

Cabinet – 18 March 2020

Tackling Long Term Empty Dwellings

Portfolio:	Councillor Adrian Andrew Deputy Leader Regeneration
Service:	Money Home Job – Housing Improvements
Wards:	All
Key decision:	Yes
Forward plan:	Yes

1. Aim

To continue proactive action to tackle long term empty dwellings within the borough.

2. Summary

- 2.1 This report seeks Cabinet authority for use of New Homes Bonus Empty Homes allocation and Affordable Homes Commuted Sums to bring long term empty homes (those which have been empty for longer than six months) back into use by way of acquiring them, either by agreement or compulsory purchase. Table 1 of this report lists the properties for which Cabinet has previously authorised the acquisition for which funds would be necessary.
- 2.2 The report also recommends proactive action against a further 55 long term empty homes which by April 2020 will have been empty for over 10 years.

3. Recommendations

- 3.1 That authority be delegated to the Executive Director, Economy and Environment, to acquire the properties set out in paragraph 3.3 of the report, including by way of Compulsory Purchase Orders (CPOs), using either:
 - a) New Homes Bonus Empty Homes fund for homes which are to be resold; or
 - b) Affordable Housing Commuted Sums for those homes to be retained by the Council as affordable temporary accommodation.
- 3.2 That authority be delegated to the Executive Director, Economy and Environment, in consultation with Portfolio Holder Regeneration, to consider the acquisition of the properties listed in Appendix 1, including by way of Compulsory Purchase Orders, which would be funded using either:
 - a) the New Homes Bonus Empty Homes fund for home which are to be resold; and/or

- b) Affordable Housing Commuted Sums for those homes to be retained by the Council as affordable temporary accommodation.

3.3 Table 1: Properties to be considered for Compulsory Purchase Orders

3	Oakland Road	Bloxwich	WS3 1BA	Blakenall Ward
18	Chaucer Road	Bloxwich	WS3 1DF	Blakenall Ward
39	Scarborough Road	Pleck	WS2 9RF	Pleck Ward
73	Essex Street	Walsall	WS2 7AR	Blakenall Ward
178	Prince Street	Pleck	WS2 9JG	Pleck Ward
25	Phoenix Rise	Darlaston	WS10 7SL	Darlaston South Ward
24	Meadow Road	Aldridge	WS9 0ST	Aldridge Central and South Ward
99	Collingwood Drive	Pheasey	B43 7JW	Pheasey Park Farm Ward
1	Greadier Street	Willenhall	WV12 4JW	Short Heath Ward
51-51a	Birmingham Street	Willenhall	WV13 2HP	Willenhall South Ward

4. **Report Detail – Know**

- 4.1 At previous Cabinets authority was granted to use powers including improvement loans, negotiated acquisition or compulsory purchase orders (CPOs) to tackle a range of long term empty dwellings to bring the properties back into residential use.
- 4.2 The Council also uses council tax premium powers as a deterrent against keeping properties empty. In January 2019, the Council approved a motion to increase council tax premiums for long term empty homes. From April 2019, properties unoccupied and unfurnished for more than two years incur a 100% premium – double the normal council tax rate. From April 2020, council tax rates for properties unoccupied and unfurnished for more than five years will triple to 200%, and from April 2021 properties that are unoccupied and unfurnished for more than 10 years will be charged a 300% premium – four times the normal council tax rate.
- 4.3 The combined action has had (and is expected to continue to have) significant positive results:
- Since 2011, the number of long-term empty homes (empty for longer than six months) has reduced by 42%.
 - In the last 5 years there has been a 29% reduction in long term empty dwellings
 - The Draft Housing Strategy 2020 to 2025 has a target of reduction of long term empty homes by 10% during the Strategy period.
- 4.4 The Council made a Compulsory Purchase Order (CPO) in October 2016 to compulsory acquire four long term empty dwellings. The matter proceeded to a Public Enquiry following receipt of a number of objections, following which the Order was confirmed by the Secretary of State for Communities and Local Government with modifications. As a result, two dwellings (43 Wenlock Gardens and 136 Broadway) were subsequently acquired by the Council and refurbished and brought back into productive use. They now provide valuable additional temporary affordable accommodation in line with the Council's Homelessness Strategy 2018. Additionally the owner of 139 Lichfield Road, formally agreed to

refurbish the property and bring it back into use, failing which it would have been compulsory acquired. The works were carried out in accordance with the agreement and the dwelling has been occupied since autumn 2017.

