

Cabinet – 27 April 2016

Use of Compulsory Purchase Powers for long term empty dwelling

Portfolio: Councillor A Andrew, Portfolio holder, Economy, infrastructure and development

Service: Housing

Wards: Paddock

Key decisions: No

Forward Plan: No

1. Summary

A priority within the Corporate Plan 2016-2020 is to create safe and sustainable and inclusive communities. Long term empty homes have a negative impact on the appearance of a neighbourhood. This report seeks Cabinet consent to purchase, either through voluntary negotiation or compulsorily, a long term empty dwelling and to bring it back into use, where the owner has proved unresponsive to attempts by Officers to secure it's improvement. Authority is sought to subsequently dispose of the property.

2. Recommendations

That Cabinet:-

- (i) authorises the Head of Business Change to negotiate the voluntary acquisition of 2a Walsingham Street, Walsall, WS1 2JZ;;
- (ii) in the event that the Head of Business Change is satisfied that voluntary acquisition cannot be achieved, authorises the making of a compulsory purchase order (CPO) under section 17 of the Housing Act 1985 in respect of those properties;
- (iii) authorises the Head of Business Change to approve where appropriate agreements with owners of the property setting out terms for withdrawing objections to the CPO;
- (iv) authorises the Head of Legal & Democratic Services to take all steps necessary for the drafting, making, submission and confirmation of the CPO and for vesting the property in Council ownership and obtaining vacant possession where necessary;
- (v) authorises the Head of Legal & Democratic Services, if granted power to do so by the Secretary of State, to confirm the CPO;
- (vi) authorises the Executive Director for Economy and Environment to dispose of the property with appropriate safeguards to ensure the property is brought back into use
- (vii) agree that the full costs of the above recommendations (i), (ii) and (iii) be met in 2016/17 from the approved New Homes Bonus Empty Homes allocation to the

maximum allowable and that any proceeds from the disposals be 'recycled' into the New Homes Bonus account for Empty Homes work.

3. Report detail

- 3.1 Cabinet agreed in April 2015 to pursuing CPO's on fourteen long term empty dwellings. This included 2 Walsingham Street, Walsall, WS1 2JZ a large detached property on a corner site. The Council has sought via repeated approaches to the registered owner to bring the property back into use rather than serve a CPO. However to date no assurances or steps have been taken by the owner to bring the property back into use.
- 3.2 Statement of reasons have been prepared for 2 Walsingham Street, Walsall, WS1 2JZ and it has been noted that on a recent land registry search that a 'property' 2a Walsingham Street, Walsall, WS1 2JZ is also registered. This appears to be a former flat in the overall property 2 Walsingham Street, Walsall, WS1 2JZ. To avoid the risk of challenge, for administrative errors, in seeking the CPO it is recommended that authority be given to also CPO 2a Walsingham Street, Walsall, WS1 2JZ.
- 3.3 The entire property 2 and 2a Walsingham Street has been empty since February 2011 and complaints from local residents have been received since this later that year about the condition of the property.
- 3.3 Officers feel that acquisition of the property 2 and 2a Walsingham Street, via compulsory purchase if necessary, is the only remaining option.
- 3.4 If a CPO becomes necessary, officers will nevertheless continue to work with the owner to ensure the property can be brought back into use. Should the owner carry out works to bring the property into full and continuous residential occupation to the satisfaction of officers then the Council may consider withdrawing the property from the CPO provided the Secretary of State consents and there are sufficient safeguards to ensure that the property does not become empty again.
- 3.5 In the absence of a voluntary acquisition by the Council, compulsory purchase provides the only realistic prospect of these properties being brought back into residential use in the foreseeable future. If the CPO is confirmed by the Secretary of State, officers intend to put the property into auction with a reputable auctioneer or through other acceptable form of disposal. Any sale will be subject to a covenant to ensure that the property is fully renovated and occupied within a defined timescale. This recommended approach whilst not previously undertaken by the council has been found to be highly successful by other local authorities in England.
- 3.6 Cabinet authority to CPO other properties has helped bring them back into use or sold and or being refurbished without the need to proceed with legal action for example,
 - 77 King Charles Avenue, Bentley,
 - 78 King Charles Avenue, Bentley,
 - 5 Gordon Street, Darlaston

