

TRAFFORD COUNCIL

Report to: Executive
Date: 20 February 2023
Report for: Noting
Report of: Executive Members for Economy and Regeneration and Housing and Neighbourhoods

Report Title

Regenerating Vacant & Stalled Development Sites in Old Trafford – Proposed Actions

Summary

This report seeks to address a long-standing problem of development sites within Old Trafford which have a legacy of difficult or sub-standard construction. There are a cluster of developments located at the heart of Old Trafford which are beset by a variety of problems linked to the way in which they have been developed – either through non-compliant construction, subsequent dilapidation or complex ownership.

Collectively these represent a dis-incentive for investment and regeneration – and in many cases the sites are a wasted housing resource. This report seeks to first of all highlight the nature of the problem and the main sites involved. A second report under Part 2 of the agenda sets out the site specific issues in more detail along with proposed actions.

Recommendation(s)

The Executive is requested to:

1. Note the problem of derelict, vacant and non-compliant property within Old Trafford and acknowledge the need for further action.

Contact person for access to background papers and further information:

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Background Papers: None

This report has been prepared with regard to the following previously published reports:-

Implications:

Relationship to Policy Framework/Corporate Priorities	Bringing housing back into use supports the Council's priorities for addressing the Climate crisis and supporting people out of poverty. Empty homes are a wasted physical and social resource – and ensuring existing units are utilised promotes more and sustainable housing for local people.
Relationship to GM Policy or Strategy Framework	Bringing urban sites back into use and developing brownfield land aligns with the approach of the GM Places for Everyone Plan.
Financial	There is no capital or revenue budget to address this issue. The main implication in terms of cost will be staff time, which is limited. It may be possible to recover certain costs from owners / leaseholders. Financial implications are further discussed in the report under Part 2 of the agenda
Legal Implications:	Section 3 of the report sets out the various regulatory options open to the Council to address these issues.
Equality/Diversity Implications	None directly arising.
Sustainability Implications	The remediation of empty and vacant buildings supports the concept of sustainable development
Carbon Reduction	Existing Buildings have significant levels of embedded carbon with them – hence there is a benefit to carbon emissions in ensuring they are effectively used. Remediation will involve construction and the use of new materials which will have a negative implication for Carbon – but overall making proper use of existing properties involves lower emissions than building afresh
Resource Implications e.g., Staffing / ICT / Assets	The Report has implications for staff resources across planning, environmental health, strategic housing, building control and legal departments. However empty property currently also consumes resources from Emergency Planning, Environmental Health, Structural Engineers, and Community safety – in responding to ongoing incidents.
Risk Management Implications	Empty developments currently pose a risk to the public through anti-social behaviour, fire and potential building collapse. There is also a social cost to leaseholders / residents affected – and an ongoing cost to the Council and Emergency services in responding to incidents. There is a resource and reputational risk to the Council in tackling problematic sites that may prove difficult, costly and time consuming to resolve.
Health & Wellbeing Implications	The unfinished developments provide a poor environment for local people and there is a

	significant environmental benefit in bringing the sites back into use. It is understood that leaseholders affected by failed developments will have suffered in terms of their health and well-being.
Health and Safety Implications	The empty buildings and unfinished developments currently pose a health and safety risk to the general public. There have been a number of fires at some of these locations.

