension of a scaffold around the building, the design, taking into account the requirement to preserve the conservation area and minimise impact on the fabric of the Building. It may have fully sheeted walls and roof or only a roof or a roof with skirts. The structure should have drainage arrangement to existing discharge points and be continuous with the temporary canopy at 86-87 Kirkgate.
3. Erect a full-height temporary hoarding to the Kirkgate façade to make it secure and weather-tight.
4. Re-bed loose bricks to eaves of rear walls of rear outshuts and repoint open joints with suitable lime mortar.

86-87 Kirkgate

1. Erect a temporary sheeted structure such as corrugated steel, corrugated aluminium or flexible plastics designed to provide cover over the area of the building to protect it from the effects of weather. It may stand on the ground or on top of the building or be an extension of a scaffold around the Building, the design, taking into account the requirement to preserve the conservation area and minimise impact on the fabric of the Building. It may have fully sheeted walls and roof or only a roof or a roof with skirts. The structure should have drainage arrangement to existing discharge points and be continuous with the temporary canopy at 84-85 Kirkgate.

88 Kirkgate

1. Fix new gutter and downpipe to eaves of Kirkgate elevation to drain to existing discharge points.
2. Recover roof with watertight overlapping rigid roof covering, such as metal sheeting or mineral felt bonded to ply-board, fixed to rafters of existing roof. The replacement roof should oversail the tops of the walls and drain into the gutters. All ridges and valleys and junctions with chimneys and verges should be sealed and made watertight.

91 Kirkgate

1. Fix new gutter and downpipe to eaves of Kirkgate elevation to drain to existing discharge points.