

Meeting	Cabinet Resources Committee
Date	25 February 2014
Subject	Compulsory Purchase of Long-Term Vacant Properties
Report of	Cabinet Member for Housing
Summary of Report	Report to Provide an Update on the Empty Property Programme and to Seek Approval for the Compulsory Purchase Under the Housing Act 1985 of a Long Term Empty Property

Officer Contributors	Belinda Livesey, Private Sector Housing Manager
Status (public or exempt)	Public (with a separate exempt report)
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	None
Function of	Executive
Enclosures	Appendix 1 – property ‘c’ Appendix 2 – property ‘d’
Contact for Further Information:	Belinda Livesey x7438

1. RECOMMENDATION

- 1.1 That the making of Compulsory Purchase Orders (CPOs), under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 be authorised in respect of the properties identified as ‘a’ and ‘b’ in the exempt report.**
- 1.2 That, subject to the authorisation for the making of the Compulsory Purchase Orders referred to in recommendation 1.1 above, the Orders be submitted to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation.**
- 1.3 That, in the event of the Secretary of State at the Department for Communities and Local Government returning the Orders for confirmation by the Council, the Order be confirmed on behalf of the Council.**
- 1.4 Following confirmation of the Orders, that Cabinet Resources Committee approve the entry into a cross-undertaking with the owner(s) of the relevant property not to implement the Order on the condition that the owner(s) agree(s) to bring their property back into use within a reasonable time.**
- 1.5 In the event that a cross-undertaking is not entered into as referred to in recommendation 1.4 above, or the terms of the cross-undertaking are not adhered to by the owner, that authority be delegated to the Director of Place to proceed with the compulsory acquisition of the properties in question.**
- 1.6 That following the compulsory acquisition of any of the properties, an options paper on the onward disposal be brought to the Cabinet Resources Committee for decision.**
- 1.7 That Cabinet Resources Committee approve that the financial costs of the Compulsory Purchase Orders be indemnified through the Corporate Capital Programme.**
- 1.8 On the basis of valuations and the potential return on investment – in relation to property “c” that Option 1 be authorised.**
- 1.9 On the basis of valuations and the potential return on investment in relation to property “d”- that Option 3 be authorised. Costs to be indemnified through the Corporate Capital Programme.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 28 April 2008, (Decision item 1 exempt) in relation to the making of Compulsory Purchase Orders (CPOs).**
- 2.2 Cabinet Resources Committee, 1 December 2008, (Decision item 7) in relation to the making of CPOs.**
- 2.3 Decision of the Cabinet Resources Committee, 5 March 2009 (Decision item 8) in relation to the making of CPOs.**

- 2.4 Decision of the Cabinet Resources Committee, 30 March 2009 (Decision item 9) in relation to the making of CPOs.
- 2.5 Decision of the Cabinet Resources Committee, 2 September 2009 (Decision item 6) in relation to the making of CPOs.
- 2.6 Decision of the Cabinet Resources Committee, 16 March 2010 (Decision item 12) in relation to the making of CPOs.
- 2.7 Decision of the Cabinet Resources Committee, 17th June 2010 in relation to the making of CPOs.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The policy meets the Council's key Corporate Priorities detailed in the Barnet Corporate Plan 2013-2016 as follows:-

- Create the right environment to promote responsible growth, development and success across the borough- Bringing empty properties back into use preserves the housing stock and improves its energy efficiency. Renovating existing homes has around a 33% smaller carbon foot print than building new homes.
- Support families and individuals that need it, promoting independence, learning and well-being:- Increasing the available housing stock meeting minimum standards will help ensure that more families have access to accommodation which will enable stability in schooling, health care etc.
- Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study- Empty properties can be a magnet to criminal behaviour leading to increased crime in the local area. Bringing empty properties back into residential use will reduce crime and reduce the fear of crime for local residents which will increase residents' satisfaction with their local community.

2.2 Barnet's Housing Strategy 2010-2025 key objective is to increase the housing supply, including family sized homes, to improve the range of housing choices and opportunities available to residents. This strategy contributes to this by improving the condition and sustainability of the existing housing stock.