1.0 Background

- 1.1 During the early years of this century, Old Trafford experienced a period of developmental change as prosperity associated with Manchester City Centre spread into adjoining areas. This was recognised in part through the 2009 Old Trafford Master Plan – prepared jointly with Trafford Housing Trust. During this period a number of developments of new flats were built – either via the conversion of existing older buildings, the building of new apartment blocks or through a combination of the two.
- 1.2 Regrettably it subsequently emerged that a number of these developments were not built to the correct standards – and others were partially completed, often also with structural or related problems. In response to concerns over safety, Greater Manchester Fire & Rescue Service (GMFRS) served a number of Prohibition Notices under the Regulatory Reform (Fire Safety) Order 2005, which prevent the residential occupation of several buildings.
- 1.3 In addition, Old Trafford is also home to several properties that are on the watch list of the Department of Levelling Up Housing & Communities (DLUHC) for high rise buildings with unsafe cladding. In the post war era the area was a popular location for the construction of large office blocks – and many of these have now been converted to apartments, some of which have now been found to possess sub-standard cladding. Within Greater Manchester action on cladding has been coordinated by the multi-agency High Rise Task Force, led by the City Mayor of Salford. Whilst most properties now have a satisfactory route to compliance there remain some, including those in Old Trafford, without an agreed approach to resolution.
- 1.4 The consequence of this, is that an area of Old Trafford, centred on Chester Road / City Road is blighted by empty properties and unfinished developments. Added to this there are certain heritage buildings which are also empty and awaiting conversion and re-use. These sites are increasingly unsightly and attract anti-social behaviour. An increasing amount of public time and money is being spent attending to incidents within these vacant sites. Both Trafford Press and Empress Mill have been the subject of major fires – requiring significant response from the emergency services alongside follow up action from the Council.
- 1.5 There is also an important social dimension to many of these developments. In several cases there are leaseholders or purchasers of properties who are unable to

occupy their homes because they are prohibited. In others there are investors and purchasers whose property has now been damaged or was never built in the first place. Elsewhere residents are having to live day to day with the consequences of sub-standard construction.

2.0 Affected Developments

2.0 The table below sets out the principal developments and the various issues at each of them.

Site	Problem	Regulatory status	occupation	Comments
Aura Court,	Fire Escape and stairwell incomplete, substandard cladding	Fire Prohibition Notice in Force	Ground floor occupied, most flats empty	Multiple leaseholders unable to occupy their properties
Browning street	Poor construction	Fire Prohibition Notice in Force	unoccupied	
Empress Mill	Incomplete development, sub-standard construction, partial fire damage	Fire Prohibition Notice in Force	unoccupied	Site understood to be in multiple ownership, Part of site units have been sold and registered but not built.
Trafford Press & Veno Building	Incomplete development, sub-standard construction, substantial fire damage	Fire Prohibition Notice in Force	unoccupied	Subject to a serious fire in September 2021
Former Duckworths Essence Building	Landmark Grade ii Listed building empty and in poor repair	n/a	unoccupied	Site has consent for conversion to religious establishment
37 Seymour Grove	Apartment Block with sub-standard cladding	DLUHC watch list under Building Safety Programme	occupied	No remediation Plan agreed
5-33	Residential	s.215 Notice	Homes	Future of site

Northumberland Road	development impaired by adjacent vacant derelict site	(Planning Act) on part of site.	occupied	remains unresolved.
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- 2.1 These developments are all located within a relatively small area of Old Trafford (see map at Appendix 1) and so have a disproportionate local impact. There is hence a clear public interest in trying to bring these properties into safe and effective use.
- 2.2 Although the specific issues are different on each individual site, there are certain similarities between the principal properties. Most problems stem from non-compliant construction in various forms – and in a number of cases this has rendered the property empty or partially occupied. In some cases development is also incomplete - leaving the shell of buildings remaining in situ. That in turn leads to a derelict and unsightly appearance – a problem also affecting other complete but vacant properties.
- 2.3 Some properties are located within the Empress conservation area – listed as ‘at risk’ by Historic England. Empty and under-utilised properties not only pose a risk to their individual integrity but also the historic character of the locality

3.0 Options available to the Council

- 3.0 There are a number of regulatory and other measures that are potentially open to the Council to address problem sites such as these. There are also some that are available mainly to partners – notably the Fire Service. Each of these are summarised below:
- 3.1 Planning Acts – s.215 Notices. Section 215 of the Town & Country Planning Act 1990 (the Act) provides the Council with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears that the amenity of a locality is being adversely affected by the condition of neighbouring land and buildings, the Council can serve a notice under this section of the Planning Act requiring that the situation be remedied.
- 3.2 Councils can use powers under Section 215 fairly widely – elsewhere the tool has been effectively used on large vacant industrial sites, town centre street frontages, rural sites, derelict buildings, and semi-complete development as well as the more typical rundown residential properties and overgrown gardens.
- 3.3 Notices can be served on both land and buildings – and is commonly applied to improve vacant or derelict buildings where these are having an adverse impact on amenity. There are related powers for the cleaning up of sites, including the use of direct action by Councils. An appeal against a s.215 notice is to the Magistrates Court

