|  |  |
| --- | --- |
| **Title:**Dilapidated Buildings | **Regulatory Impact Assessment (RIA)** |
| **Date: 06 September 2024** |
| **Type of measure:** |
| **Lead department:****Department of Agriculture, Environment & Rural Affairs (DAERA)** | **Stage:** |
| **Source of intervention:** |
| **Other departments or agencies:****N/A** | **Contact details:** Lisa Frazer |
| Neighbourhood QualityNatural Environment Policy DivisionClare House303 Airport Road WestBelfastBT3 9ED |
| email | lisa.frazer@daera-ni.gov.uk |
| Ph | 02890 569 497 |

**Summary Intervention and Options**

|  |
| --- |
| **What is the problem under consideration? Why is government intervention necessary?**There are a number of discrete types of problem sites to be considered under the umbrella of dilapidation policy: (a) public health nuisance; (b) property in a dilapidated or ruinous state; (c) dangerous buildings; and (d) neglected sites. The lack of a modern effective enforcement regime is seen as a barrier to local government (i.e. Councils – the relevant enforcing authorities) efforts to maintain and improve their areas for the benefit of citizens, tourists and businesses. Much of the pertinent legislation dates to the 19th Century, while other relevant legislation that is in operation in the rest of the UK and Ireland has never been replicated in Northern Ireland.One of the key issues is the inconsistent application of the current provisions from one council area to another. This is due to geographically confined legislation and to differences in interpretation of NI-wide legislation. |
|  |
| **What are the policy objectives and the intended effects?**This will contribute to the DAERA vision by seeking to tackle dilapidated / dangerous buildings and neglected sites and indirectly the problems associated with those premises. It acts on a commitment from then Minister of the Environment, Alex Attwood, to review the legislation available to district councils to deal with dilapidated / dangerous buildings and neglected sites. Providing councils with a modern, fit for purpose regulatory regime will allow them to effectively tackle dilapidation in their respective areas. The policy also intends to ensure that responsibility for taking action to carry out appropriate works will fall squarely on those who have a beneficial interest in the property concerned and not on the public purse. It is intended to make it easier for councils to take action on dilapidated buildings if they wish to do so. This would also help to improve the safety and appearance of the built environment for all.  |
|  |
| **What policy options have been considered, including any alternatives to regulation?****Please justify preferred option (further details in Evidence Base)****Option 1:** Do nothing – no changes made to existing arrangements**Option 2:** Consolidate & Amend Legislation + Enhanced Cost Recovery – A tidy up of existing DAERA legislation amending powers and procedures as required to improve effectiveness of current regime**Option 3:** New Broader Regime + Enhanced Cost Recovery – A completely new regime to encompass all relevant elements of existing legislation in a single new Act alongside new provisions e.g. powers similar to section 215 of the England & Wales Town & Country Planning Act 1990**Option 4:** New Broader Regime + Enhanced Cost Recovery (as per option 3) and Financial Support from NI Executive / DAERA**Option 3** is the preferred option. Option 3 delivers significant non-monetary benefits in terms of; reduced dilapidation, anti-social behaviour, and fatalities / injuries; and increased economic regeneration, tourism and job creation. Option 3 is deliverable within the current Assembly mandate, allowing benefits to be realised as soon as possible. |
| **Will the policy be reviewed?**  | **If applicable, set review date:** Three years after legislation becomes operational. |

|  |
| --- |
| **Cost of Preferred Option** |
| **Total outlay cost for business**£m | **Total net cost to business per year** £m | **Annual cost for implementation by Regulator** £m |
| While it is impossible to be precise about the number of businesses affected and the costs to those businesses, an Ulster University report[[1]](#footnote-1), produced for DAERA in 2018, suggested that there are around 1,600-1,700 dilapidated business properties in Northern Ireland. While it would not be the case that these properties would all be subject to maintenance / remediation action at one time, the UU report estimated a total cost in the region of £12.2m2. | While it is impossible to be precise about the number of businesses affected and the costs to those businesses, the Ulster University report estimated around 550 enforcement actions / year initially for business properties. The associated remediation work could cost around £4m[[2]](#footnote-2) per annum (an *average* of £7.3k per property). However, not all of this cost would necessarily be incurred immediately by businesses (for example where councils carry out works in default or register a statutory charge on the property for works to be conducted at a later date). Furthermore, a substantial portion of these actions are likely to relate to low-level dilapidation with lower remediation costs. The number of cases and costs are also likely to decline significantly over time as the backlog of dilapidated properties is reduced and an increasing proportion of the actions should relate to low-level dilapidation.It is anticipated that over time, the net cost to business will be negligible as a result of increased property values and business activity. | The Dilapidation Bill will provide new discretionary powers to district councils.It will be for councils to decide whether to make use of the new legislation to take action according to their priorities. |