- 4.5 The Inspector declined to confirm the CPO in respect of 2 and 2a Walsingham Street as it was considered the owner's intentions to sell the site would remedy the situation.
- 4.6 The initial costs of the CPO process and the refurbishment of the 2 dwellings which were compulsory purchased has been met from the limited funding available in a New Homes Bonus allocation. There remains a balance of £204,000 in this grant pot. The purchase of the properties was possible through use of 'commuted sums' (payments received via the statutory planning process) via delegated agreement by the Executive Director of Economy and Environment and the Leader and Portfolio Holder Regeneration. Typically, the local authority seeks affordable housing contributions through the planning process to be provided on the development sites, but where this is not possible or appropriate, the developer may provide a payment known as a commuted sum to enable the provision of affordable housing elsewhere. These contributions are secured via planning obligations pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 4.7 A current balance of £898,000 exists within the commuted sum pot which must be used for the provision of affordable housing within the Walsall administrative boundary. As highlighted in the draft Housing Strategy 2020 to 2025, the Council proposes to work with partners to increase the affordable housing supply through the purchase of existing empty homes or the development of new homes. Authority has previously been given by Cabinet to proceed with the acquisition of the dwellings listed in Table 1 above including by way of CPO powers and it is therefore proposed that CPO process is commenced and that:
- i) The balance of the New Homes Bonus Empty Homes allocation continues to be used to:
 - a. Fund the costs associated with the submission of a CPO and any associated costs (e.g. public inquiry etc.);
 - b. Fund the purchase of the dwellings which are not proposed to be used as affordable housing but will be sold thereon.
 - ii) Commuted sum funds be used to fund the purchase and refurbishment / improvement costs associated with the acquisition of all / any of the dwellings which are to be used for affordable temporary accommodation.
- 4.8 In line with previous Cabinet authority it is also proposed that any capital receipts from the future sale of empty homes are recycled for the purposes of continuing the programme of tackling empty homes. Any capital receipts from future sales of these former empty homes where the original purchase was funded through the use of affordable housing commuted sums, must be recycled into an 'affordable housing' use to comply with the requirements of the relevant S106 agreements. This could include the purchase of more empty homes to use as temporary affordable accommodation.

- 4.9 The Council will continue to use all available powers to bring empty homes back into use and this includes the pursuance for any unpaid council tax debts which can lead to an 'enforced sale' of the associated dwelling.
- 4.10 By April 2020, unless any of the dwellings are brought back into use in the meantime, it is expected that there will be a total of 125 dwellings in the borough which have been empty for more than 5 years, of which 55 (those listed in Appendix 1) will have been empty for more than 10 years. It is therefore proposed that proactive action is taken in respect of all 125 long term empty dwellings, with the initial focus being on the 55 listed in Appendix 1. The action proposed includes negotiation with owners and acquisition (including by way of compulsory purchase) if the properties continue to be empty and agreement cannot be reached.

Council Corporate Plan priorities

- 4.11 The proactive action to bring long term empty homes back into use will have a direct positive impact on the Council's ability to deliver its priorities as stated in the Corporate Plan 2018-21 in particular;
- 4.12 **Communities:** are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion.

Risk management

- 4.13 Cabinet has already authorised CPO action to be taken to bring the properties listed in Table 1 above back into use as this was deemed the most appropriate method in the circumstances and will achieve a permanent solution which will simultaneously remove any adverse impact on amenity and bring the properties back into use. This report re-iterates this as the owners of the properties have made no meaningful attempts to secure their reuse. The report also highlights the significant financial resources available to assist with this process (New Homes Bonus and Commuted Sums).
- 4.14 Where the relevant S106 Agreement provides for it, developers may claw back any unspent commuted sums which were secured for the provisions of affordable housing.
- 4.15 Appendix 1 contains a list of 55 dwellings that will by April 2020 have been empty for over 10 years. The proactive action proposed to address these 55 properties is not expected to result in the acquisition (either by agreement or CPO) of the majority of these. Instead, previous dealings with long term empty dwellings in Walsall and indeed the review of other authorities' action across the country would suggest that many long term empty dwellings are brought back into use once concerted action is taken. Indeed, once owners of the long term empty dwellings are aware that there is authority to compulsorily purchase the property in question, they are often more inclined to work with the Council to bring the dwellings back into use.

