

7

Owners and Ownership

1 Introduction

The reasons behind a building's recognition as being at risk are often highly complex and difficult to appreciate. Many owners have the interests of the building at heart but are uncertain regarding their responsibilities or are unsure how to proceed. Some have unrealistic expectations of property or development value, or have greater priorities and others resist interference from 'bureaucracy' and believe that their rights to enjoy their building unhindered are under threat and automatically give a negative response when questions about condition and future intentions. With others there may be personal or family circumstances involving financial or health issues.

Local authorities and conservation organisations therefore need to exercise skill and sensitivity in approaching and negotiating with a view to achieving a satisfactory restoration. Published guidance on the serving of repairs and urgent works notices and on compulsory purchase procedures all suggest that planning authorities should always endeavour to achieve the desired outcome for a building at risk by negotiation first before taking formal action. The current economic climate works against both costly action by councils and the availability of grants as an incentive. With limits on the potential of both parts the traditional 'carrot and stick' approach there is an increasing need to rely more on trust, co-operation and persuasion.

2 Liaison with Others

It is important that regular dialogue is established between a council and the owner of any priority building at risk in its area. Letting years go by without contact will lead to the assumption that the council is not concerned and they might miss the fact that the ownership or owner's circumstances may have changed. Early approaches to owners can be crucial and experienced conservation officers have reported that a friendly, co-operative style will always lead to the early establishment of trust and a respectful working relationship which may have to last several years.

Councils might wish to adopt a systematic approach to their dealings with owners as part of their buildings at risk strategies rather than acting in a reactive manner as cases raise their public or political profile. Such a method is promoted by those engaged in the current national vacant homes initiatives where it has been found that the first contact letters are more effective when they are written in a friendly tone offering assistance to the owner. One council sends an introductory letter that asks a few basic questions on the building's status and reasons for vacancy etc. This is followed with a second letter asking the owner how they council might help them. Unanswered letters lead are followed up by more detailed investigation of ownership.

The Buildings at Risk Toolkit 7

Opening dialogue with a formal letter threatening legal action is unlikely to be productive in all but the most difficult cases.

Owner uncertainty can be reduced through the production of conservation briefs, preferably written in partnership which give a clear indication of viable planning options for a building. See Toolkit text 8 *The planning/Development/Conservation Brief*.

Example: Edinburgh World Heritage Trust

Each year the Trust sends out a 'soft letter' to around 20 owners of buildings located in priority areas for funding that are giving rise to concern. Category A listed buildings at risk are also targeted. This normally results in a small number of positive responses.

Example: Gowanbank Farm Steading, West Lothian

Concerned at the condition of this Category a farm complex, the Head of Planning and Conservation Officer for the council visited the owners to discuss the situation and talk through options for the future of the buildings. It became apparent that the complex was not fit for their current and future agricultural needs and the idea of finding an alternative holding where a purpose built farm steading could be erected was raised. In the final instance, the owners acquired another, more satisfactory site in the vicinity and disposed of the farm steading and surrounding land to a restoring purchaser.

3 Identifying Owners

Intervention by local authorities and conservation organisations is often hindered by difficulties in identifying the owners of property which gives rise to concern. Absentee owners and those hiding behind shell companies, nominees, offshore holdings can be a particular challenge. It may be possible to employ commercial search services for this purpose but there are effective methods that can be used by those pursuing buildings at risk cases. Shelter Scotland has published a guide¹ developed by the Scottish Empty Homes Partnership that aims to provide information about data sources in Scotland for council officers embarking on private sector empty homes work. This was based on experience gained in the first two years of the Scottish Empty Homes Partnership's work. Best practice has been gathered from the Empty Homes Network (formerly National Association of Empty Property Practitioners) (England/Wales), Homes from Empty Homes (formerly the Empty Homes Agency) (England), Shelter Cymru (Wales) and through discussions with Scottish local authorities and holders of information sources in Scotland.

Local authorities are required to work within provisions relating to data protection. A basic principle applies that if details of ownership are already publicly available (such as through a planning application or the Registers of Scotland) then a council may share the details internally or with other interested parties. If the details are not publicly available then there might be a breach of the Data Protection Act if they were held or shared without the owner's consent. Local authorities can, however, facilitate communication by passing on to the owners any correspondence from an interested party accompanied by an explanatory covering letter.

¹ Shelter Scotland *Scottish Empty Homes Partnership Guide to Data Collection* 2012 update.

The Buildings at Risk Toolkit 7

Keeping up to date information on ownership is another sound reason for early and regular dialogue with owners.

The above guidance was prepared by The Architectural Heritage Fund for Historic Scotland and is published by the Buildings at Risk Register for Scotland as part of the Buildings at Risk Toolkit. <http://www.buildingsatrisk.org.uk/>

The text contains references to legislation and its interpretation that may contain inaccuracies or be out of date. Ensure you take appropriate professional advice before making decisions relating to property. Feedback, relevant case studies and suggested changes are welcomed.

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