|  |  |
| --- | --- |
| **Does Implementation go beyond minimum EU requirements?** | **N/A** |
| **Is this measure likely to impact on trade and investment?** | **YES** **[x]**  | **NO** **[ ]**  |
| Are any of these organisations in scope? | **Micro**Yes [x]  No [ ]  | **Small**Yes [x]  No [ ]  | **Medium** Yes [x]  No [ ]  | **Large**Yes [x]  No [ ]  |

**Final RIA supporting legislation will be attached to the Explanatory Memorandum and published with it**

Approved by: Rory O’Boyle

Date: 6th September 2024

Summary: Analysis & Evidence Policy Option 1

Description: Do nothing – no changes to existing arrangements

**ECONOMIC ASSESSMENT (Option** 1**)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Costs (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Cost** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised costs by ‘main affected groups’** Max 5 linesAs this is the ‘do-nothing’ option there is no change made so no extra costs would be incurred as it continues with the status quo. |
| **Other key non-monetised costs by ‘main affected groups’** Max 5 linesThis is likely to lead to limited change to the current situation with limited enforcement action and remediation activity occurring. The legislation will not be modernised. As a result, there will likely still be significant dilapidated buildings and neglected sites, resulting in reduced economic regeneration, a negative impact on tourism and lower job-creation potential. Dilapidated / dangerous buildings and neglected sites can become a focal point for anti-social behaviour and can contribute to injuries and this situation would be unchanged.Overall assessment: Very Low (minimal action / enforcement resulting in overall costs in the tens / hundreds of thousands across a small number of business properties) |
| **Benefits (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Benefit** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised benefits by ‘main affected groups’** Max 5 lines N/A – do nothing option. |
| **Other key non-monetised benefits by ‘main affected groups’** Max 5 linesN/A – do nothing option. |
| **Key Assumptions, Sensitivities, Risks** Max 5 linesN/A – do nothing option. |

**BUSINESS ASSESSMENT (Option** 1**)**

|  |
| --- |
| **Direct Impact on business** |
| **Costs: N/A** | **Benefits: N/A** | **Net: N/A** |

**Cross Border Issues (Option** 1**)**

|  |
| --- |
| **How does this option compare to other UK regions and to EU Member States (particularly Republic of Ireland)** Maximum 3 linesThis option leaves things unchanged. As such Northern Ireland legislation in this area would remain out of date in comparison with that in the rest of the UK and Ireland. |

Summary: Analysis & Evidence Policy Option 2

Description: Consolidate & Amend Legislation + Enhanced Cost Recovery – A tidy up of existing DAERA legislation amending powers and procedures as required to improve effectiveness of current regime.