- 6 Gordon Street, Darlaston
- 61 Thames Road, Blakenall

3.7 Officers have found that when CPOs are made on properties, most owners eventually belatedly offer to renovate and occupy their properties by doing works themselves or selling.

4 Council Priorities

Creating safe, sustainable and inclusive communities

4.1 A priority within the Corporate Plan 2016-2020 is to create safe and sustainable and inclusive communities. Long term empty homes have a negative impact on the appearance of a neighbourhood and there national research to indicate 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.

5 Risk Management

5.1 All attempts to negotiate with, and assist the owner of the above properties to return them back into use have been exhausted. An assessment of the most appropriate course of enforcement action was therefore carried out. All options were considered, namely, service of legal notices on properties having an adverse effect on amenity (with enforced sales in the event of noncompliance), Empty Dwelling Management Orders and compulsory acquisition. Using CPO powers was deemed the most appropriate under the circumstances and will achieve a permanent solution which simultaneously removes any adverse impact on amenity and brings the property back into long term use.

5.2 The other option the Council might pursue is to do nothing. This will avoid budgetary implications, but is not recommended in the light of Council's priorities and pledge with regard empty homes. By failing to take the proposed action, empty and eyesore homes remain untouched and dwellings with category 1 hazards remain (what used to be described as accommodation "unfit for habitation").

5.3 Once authority to make a CPO is obtained, it soon becomes apparent that some properties will almost certainly not be brought back into use while with others there may a realistic possibility of the owner carrying out works that allow the property to be occupied again. Because of this, it may be necessary to make more than one CPO under the authority given by this report in order to ensure that those properties which are unlikely to be brought into use are not left empty for too long.

6 Financial Implications

- 6.1 The Council has funds within the New Homes Bonus allocated for tackling empty homes. This fund can be used for the CPO referred to in this report. The proposal is to sell the properties acquired by CPO at auction as soon as practicable. It is noted that the sales and costs associated with such may not recoup the full amount of funds expended and that any shortfall will be covered by the New Homes Bonus fund.
- 6.2 As indicated previously, it is noted that nationally experience from other councils (and more recently locally) is that in the majority of cases the threat of CPO, especially when the legal process is started, actually brings the previously unresponsive owners to take action to either refurbish their dwellings or market them for sale. Therefore, whilst the New Homes Bonus will be allocated for the full cost of the CPO process it is unlikely to be needed for this purpose and can therefore continue to be made available for the successful grant and loan scheme being offered to long term empty homes owners.
- 6.3 It is proposed that any funds resulting from sale of the dwellings following CPO will be 'recycled' back into the New Homes Bonus fund for tackling empty homes to enable this programme of proactive work to continue.
- 6.4 There is a statutory time limit of 12 years for dispossessed owners to claim compensation. Owners who have their property acquired under CPO 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 of 1961 and 1973.
- 6.5 It cannot be guaranteed that the capital funding for acquisition will be replaced entirely on disposal. As stated above, the costs of the CPO process including any subsequent claims from owners of their own reasonable legal and surveyor's fees as part of the compensation will be met from the New Homes Bonus fund.