- 3.4 Listed Buildings & Conservation Areas. There are a number of provisions available to the Council under the Planning (Listed Buildings & Conservation Areas) Act 1990, ('the Listed Buildings Act 1990'). These include Urgent Works Notices, Repairs Notices and Compulsory Purchase Orders.
- 3.5 Urgent Works Notices - Section 54 of the Listed Buildings Act 1990 enables the Council to execute any works which appear to be urgently necessary for the preservation of a listed building in their area. The works must be urgently necessary not just desirable and the works may be carried only to those parts unoccupied. Section 55 of the Listed Buildings Act 1990 allows the costs of the works to be recovered from the owner by the Council.
- 3.6 Also of relevance is Section 76 of the Listed Buildings Act 1990 which enables the Secretary of State (after consulting Historic England) to direct that section 54 powers apply to an unlisted building in a conservation area, if its preservation is important for maintaining the character or appearance of the area. SPD 5.17 & 17a [Empress Conservation Area Appraisal & Management Plan] provides an up-to-date assessment of unlisted buildings which contribute to the Conservation Area and is required as evidence to the Secretary of State in serving an Urgent Works Notice.
- 3.7 Repairs Notices and Compulsory Purchase Orders - Section 48 of the Listed Buildings Act 1990 enables Councils to serve a Repairs Notice on the owner of a listed building specifying those works it considers reasonably necessary for the proper preservation of the building. If, after a period of a minimum of two months, it appears that reasonable steps are not being taken the authority can begin compulsory purchase proceedings under section 47. However, a Repairs Notice does not commit the authority to proceed to compulsory purchase action and the authority can withdraw the Repairs Notice at any time. A Compulsory Purchase Order (CPO) also requires the Secretary of State's confirmation.
- 3.8 Historic England runs a grants scheme to help local authorities take statutory action either by underwriting Urgent Works Notices and Repairs Notices or assisting in the costs of acquisition.
- 3.9 Housing Act 2004. This Act places a duty on local housing authorities to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken and if the authority considers it would be appropriate for any residential premises in their district to be inspected to determine the existence of category 1 and/or 2 hazards, the authority must arrange for such an inspection to be carried out.
- 3.10 The authority has a duty to take action in respect of any category 1 hazards identified within a residential premises and discretion as to whether to take enforcement action in relation to category 2 hazards identified. Potential action that can be taken under this Act is as follows:
- Serving an improvement notice – requiring remedial works to be completed by a specific date;

- Making a prohibition order – to prohibit the use of all, or part, of a residential premises until such time as the necessary remedial works can be completed;
- Serving a hazard awareness notice – outlining hazards identified and recommending remedial works that would be suitable to reduce or remove them (advisory only);
- Taking emergency remedial action – works completed by the Council where a category 1 hazard is identified and there is an imminent risk to health and safety;
- Making an emergency prohibition order – as detailed above but with immediate effect where a category 1 hazard has been identified and there is an imminent risk to health and safety;
- Making a demolition order (under section 265 of the Housing Act 1985) – requiring the demolition of a dwelling, a HMO which is not a flat or a building containing one or more flats; and
- Declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of the Housing Act 1985 – where the residential buildings in the area are dangerous or harmful to health and meet certain criteria under the Act.

3.11 Determining what action should be taken under the Housing Act 2004 requires the assessment of hazards identified within residential dwellings and the likelihood of them occurring, as well as the harm outcomes, in order to establish whether they are category 1 or 2 hazards. In vacant properties, the likelihood of hazards occurring and the harm they would cause is therefore greatly reduced or even eliminated. Taking action in relation to such properties is therefore not necessarily proportionate or justified. There is also the added likelihood that access into vacant properties would not be granted, and the possibility of applying for a warrant of entry to the magistrate's court is limited due to any risk to health and safety being significantly reduced or non-existent.