**ECONOMIC ASSESSMENT (Option** 2**)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Costs (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Cost** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised costs by ‘main affected groups’** Maximum 5 linesN/A |
| **Other key non-monetised costs by ‘main affected groups’** Maximum 5 linesIt would be optional for Councils to use and administer the legislation. Where they do, they can require works by property owners / occupiers etc. or undertake works themselves and seek to recoup costs.Costs for property owners / occupiers etc. in respect of building works.Costs involved for DAERA in normal course of business to amend legislation.All other things equal, the costs for councils, business etc. are likely to be lower than for Options 3 and 4.Overall assessment: Low (low level of action / enforcement resulting in overall costs in the hundreds of thousands / low millions across a moderate number of business properties) |
| **Benefits (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Benefit** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised benefits by ‘main affected groups’** Maximum 5 lines **N/A** |
| **Other key non-monetised benefits by ‘main affected groups’** Maximum 5 linesThe consolidation & amendment of the legislation, and inclusion of cost recovery powers, is likely to make it easier to take enforcement action and remediation activity. It may encourage more to be undertaken, reducing dilapidated buildings and neglected sites. This could result in improved economic regeneration, improved tourist sentiment and have a positive impact on job creation. It has potential to reduce the frequency of dilapidated / dangerous buildings and neglected sites becoming a focal point for anti-social behaviour and causing injuries.Benefits for property owners / occupiers etc. in respect of increased property values and economic activity as a result of building works.A reduction in dilapidated premises and increased economic activity may boost district & regional rate revenue.All other things equal, the benefits for councils, business etc. are likely to be lower than for Options 3 and 4.Overall assessment: Low (low level of action / enforcement resulting in overall benefits in perhaps the hundreds of thousands / low millions) |
| **Key Assumptions, Sensitivities, Risks**The proposal isn’t considered controversial and is likely to enjoy cross party support. It is assumed that business outlays to tackle dilapidated buildings are, on average, likely to at least be offset by increased property values[[3]](#footnote-3) and economic activity over time (i.e. monetary costs will be offset, or more than offset, by monetary benefits to business).Statutory guidance will provide clarity to councils around the process to follow, with a common-sense case-by-case approach advocated. The number of businesses that may incur moderate to significant costs (c.£10k average) will be relatively small (perhaps a couple of dozen / council / year on average) and in a portion of these cases the councils may conduct works in default, seeking to recover their costs through civil debt proceedings and statutory charges – or simply a statutory charge on a property without working actually being conducted (making a potential buyer aware of the requirement to undertake remediation work in future). The number of appeals against council notices in England is very small and the number of higher cost cases in Northern Ireland is likely to decline over time as dilapidation is ‘nipped in the bud’ early on by way of lower cost maintenance notices.Effective implementation requires council buy-in to opt to undertake enforcement activity using the legislation (enforcement is currently limited and ongoing public sector cost pressures may influence this). |

**BUSINESS ASSESSMENT (Option** 2**)**

|  |
| --- |
| **Direct Impact on business**(relative assessment of Non-Monetary Considerations as set out in “Evidence Base” and Ulster University Report[[4]](#footnote-4) cost estimates) |
| **Costs: Low** | **Benefits: Low** | **Net: 0 / Positive +** |

**Cross Border Issues (Option** 2**)**

|  |
| --- |
| **How does this option compare to other UK regions and to EU Member States (particularly Republic of Ireland)** Maximum 3 linesMuch of the pertinent legislation in Northern Ireland dates back to the 19th Century, while other relevant legislation that is in operation in the rest of the UK and Ireland has never been replicated in Northern Ireland. Merely consolidating / amending legislation will leave a legislative deficit versus England and Wales. |

Summary: Analysis and Evidence Policy Option 3

Description: New Broader Regime + Enhanced Cost Recovery – A completely new regime to encompass all relevant elements of existing legislation in a single new Act alongside new provisions e.g. powers similar to section 215 of the England & Wales Town & Country Planning Act 1990.

**ECONOMIC ASSESSMENT (Option** 3**)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Costs (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Cost** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised costs by ‘main affected groups’** Maximum 5 lines |
| **Other key non-monetised costs by ‘main affected groups’** Maximum 5 linesIt would be optional for Councils to use and administer the legislation. Where they do, they can require works by property owners / occupiers etc. or undertake works themselves and seek to recoup costs.Costs for property owners / occupiers etc. in respect of building works.Costs involved for DAERA in normal course of business to introduce new legislation.All other things equal, the costs for councils, business etc. are likely to be higher than for Option 2 and lower than for Option 4.Overall assessment: Medium (positive action / enforcement resulting in overall costs in the millions (single digit) across a significant number of business properties) |
| **Benefits (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Benefit** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised benefits by ‘main affected groups’** Maximum 5 lines **N/A** |
| **Other key non-monetised benefits by ‘main affected groups’** Maximum 5 linesBenefits for property owners / occupiers etc. in respect of increased property values and economic activity as a result of building works and increased footfall.A reduction in dilapidated premises and increased economic activity may boost district & regional rate revenue.The new legislation, and inclusion of cost recovery powers, is likely to make it easier to take enforcement action and remediation activity. It may encourage more to be undertaken, reducing dilapidated buildings and neglected sites. This could result in improved economic regeneration, improved tourist sentiment and have a positive impact on job creation. It has potential to reduce the frequency of dilapidated / dangerous buildings and neglected sites becoming a focal point for anti-social behaviour and causing injuries.All other things equal, the benefits for councils, business etc. are likely to be greater than for Option 2 and lower than for Option 4.Overall assessment: Medium (positive action / enforcement resulting in overall benefits perhaps in the millions (single digit)) |
| **Key Assumptions, Sensitivities, Risks** Maximum 5 linesThe new legislation isn’t considered controversial and is likely to enjoy cross party support. Business outlays to tackle dilapidated buildings are, on average, likely to at least be offset by increased property values and economic activity over time (i.e. monetary costs will be offset, or more than offset, by monetary benefits to business).Effective implementation requires council buy-in to opt to undertake enforcement activity using the legislation (enforcement is currently limited and ongoing public sector cost pressures may influence this). |