7 Legal Implications

- 7.1 The Council has the power under Section 17 of the Housing Act 1985 to compulsorily acquire land, houses or other properties for the provision of housing accommodation, subject to confirmation by the Secretary of State Ministerial Guidance (Circular 06/04 – Compulsory Purchase and the Crichton Down Rules) identifies section 17 as the appropriate power for empty properties, and specifies that where this power is used there should be a quantitative or qualitative housing gain. Officers are satisfied that acquiring the properties by way of CPO would result in such housing gain being achieved.
- 7.2 The proposed process is to dispose of the properties to the private or social sector with an obligation to bring the premises up to a habitable standard within a specified reasonable time period.
- 7.3 To acquire legal title to the dwellings to facilitate their early disposal, the

General Vesting Declaration procedure is recommended as the appropriate process to be adopted following confirmation of the Order. Once the dwellings have been vested in the Council, it will dispose of them (most likely via auction) and ensure appropriate safeguards are in place to make sure they are brought back into use.

- 7.4 Acquiring property using CPO powers represents 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
- 7.5 Circular 06/04 reiterates this, where it states ‘A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a CPO justify interfering with the human rights of those with an interest in the land affected, having regard in particular to the provisions of Article 1...and in the case of a dwelling, Article 8’.
- 7.6 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 required by Circular 06/04.
- 7.7 The owners of the properties will be able to object to the CPO. Should they not withdraw their objections then the Secretary of State may decide that a public inquiry is necessary, at which a planning inspector will 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 the CPO. Legal Services will be instructed to assist with the public inquiry should one be necessary.

8 Property Implications

Disposal will be in accordance with the Council’s current Property Procedures. Once the CPOs have been confirmed (by the Secretary of State) and the dwellings have been vested in the Council, the properties will most likely be put into auction with a reputable auctioneer. Should, however, a different method of disposal be more appropriate in any particular circumstances then the Council will still be able to dispose of the property in that way.

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.

9 Health and wellbeing implications

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.

10 Staffing implications

None.

11. Equality Implications

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'

12. Consultation

Correspondence has been sent to the owner of the dwellings including prior to the consideration of this report by Cabinet. They have to date failed to take positive steps to bring them back into use and or dispose of them.

Background papers

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

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Appendix 1

Strategic Background to tackling empty homes in Walsall

A priority within the Corporate Plan 2016-2020 is to create safe and sustainable and inclusive communities. Long term empty homes have a negative impact on the appearance of a neighbourhood and the residents who live there.

The council's adopted Housing Strategy (2012 to 2016) and adopted Housing Standards and Improvement Enforcement Policy highlight the council's commitment and ongoing work to tackle the various issues created by long term empty homes in the borough. Tackling empty homes is a key contributory factor to increasing available housing supply within the borough to meet the increasing number of new households (Census 2011 indicated a 6,500 (6.4%) increase in households since 2001).

The council has taken a range of complementary proactive steps to tackle long term empty homes and encourage owners of them to bring them into productive use;

- Since April 2012 the council has allocated New Homes Bonus funds to help owners of empty homes bring them back into use through grants and extremely competitive loans (at zero interest and only repayable upon the future sale of the property). A number of owners of empty homes have already taken up this assistance.
- From April 2013 the council introduced changes to the exemptions and discount levels for council tax and introduced a 50% premium for the longer term empty homes. From April 2015 the council will introduce further changes to the discounts for short term empty homes and those undergoing major repair work. These are anticipated to help bring properties back into use quicker.
- Given authority at 2 cabinet meetings in December 2013 and April 2014 for up to 12 long terms empty homes to be the subject of compulsory purchase action.
- Publicity of the above through web-site and new articles and landlord forums.

Between October 2011 and October 2014 the number of long term (over 6 months) empty homes has reduced by 18%. However, long term empty homes continue to be a problem with some being empty for more than 2 years. The council will seek to discuss with the owners of these longer term properties, in line with the adopted Housing Enforcement Policy, their plans for bringing them back into use. Properties will always be considered on a case by case basis.

The compulsory purchase of the dwellings, and their subsequent onward sale, will produce a quantitative and qualitative gain to the borough's housing stock and will assist in the achievement of the Council's Housing Strategy. They will address the Council's strategic supply, regeneration and sustainability objectives.