Financial Implications

- 4.16 As highlighted in 4.1 above, there are two capital budgets that are available to assist with bringing long term empty homes back into use but not limited to CPOs:

- Empty Homes New Homes Bonus (EHNHB) £204,000
- Affordable Homes Commuted Sums (AHCS) £898,000

- 4.17 Where properties are sold by the Council after they have been acquired the capital receipt will be 'recycled' back into the 'originating pot' to enable this programme of proactive work to continue as per the table below:

Property purchased using	Property sold funds* returned to:	Future purpose of recycled funds
EHNHB	EHNHB	Bringing long term empty homes back into use
AHCS	AHCS	Securing provision of affordable housing (including affordable temporary accommodation)
*which may be lower than costs of purchase and refurbishment.		

- 4.18 Where a property is acquired by way of CPO, the owner from which the property is acquired has a statutory time limit of 12 years to claim compensation. Such interested parties are entitled to the market value of the property as well as compensation in accordance with the compensation code set out in the Land Compensation Acts.

Legal implications

- 4.19 Cabinet has already granted authority to commence the CPO process in relation to the properties listed in Table 1. Despite being given considerable further time to bring the dwellings back into productive use, the owners have failed to do so and the properties remain empty.
- 4.20 The Council has the power under Section 17 of the Housing Act 1985 to acquire land, houses or properties by compulsion for the provision of housing accommodation, providing the Secretary of State is satisfied that the land is likely to be required within 10 years of the date the order is confirmed and the acquisition will achieve a quantitative and qualitative housing gain. The guidance on the compulsory purchase process and the Crichel Down Rules, produced by the Ministry of Housing, Communities and Local Government, provides that the compulsory purchase of empty properties may be justified as a last resort in situations where there appears to be no other prospect of a suitable property being brought back into residential use. This includes where authorities have tried to encourage an owner to restore the property to full occupation, to no avail.
- 4.21 CPO powers are also available under other legislation including the Town and Country Planning Act 1990, which provides local authorities with the power to acquire land compulsorily for development and other planning purposes. This may be useful where land does not have an existing dwelling house use but is intended to be redeveloped for such use, as was partly the case for the Walsingham Street property that was included in the 2016 CPO.
- 4.22 The proposed process is dependent upon the specific property and whether the Council intend to either:

- a) dispose of it to the private or social sector with an obligation to bring it up to a

- habitable standard within a specified reasonable time period or;
- b) retain it and bring it up to a habitable standard and let it for affordable housing purposes.
- 4.23 In order to secure both the title and the right to possession of the land at the earliest opportunity, it is proposed that a general vesting declaration is made in relation to properties for which a CPO is confirmed. If the Council is to dispose of the properties following acquisition, they will be sold via auction. Otherwise, they will be retained for affordable housing.
- 4.24 Acquiring property using CPO powers is an interference with human rights. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights. In making a CPO, the relevant articles of the Convention are:
- Article 1 of the First Protocol – Protection of property
 - Article 8 – The right to respect for private and family life and his / her home
- 4.25 The guidance referred to above confirms that “an acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.”
- 4.26 Officers have considered the above and having taken advice from Legal Services have made a balanced judgment that the public interest in bringing the empty properties into use outweighs the private rights of the individuals affected. It is considered that the acquisition of these properties using CPO powers is necessary and proportionate in the circumstances, and that there is a compelling case in the public interest as set out by the guidance.
- 4.27 Following the resolution to make a CPO, Legal Services will be instructed to commence the CPO process and gather the necessary information to prepare the CPO, together with an accompanying statement of reasons, in accordance with section 2 of the Acquisition of Land Act 1981. The CPO will be publicised and any interested party will be given notice of the CPO. The CPO paperwork is then sent to the Secretary of State and if no objections are made and the Secretary of State is satisfied that proper notices have been given, he will confirm, modify or reject the CPO. If objections are made, there will most likely be a public inquiry. Throughout the process, the Council will continue to negotiate with the interested parties who have raised objections. However, if the objections are not withdrawn, the public inquiry will go ahead. A planning inspector would then be appointed to consider the owner’s objections and the Council’s case for the CPO. The inspector will make a recommendation to the Secretary of State, who will then decide whether to confirm, modify or reject the CPO. Any properties which the CPO has been confirmed in respect of would then vest in the Council following the general vesting declaration process.
- 4.28 External legal advice has confirmed that the AHCS can be used for the purpose of providing affordable temporary accommodation.