**BUSINESS ASSESSMENT (Option** 3**)**

|  |
| --- |
| **Direct Impact on business**(relative assessment of Non-Monetary Considerations as set out in “Evidence Base” and Ulster University Report[[5]](#footnote-5) cost estimates) |
| **Costs: Medium** | **Benefits: Medium** | **Net: 0 / Positive ++** |

**Cross Border Issues (Option** 3**)**

|  |
| --- |
| **How does this option compare to other UK regions and to EU Member States (particularly Republic of Ireland)** Maximum 3 linesMuch of the pertinent legislation in Northern Ireland dates to the 19th Century, while other relevant legislation that is in operation in the rest of the UK and Ireland has never been replicated in Northern Ireland. New legislation would deliver legislative parity with England and Wales. |

Summary: Analysis and Evidence Policy Option 4

Description: Option 4: New Broader Regime + Enhanced Cost Recovery (as per option 3) and Financial Support from the NI Executive / DAERA.

**ECONOMIC ASSESSMENT (Option** 4**)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Costs (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Cost** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised costs by ‘main affected groups’** Maximum 5 linesN/A |
| **Other key non-monetised costs by ‘main affected groups’** Maximum 5 linesIt would be optional for Councils to use and administer the legislation. Where they do, they can require works by property owners / occupiers etc. or undertake works themselves and seek to recoup costs.Costs for property owners / occupiers etc. in respect of building works.Costs involved for DAERA in normal course of business to introduce new legislation. Significant cost to NI Executive / DAERA in providing grant funding to Councils.All other things equal, the costs for councils, business etc. are likely to be higher than for the other Options.Overall assessment: High (extensive action / enforcement resulting in overall costs in the millions across a large number of business properties) |
| **Benefits (£m)** | **Total Transitional (Policy)** | **Average Annual (recurring)** | **Total Benefit** |
|  | (constant price) | Years | (excl. transitional) (constant price) | (Present Value) |
| **Low** | **Optional** |  | **Optional** | **Optional** |
| **High** | **Optional** | **Optional** | **Optional** |
| **Best Estimate** | **N/A** | **N/A** | **N/A** |
| **Description and scale of key monetised benefits by ‘main affected groups’** Maximum 5 lines **N/A** |
| **Other key non-monetised benefits by ‘main affected groups’** Maximum 5 linesBenefits for property owners / occupiers etc. in respect of increased property values and economic activity as a result of building works and increased footfall. Business outlays to tackle dilapidated buildings are, on average, thought likely to at least be offset by increased property values and economic activity.A reduction in dilapidated premises and increased economic activity may boost district & regional rate revenue.The new legislation, and inclusion of cost recovery powers, is likely to make it easier to take enforcement action and remediation activity. It may encourage more to be undertaken, reducing dilapidated buildings and neglected sites. This could result in improved economic regeneration, improved tourist sentiment and have a positive impact on job creation. It has potential to reduce the frequency of dilapidated / dangerous buildings and neglected sites becoming a focal point for anti-social behaviour and causing injuries.All other things equal, the benefits for councils, business etc. are likely to be greater than for the other Options as enforcement activity is likely to be greatest by leveraging council funding via NI Executive / DAERA grant support.Overall assessment: High (extensive action / enforcement resulting in overall benefits in the millions (greater than for Option 3) – the extent of the benefits is likely to be greater with greater NI Executive / DAERA financial support) |
| **Key Assumptions, Sensitivities, Risks** Maximum 5 linesThe new legislation isn’t considered controversial and is likely to enjoy cross party support. Business outlays to tackle dilapidated buildings are, on average, likely to at least be offset by increased property values and economic activity over time (i.e. monetary costs will be offset, or more than offset, by monetary benefits to business).Effective implementation requires council buy-in to opt to undertake enforcement activity using the legislation (enforcement is currently limited and ongoing public sector cost pressures may influence this). There are greater financial risks involved with this option due to greater costs associated with the provision of grant funding. |