3.12 In addition, the Housing Act 2004 places a duty on the local housing authority to notify all interested parties of inspections of residential dwellings in writing, at least 24 hours prior to inspection. The ownership of many of these buildings is complicated as there are many parties involved; leaseholders, freeholders, management companies etc. Issuing paperwork under section 239 of the Act to all interested parties to notify them of an inspection would be resource and time intensive. If enforcement action was then taken in respect of any of the buildings, the same issue would arise.

3.13 Building Act - Sections 77 and 78 of the Building Act 1984 empowers local authorities to deal with a building or structure which is in a dangerous condition. Section 77 primarily addresses cases where a Building is potentially dangerous – in other words its very poor condition or other circumstances give rise to a high degree of concern. Section 78 deals mainly with emergency measures – where there is a clear and immediate risk to public safety. The latter powers are regularly employed in respect of buildings damaged by fire, storms or similar.

- 3.14 Public Health Act 1961. The Public Health Act contains provisions for the remedy of various problems relating to sub standard drainage. If sewers or other sanitary facilities are damaged or poorly built so they do not function properly, the Act permits intervention by the Local authority to seek to remedy the issue.
- 3.15 Building Safety Act 2022. The Building Safety Act became law this year and introduces new powers to remedy construction defects in Buildings. This includes the ability to apply to the Property Chamber of the First-tier Tribunal for an order requiring a building owner to remedy specified “relevant defects”. Such defects are closely defined but in general terms they must:
- put people’s safety at risk from the spread of fire, or structural collapse
 - arise from work done to a building during its construction, or any later works.
 - Have been created from 28 June 1992 to 27 June 2022.
- 3.16 The Council can apply for a remediation order alongside the Fire Service, Building safety Regulator, those with an interest in the Building and the Secretary of state. As this is new legislation is not known whether any such orders have yet been applied for.
- 3.17 There are hence numerous legal avenues that the Council can potentially pursue to remedy derelict or defect properties. In each case the Authority accordingly needs to consider which are the most effective measures in each case – and the respective resource implications involved.

4 Local Impact

- 4.1 The problem properties are located within a relatively confined corner of Old Trafford and in some cases adjoin each other. As a result the local impact is amplified by the number of empty buildings within this locality. At a time when investment and new developments are spreading from the City centre, these sites act as a potential drag on investment.
- 4.2 There is also a social dimension to the issue. In some cases leaseholders are unable to occupy properties because the buildings are subject to fire prohibition notices – denying them either a home or an investment income. In some cases apartments have been built ‘off plan’ but have never been completed, leaving owners without any property at all. On other sites residents continue to be affected by the consequences of non-compliant construction. Where properties are empty, they may be subject to vandalism and anti social behaviour – and require ongoing attention from the Council or emergency services.

5. The Case for Intervention

- 5.1 There are consequently social, economic and environmental impacts arising from the poor condition of properties in this part of Old Trafford. There is also a demand on public resources to manage and mitigate the ongoing consequences of empty

buildings and non-compliant construction. Many of the problems have been continuing for more than ten years and show little sign of resolution.

- 5.2 There is accordingly a strong case for regulatory and other intervention to remedy these problems. The details of possible action, the issues, costs and timescales involved are set out in a report in Part 2 of this agenda.

6.0 List of Appendices

- 6.1 Appendix 1 – Map of Sites

Other Options

The Council could choose not to take any action and allow current position to continue.

Consultation

In some locations residents have called on the Council to take proactive steps to improve conditions. Other regulatory measures are not normally subject to consultation.

Reasons for Recommendation

The recommendations will help ensure that poor environmental and social conditions that have persisted at these sites over several years are steadily addressed. A programme of work will enable the Council to steadily work through sometimes complex issues and secure an ultimate improvement.

Key Decision No

If Key Decision, has 28-day notice been given? N/a

Finance Officer Clearance PC

Legal Officer Clearance TR

CORPORATE DIRECTOR'S SIGNATURE *(electronic)*



To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

APPENDIX 1 – Map of Sites