- 4.29 The proposal is in line with the adopted statutory Homelessness Strategy for the borough and both the current Housing Strategy 2012-16 and the proposed draft Housing Strategy 2020 to 2025. The proposal is also in full accordance with the council's statutory planning policies and national and regional planning frameworks including, but not limited to, the National Planning Policy Framework (NPPF February 2019).

Procurement Implications / Social Value

- 4.30 Where the Council directly undertakes improvement / refurbishment of any property acquired by way of CPO, this will be using contractors that have tendered for the works or are on an existing framework or similar.

Social value will result from the bringing back into use the long term empty homes. In 2003 Hometrack (a property analytics business) concluded that empty properties can cause the value of neighbouring properties to drop by up to 20%. This is clearly another concern for residents in local areas where empty homes exist.

Property Implications

- 4.31 Disposal will be in accordance with the Council's current procedures which enables once the CPOs have been confirmed (by the Secretary of State) and the dwellings have been vested in the Council, for the properties to be disposed of through an agreed route. This method of disposal will be determined at the time and agreed with the Council's Leader and the Portfolio Holder. The Council has a number of disposal routes available to it including sale by private treaty and auction through a contractually appointed auctioneer.
- 4.32 Where acquired properties are to be retained for the purposes of providing affordable temporary accommodation, appropriate affordable rents will be set which include for the ongoing maintenance and repair of the same.

Health and Wellbeing Implications

- 4.33 Empty dwellings typically attract neighbourhood complaints about matters such as accumulations of rubbish, rodent infestations, overgrown gardens and unsecured premises (attracting anti-social behaviour such as vandalism, drug taking and arson), all issues that can potentially negatively impact upon the health and well-being of the public. Bringing empty homes back into use will help towards improving the environment and amenity of the local areas.

Staffing

- 4.34 None.

Reducing Inequalities

- 4.35 Council intervention through CPO will only be pursued if it becomes unavoidable. The proposal is not likely to affect people with particular protected characteristics differently, and therefore will not require an EqIA.

Consultation

- 4.36 The owners of the dwellings listed in Table 1 have been written to on multiple occasions (before the date of this report) and given more than reasonable opportunity to bring the properties back into use. Despite this, they have failed to take positive steps to occupy the properties or dispose of them. Whilst officers will continue to try to negotiate with the owners, it is suggested that the CPO process should commence.

5. Decide

- 5.1 The following alternatives were considered:

- To continue with negotiations with the owners of these properties – this was not considered to be likely to bring the properties back into use as the owners of the properties have made no meaningful attempt to secure their reuse.
- To do nothing – this is not acceptable due to the negative amenity and physical impacts on the neighbouring properties. Some of the properties have had incidences of breaking and entering and the resulting criminal activity.

6. Respond

- 6.1 Subject to the approval of the report, the CPO process will be implemented broadly by following the next steps below.

Month 1: Preparatory Stage 1: Assemble all material for each of the properties.

Month 2: Preparatory Stage 2: Decide which enforcement powers to use; that is H Housing or Planning

Preparatory Stage 3: Prepare a Summary Briefing Report on the background of the cases

Month 3: Preparatory Stage 4: Check all cases again to see if there is a realistic prospect of settlement without the need to proceed to CPOs

Month 4: Prepare reports for Authority to Proceed

Month 5: Report to Full Council for Authority to Proceed

Month 5: Prepare CPOs if approved above

Month 6: Make CPOs

Month 6 – 7: Pursue cases through Public Enquiry if CPOs are opposed

Month 8 – 12: Proceed with legal processes of transferring ownership, paying compensation and arranging for onwards sale (in necessary) where the CPOs is not opposed

7. Review

- 7.1 All Council services involved with the CPO will meet regularly with Legal Services to review progress. Updates will be provided as appropriate to the relevant portfolio holders and a progress report will go to Cabinet as part of the CPO process.