4. RISK MANAGEMENT ISSUES

- 4.1 There are risks associated with Compulsory Purchase that arise from two potential sources:
- 4.2 Financial risks – these arise if the resale value of the property, once acquired, is less than the compensation paid for it at the time that possession is taken. This is possible in the current unpredictable housing market. To reduce the risk, it is essential that the property be disposed of as soon as possible after acquisition. The corollary is that the Council would benefit from any increase in value in an appreciating market, which could be used to offset the costs of acquisition. Any shortfall would have to be funded from Council resources.

4.3 There is a risk to the Council in not dealing with empty properties, both in the way Central Government assesses our strategic housing performance and in the way residents see the ability of the Council to intervene in the problems which beset them.

4.4 Due to the current financial climate an options paper on the onward disposal of the property will be brought back to Cabinet Resources Committee for a decision to be made at the appropriate and opportune time.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 Empty and neglected properties can be a blight on the area and the local community that can lead to residents having an increased level of area insecurity and fear of crime in their neighbourhood. Bringing these properties back into use will benefit all members of the Borough's diverse communities.

5.2 Any regulatory activity will be carried out in accordance with the current Development and Regulatory Services Enforcement Policy to ensure the objective application of powers and responsibilities.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 The costs to the Council are divided into capital and revenue costs.

6.1.1 Capital Costs – Addition to capital programme:

Property	Estimated Value in Present Condition
Property 'a'	£290,000
Property "b"	£500,000

6.1.2 If the CPOs are confirmed, the next stage will be to proceed, if necessary, with the acquisition of the property. Compensation will be payable to the owners based on the valuation on the date of possession, which could be higher or lower than the Council's valuation. At this time there is no way of knowing exactly whether or not the Council will be able to recover the compensation in full. In the current economic conditions it is anticipated that the risk to the Council could be high if property prices slide. There is however every chance that the pressure of initiating the Compulsory Purchase procedure will be sufficient to ensure that the property owners take the appropriate action to either repair and reoccupy the property or sell the property.

6.2.1 Revenue Costs – For these CPOs the revenue costs of making the Orders and associated administration has been provided by funds from the North London Housing Sub Region. In-house property disposal costs (including inspection, valuation, security and maintenance, liaison with legal services, negotiations with the owner and liaison with the purchaser throughout the CPO / disposal process) are estimated at around £15,000.

6.2.2 The acquisition and immediate disposal of these properties may result in nomination rights for the Council to meet the needs of accepted homeless

families. This would only happen if the properties were sold to a Registered Social Landlord.

6.2.3 The Planning and Compulsory Purchase Act 2004 introduced an entitlement for former owners of compulsorily acquired property to claim basic loss payments. The amount is 7.5% of the value of the person's interest in the land, subject to a maximum of £75,000. The Act provides that the entitlement to basic loss payment is lost if certain criteria are all met:

- a specified statutory notice/order has been served on the owner;
- at the time the CPO is confirmed the statutory notice/order has effect or is operative; and
- The owner has failed to comply with any requirement of the statutory notice/order.

6.3 Bringing empty properties back into use represents excellent value for money for Barnet. For every property that moves from an unoccupied to occupied banding on Council Tax records the Council is allocated New Homes Bonus for 5 years. This is in addition to Council Tax paid by the new resident.

6.4 The Council has dedicated £600,000 per year 2012-2017 to assist in bringing empty properties back into residential use. This funding would be used to support the purchase of properties and any property improvements prior to sale.

7. LEGAL ISSUES

7.1 Section 17 of the Housing Act 1985 ('the 1985 Act') empowers local housing authorities to compulsorily acquire land, houses or other properties for the provision of housing accommodation. Acquisition must achieve a quantitative or qualitative housing gain.

7.2 According to Government Circular 06/04¹, '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 into residential use. Authorities will first wish to encourage the owner to restore the property to full occupation. When considering whether to confirm a compulsory purchase order the Secretary of State will normally wish to know how long the property has been vacant; what steps the authority has taken to encourage the owner to bring it into acceptable use; the outcome; and what works have been carried out by the owner towards its re-use for housing purposes. Cases may, however, arise where the owner cannot be traced and therefore use of compulsory purchase powers may be the only method of acquiring the land.'