**BUSINESS ASSESSMENT (Option** 4**)**

|  |
| --- |
| **Direct Impact on business**(relative assessment of Non-Monetary Considerations as set out in “Evidence Base” and Ulster University Report[[6]](#footnote-6) cost estimates) |
| **Costs: Significant** | **Benefits: High** | **Net: 0 / Positive +++** |

**Cross Border Issues (Option** 4**)**

|  |
| --- |
| **How does this option compare to other UK regions and to EU Member States (particularly Republic of Ireland)** Maximum 3 linesMuch of the pertinent legislation in Northern Ireland dates to the 19th Century, while other relevant legislation that is in operation in the rest of the UK and Ireland has never been replicated in Northern Ireland. New legislation would deliver legislative parity with England and Wales. |

**Evidence Base**

PROBLEM UNDER CONSIDERATION

Problems with dilapidated buildings and neglected sites have become more prevalent in Northern Ireland in recent years. The negative impact on the amenity of local neighbourhoods can be serious and, in consultation with local councils, the Department has identified a need to ensure that these councils have access to an effective legislative framework to deal with this issue and thereby reduce the negative impact.

A dilapidated or unsightly building can ruin the general appearance of the area in which it is located. For example, a business whose property adjoins such a building can suffer a loss of trade due to the deterioration of the “amenity” of the area. Property owners can also suffer due to decreasing property values. Dilapidated buildings also have consequences in terms of people’s perceptions of an area. Such areas can attract anti-social behaviour and can harm tourism potential while negatively impacting citizens’ sense of civic pride. The maintenance of attractive and successful places in which people are happy to live, work, visit and invest is vitally important.

Work on this policy area commenced in 2012 (during the 2011-2016 Assembly Mandate) with a commitment from the then Minister of the Environment, Alex Attwood, to review the legislation available to district councils to deal with dilapidated / dangerous buildings and neglected sites. Through a number of meetings and the publication of a discussion document[[7]](#footnote-7), district councils indicated that they are hampered in their efforts to address the issue of dilapidation due to ineffective and archaic legislation, particularly with regard to lower-level dilapidation and cost recovery powers.

Officials considered the views of councils and other stakeholders and developed a range of policy options which were published as a formal public consultation[[8]](#footnote-8) in March 2016. The options then included: the status quo; producing non-statutory guidance to assist councils; consolidation of existing legislation; and a new Bill to introduce a broader, more effective regime that addressed the issues previously raised by stakeholders. The last of these options was supported by 23 of the 24 respondents to the consultation.

While certain aspects of this issue (public health / statutory nuisance) have been addressed through the Clean Neighbourhoods & Environment Act (NI) 2011, much of the pertinent legislation dates to the 19th century, while other relevant legislation that is in operation in other parts of the UK and the Republic of Ireland has never been replicated in Northern Ireland. The existing legislation is reported by practitioners to be cumbersome and unwieldy to use. Different legislation applies to different geographical areas, resulting in inconsistent application across council areas and a lack of clarity for regulatory practitioners and property owners alike. Cost recovery provisions are similarly inconsistent.

There are a number of discrete types of problem sites to be considered under the umbrella of dilapidation policy: (a) public health nuisance; (b) property in a dilapidated or ruinous state; (c) dangerous buildings; and (d) neglected sites.

The lack of a modern effective enforcement regime is seen as a barrier to local government efforts to maintain and improve their areas for the benefit of citizens, tourists and businesses. For example, the vacant, and increasingly derelict, shop fronts and other structures that populate many town centres make it more difficult for Councils to regenerate those areas, attract new investment and encourage tourism.