Background papers

1. Walsall Housing Strategy 2012-16
2. Walsall Housing Strategy 2020-25 Draft
3. Walsall Housing Standards and Improvement Enforcement Policy
4. Home Loss Payments – Prescribed amounts
5. Circular 06/04: Compulsory Purchase and The Crichel Down Rules
6. Compulsory Purchase and Compensation – Compensation to residential owners and occupiers October 2004 – Communities and Local Government Publication
7. Hometrack Housing Data Systems Limited, June 2003
8. National Planning Policy Framework February 2019

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9 March 2020



Councillor Andrew
Deputy Leader and Regeneration.

9 March 2020

List of Empty Dwellings in Walsall that will have been empty for at least 10 years by April 2020

Flat 1, The Fire Station, High Street, Bloxwich, Walsall, WS3 3JT
Flat 2, The Fire Station, High Street, Bloxwich, Walsall, WS3 3JT
148 High Street, Bloxwich, Walsall, WS3 3JT
190 High Street, Bloxwich, Walsall, WS3 3LA
Yieldfields Hall Farm House, Stafford Road, Bloxwich, Walsall, WS3 3PJ
130 Parker Street, Bloxwich, Walsall, WS3 2LF
32 The Green, Bloxwich, Walsall, WS3 2JL
168 Blakenall Lane, Walsall, WS3 1HU
229 Bentley Lane, Walsall, WS2 8SN
87 Pargeter Street, Birchills, Walsall, WS2 8RR
33 Broadway North, Walsall, WS1 2QG
73 Essex Street, Walsall, WS2 7AR
189 Stafford Street, Walsall, WS2 8ED
190 Stafford Street, Walsall, WS2 8ED
18 Bath Street, Walsall, WS1 3DE
2 Toes, 12 Bradford Street, Walsall, WS1 1PB
5 Manor Road, Walsall, WS2 9PX
166 Wednesbury Road, Walsall, WS1 4JJ
70 Willows Road, Walsall, WS1 2DP
49 Brace Street, Caldmore, Walsall, WS1 3PS
Fullbrook Post Office, 208 Broadway, Walsall, WS1 3HH
60 Lord Street, Palfrey, Walsall, WS1 4DP
64A West Bromwich Road, Walsall, WS1 3HS
20 Yew Tree Road, Delves, Walsall, WS5 4NQ
39 Scarborough Road, Walsall, WS2 9RF
18 Blockall, Darlaston, WS10 8EP
9 Bush Street, Darlaston, WS10 8JY
28 Somerset Road, County Bridge, Willenhall, WV13 2RY
215 Wolverhampton Road West, Bentley, Walsall, WS2 0DU
51 Birmingham Street, Willenhall, WV13 2HP
3 Shelley Road, Willenhall, WV12 5HZ
11 Shelley Road, Willenhall, WV12 5HZ
15 Shelley Road, Willenhall, WV12 5HZ
Flat 1, Druids Heath Golf Club, Stonnall Road, Aldridge, Walsall, WS9 8JZ
68 Station Road, Aldridge, Walsall, WS9 0BN
13 Ravens Court High Street, Brownhills, Walsall, WS8 6EJ
14 Ravens Court High Street, Brownhills, Walsall, WS8 6EJ
15 Ravens Court High Street, Brownhills, Walsall, WS8 6EJ
16 Ravens Court High Street, Brownhills, Walsall, WS8 6EJ
17 Ravens Court High Street, Brownhills, Walsall, WS8 6EJ
18 Ravens Court High Street, Brownhills, Walsall, WS8 6EJ
37 Gainsborough Crescent, Great Barr, Birmingham, B43 7LB
Flat 3, 108 Thornhill Road, Streetly, Sutton Coldfield, B74 3ER
102 Lindon Road, Brownhills, Walsall, WS8 7BW

4 Winchester Mews, Aldridge, Walsall, WS9 0SP
Flat 8, Adj Swan House Nursing Home, Pooles Lane, Willenhall, WV12 5HW
37 High Street, Walsall Wood, Walsall, WS9 9LR
43 Temple Road, Willenhall, WV13 1ET
90 Walker Road, Blakenall, Walsall, WS3 1BZ
33 Bush Street, Darlaston, WS10 8LE
35 Broadway North, Walsall, WS1 2QG
17A Digbeth, Walsall, WS1 1QZ
5 Bilston Road, Willenhall, WV13 2JT
9 Selborne Close, Walsall, WS1 2LW
Flat 2, 116 Wednesbury Road, Walsall, WS1 4JH