Existing relevant NI legislation available to Councils includes:

* Pollution Control & Local Government (Northern Ireland) Order 1978 – Articles 65 & 66;
* Belfast Improvement Acts 1845 & 1878 (available only to Belfast City Council – frequently used);
* Belfast Corporation Act 1911 (available only to Belfast City Council);
* Londonderry Corporation Act 1918 (available only to Derry/Strabane Council).
* Towns Improvement Clauses Act 1847 (available to all Councils except Belfast & Derry/Strabane);
* Towns Improvement (Ireland) Act 1854 (available to all Councils except Belfast & Derry/Strabane);
* Public Health Acts Amendment Act 1907 (available to all Councils);

Although purporting to address the same basic issues, there is a lack of consistency across these pieces of ‘local’ legislation and even the Northern Ireland wide legislation is subject to differences in interpretation between Councils, making some very reluctant to use it at all. There are also potential human rights issues with some provisions – e.g. power of enforced sale within Belfast Improvement Act 1878.

This Project will contribute to the DAERA vision by giving councils the clarity and legal certainty they seek to tackle dilapidated / dangerous buildings and neglected sites and indirectly the problems associated with those premises.

RATIONALE FOR INTERVENTION

While the former Department of the Environment’s Dereliction Intervention Programme was successful in helping councils to tackle the detrimental impact on amenity caused by derelict or dilapidated buildings and gap sites, DAERA is keen to build on this by ensuring that district councils have a proper toolkit of powers to enable, for example, effective action to be taken against owners who fail to stop their buildings from becoming ruinous or dilapidated.

There is considerable research evidence that supports the “Broken Window Theory”, the basic tenet of which is:

“...if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken... one unrepaired broken window is a signal that no-one cares, and so breaking more windows costs nothing.”

In order to effectively counter this tendency, district councils need an effective suite of regulatory tools. Discussions with council officials indicate that many do not feel that they have either effective guidance for existing legislation or, indeed, legislative powers that are fit for purpose in this day and age. While it is true that an improved general economic situation should alleviate the problem to some extent, it is also true to say that many of the dilapidated building issues that we face today predate recent economic challenges.

The Department believes strongly that market forces alone cannot properly address these issues and that, therefore, appropriate intervention is required.

POLICY OBJECTIVE

The main policy objective is to provide councils with a modern, fit-for-purpose regulatory regime that will allow them to effectively tackle dilapidation in their respective areas and recover their costs for doing so. The desired policy outcomes include:

(a) more consistent application of regulatory powers across all areas;

(b) more buildings being brought into beneficial use;

(c) improved local environmental quality;

(d) increased [inward] investment;

(e) reduced anti-social behaviour; and

(f) improved public health.

DESCRIPTION OF OPTIONS CONSIDERED

**Option 1: Do Nothing**

While this option will certainly deliver the lowest cost (in terms of short-term financial resources), it would not deliver any of the benefits (monetary or non-monetary) of bringing dilapidated buildings into beneficial use – e.g. improving the visual amenity of neighbourhoods, stimulating economic regeneration, supporting the tourist industry’s efforts to promote Northern Ireland as a destination and reducing anti-social behaviour. If we do nothing, then nothing will change. It entails the continuation of the current disparate legislative position, resulting in limited intervention by Councils, particularly outside of Belfast City Council. This is anticipated to result in continued high levels of dilapidation with minimal remediation work and a reliance on a future improvement in the general economic outlook to address a proportion of dilapidated buildings / sites.

It has been suggested by some that an upturn in the economy will automatically apply a corrective hand to the problem of dilapidation as it becomes more economically viable to develop or redevelop these problem sites and, to some extent, that is probably true. However, it is important to remember that many of the problem sites across Northern Ireland have not suddenly appeared since the last economic downturn.

The “do nothing” approach is likely to attract criticism from a range of stakeholders and, except for the short-term cost implications, there is little to recommend this option.

**Option 2: Consolidate & Amend Legislation + Enhanced Cost Recovery**

Option 2 assumes a tidy up of existing DAERA legislation in respect of dilapidation and dangerous buildings, amending powers and procedures as required to improve the effectiveness of the regime. This would *not* include the introduction of new provisions broadly equivalent to section 215 of the England & Wales Town & Country Planning Act 1990 (visual amenity – tackling “low level” dilapidation) or the Building Act 1984 (dangerous structures emergency provisions). It may also be possible, in taking this approach, to provide for the making of subordinate legislation to provide greater procedural clarity, and to allow the Department to issue statutory guidance to councils.

Enhanced cost recovery would be delivered by way of legislation, clarifying councils’ powers (where relevant) to recover their costs from the relevant party with an interest in the property – by way of civil debt proceedings (via the courts), the sale of recovered materials and / or a charge on the estate.

This option would not involve the introduction of new regimes like, for example, those in force in England and Wales. It would also not be possible to extend the provisions of the “Local Acts” to the whole of Northern Ireland through this type of Bill, *precluding the possibility of delivering a single consistent regime throughout Northern Ireland*. Specific elements of the Local Acts could, of course, be re-enacted on a NI-wide basis but this, effectively, would be new legislation.

Non-statutory, but authoritative, best practice guidance may be regarded by the courts as binding but, for the removal of doubt, the power to publish statutory guidance could easily be included in a Bill of this nature. The technical aspects of any statutory guidance would be developed in conjunction with the relevant councils to ensure that practitioners were not unduly fettered.

Providing no additional statutory duties were introduced by such a Bill then no significant additional costs would be imposed on the councils. However, it would be hoped that improving the clarity of the legislation and making it more workable would increase the activity levels of councils who have not engaged with this legislation.

While this option is likely to improve the clarity and workability of the existing legislation, these improvements would be relatively modest and would not broaden the scope of the legislation to any great degree and would not therefore deal with some of the fundamental deficiencies of that legislation. The inability to tackle ‘low-level dilapidation’ would be of particular significance because such intervention has significant long-term benefits by preventing buildings from becoming seriously dilapidated at an early stage.

**Option 3: New Broader Regime + Enhanced Cost Recovery**

Option 3 describes a completely new regime to encompass all the relevant elements of the existing legislation in a single Act alongside new provisions e.g. powers similar to section 215 of the England & Wales Town & Country Planning Act 1990 (low-level dilapidation). As for Option 2, this Option would include enhanced cost recovery provisions for Councils but also new comprehensive formal guidance for Councils.

The introduction of a new regime would allow us to better shape a fit-for-purpose regime that would be appropriate for a wide range of scenarios. Enhanced procedures to allow for appropriate protection of heritage sites could also be built into such a Bill, addressing the problems identified with the existing legislation – i.e. the potentially perverse incentive to allow heritage buildings to fall into disrepair with a view to subsequent demolition.

This option could give councils an effective tool to encourage the regeneration and revitalisation of their areas, particularly the town centres that have suffered considerable decline over recent years. Even if the final regime is to be as wide-ranging as this option envisages, it is highly likely that the benefits that would accrue would far outstrip the costs.

Although benefits are likely to exceed costs it is accepted that effective implementation of this option would require councils to allocate adequate resources. However, with the broader range of local government powers from April 2015, it is considered appropriate for them to take responsibility for determining the priority of this issue for their area and resourcing it accordingly.

There are a number of ways that the potential financial implications could be managed. These include:

* strategic prioritisation of potential problem sites;
* the inclusion of robust and effective cost recovery provisions;
* sale of recovered materials;
* a charging scheme for surveys, inspections etc. associated with determining buildings as dangerous

It is reasonable to assume that the long-term cost to the public sector (district councils) of implementing a robust and effective regime could be relatively modest.

**Option 4: New Broader Regime + Enhanced Cost Recovery (as per option 3) + Additional Financial Support from NI Executive / DAERA**

Option 4 is essentially the same as option 3 but with the inclusion of financial support from the Northern Ireland Executive or DAERA. Due to the:

* Discretionary nature of the proposed broader regime;
* Proposed enhanced cost recovery mechanisms;
* Availability of recent / existing funding streams from NI departments (esp. DfC);
* Prevalence of low-level (i.e. low cost) dilapidation;
* Ongoing public sector funding pressures; and
* Restricted time remaining to pass Primary Legislation during the current Assembly mandate

this option is not currently being pursued.

**Risks**

While each option has risks associated with it, overall, the risks associated with the options are relatively low due to the non-contentious nature of the project and degree of cross-party support for the proposals.

**Displacement**

It is considered highly unlikely that Options 2, 3 or 4 (the “Do Something” options) would displace any existing project or business within Northern Ireland. The purpose of this project is to tackle widespread dilapidation and neglected sites across Northern Ireland by empowering Councils to take appropriate action where the market has failed to address these problems or where other third-party organisations have chosen not to intervene.

**Non-Monetary Considerations**

1. **Number of dilapidated buildings and neglected sites**

The number of dilapidated buildings and neglected sites in Northern Ireland. This is the primary target of the project.

1. **Economic regeneration**

Reinvigoration of the local economy resulting in increased prosperity, wellbeing, investment, and competitiveness (linked with disused buildings coming back into productive use, increased footfall, reduced crime rates and increased property values).

1. **Tourism**

Enhanced reputation in terms of visual amenity and built environment quality amongst visitors resulting in an increase in tourist numbers, repeat visitors and tourism spend.

1. **Job creation**

Increased employment opportunities resulting from:

1. Economic regeneration
2. Tourism
3. Investment
4. Increased construction activity
5. Direct employment of Council staff
6. **Anti-social behaviour**

A reduction in anti-social behaviour as described by the “broken window” theory (this theory links disorder and incivility within a community to subsequent occurrences of serious crime). The theory suggests that an improvement in a neighbourhood’s physical appearance / amenity should reduce such instances by creating a virtuous cycle and enhancing civic pride.

1. **Health and safety**

A reduction in injuries and fatalities which may result from accidents within dangerous buildings or on neglected sites.

The above have been considered for each option in the “non-monetised benefits” section of each of the Economic Assessment tables (pages 3–8) and the Business Assessment tables (pages 3–9), with a relative rating provided.

**The Preferred Option**

**Option 3** – a new broader regime with enhanced cost recovery provisions, introduced by way of a “Dilapidated / Dangerous Buildings and Neglected Sites” Act – is the preferred option.

Option 3 delivers significant non-monetary benefits in terms of; reduced dilapidation, anti-social behaviour, and fatalities / injuries; and increased economic regeneration, tourism and job creation. Option 3 is deliverable within the current Assembly mandate, allowing benefits to be realised as soon as possible.

**Declaration**

**“I have read the Regulatory Impact Assessment, and I am satisfied that the benefits justify the costs.”**

***Signed [TBC – Currently RIA is in draft form]***

1. Ulster University Report: “Report on the Scale OF Dilapidated / Dangerous Buildings & Neglected Sites in Northern Ireland”, March 2018 – DAERA ref: AE1/18/240387 [↑](#footnote-ref-1)
2. 2018 prices [↑](#footnote-ref-2)
3. <https://www.towergateinsurance.co.uk/home-and-property-insurance/most-profitable-home-renovations>

<https://www.qmee.com/en-gb/blog/calculate-your-home-renovation-costs> [↑](#footnote-ref-3)
4. Ulster University Report: “Report on the Scale OF Dilapidated / Dangerous Buildings & Neglected Sites in Northern Ireland”, March 2018 – DAERA ref: AE1/18/240387 [↑](#footnote-ref-4)
5. Ulster University Report: “Report on the Scale OF Dilapidated / Dangerous Buildings & Neglected Sites in Northern Ireland”, March 2018 – DAERA ref: AE1/18/240387 [↑](#footnote-ref-5)
6. Ulster University Report: “Report on the Scale OF Dilapidated / Dangerous Buildings & Neglected Sites in Northern Ireland”, March 2018 – DAERA ref: AE1/18/240387 [↑](#footnote-ref-6)
7. “Environmental Legislation: Dilapidated / Dangerous Buildings & Neglected Sites: A DOE Discussion Document”, 31 March 2014 – DAERA Reference: DO1/14/46387 [↑](#footnote-ref-7)
8. <https://www.daera-ni.gov.uk/sites/default/files/consultations/doe/environment-consultation-dilapidation-policy.pdf> [↑](#footnote-ref-8)