7.3 In reaching its decision, the Cabinet Resources Committee should have regard to the relevant provisions of the Human Rights Act 1998, namely Article 1 to the First Protocol – 'no one shall be deprived of his possessions except in the public interest', and Article 8 to the Convention – 'the right to respect for private and family life, home and correspondence'

7.4 It is considered that the exercise of Compulsory Purchase powers is justified by reason of being in the public interest, authorised by law and both necessary

¹ Circular 06/04: Compulsory Purchase and the Crichel Down Rules

and proportionate towards meeting the Council's Housing Strategy and the environmental, social and economic well-being of the area.

- 7.5 Local Authorities are given powers to dispose of housing land in accordance with *The General Consent for the Disposal of Land held for the purposes of Part II of the Housing Act 1985 - 2013 which came into force on 11 March 2013* which state:

A3.1.1 A local authority may, subject to paragraph dispose of land for a consideration equal to its market value.

In the case of these empty properties held for housing purposes the relevant section of those general consents is A3.3.1 which states that a local authority may dispose of an unoccupied dwelling-house to a person who intends to use it as their only or principal home.

It should be noted that any transfer to the buyer will contain a restriction that the owner must having carried out works (where appropriate), occupy the property.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Cabinet Committees may discharge Executive Functions that fall within their terms of reference. The Council's Constitution, Responsibility for Functions, states in paragraph 4.6 the functions delegated to the Cabinet Resources Committee includes all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

- 9.1 As at the 1st April 2012 there were 3,260 dwellings vacant in the borough the majority of which (2,708) were private sector dwellings vacant in the Borough. A total of 1,676 of those private sector dwellings had been vacant for more than six months (HSSA 2011-12). Some of these properties are in poor condition and represent an environmental blight on the local neighbourhood and waste of the Borough's housing stock. Assistance and funding from the North London Housing Sub Region combined with Empty Property Financial Assistance funded through the Capital Programme has enabled the empty property programme to be recommenced in Barnet. This has been through a combination of reviewing and updating the empty property data base, offering in the first instance advice, support and financial assistance to owners and encouraging them to bring their properties back into use, and where this fails targeting the most problematic and long term empty properties with enforcement action. Working with the Police work has also been undertaken to ensure that all the empty properties are secured against illegal occupation.
- 9.2 Since this Committee's decision in April 2008 to proceed with the Compulsory Purchase of empty properties, forty six properties were approved for Compulsory Purchase Orders to be made. Of these:
- Following the making of CPO's and their submission to the Government Office for London (GoL) for confirmation, two cross undertakings were

secured. These were not complied with and the properties are now owned by LBB.

- Two further properties are due to have CPOs submitted to GoL following a breakdown in negotiations.
- Work started and stalled at two properties. LBB has secured a Final Charging Order in relation to one of these to reclaim outstanding Council monies. The case of the other property is being reviewed. It will either be referred for CPO or an Empty Property Management Order will be made.
- Work has been completed to four properties but they remain empty. Three of these may be let to Barnet Homes.
- Three properties have been reoccupied
- One property has had work completed and is due to be reoccupied
- One has been demolished, rebuilt and reoccupied
- Work is in progress at twenty one flats
- One has been demolished and the site use changed
- One has been demolished and is being redeveloped
- Six have been sold, redeveloped and reoccupied

New Properties for CPO Action

- 9.3 Two additional properties are now being recommended for CPO action and the details relating to these are contained in the Exempt Report.
- 9.4 CPO powers are now being recommended only because proactive advice and other enforcement measures have been exhausted or are not appropriate.
- 9.5 National experience, and the local experience of the Borough has shown that resolving to CPO a property focuses the minds of the current owners to either dispose of the property, or bring it back into use without further need for intervention. As demonstrated in 9.2 in the majority of cases where the Compulsory Purchase process is started the Council rarely reaches the situation where purchase becomes necessary. As such this is a very cost effective tool in bringing empty properties back into use.
- 9.6 After the Council has made the CPOs ('the Order'), they will be submitted to the appropriate Government Minister for confirmation. Where an objection to an Order is made by an owner or occupier and is not withdrawn, then, unless satisfied that the objection is exclusively related to compensation, the appropriate Minister must arrange for either a public local inquiry or a hearing before an inspector, appointed by the Minister. The time limit for the exercise of a Confirmed Order is three years from the time the Order becomes operative.
- 9.7 National experience of the use of Compulsory Purchase powers has demonstrated that once CPO action has been initiated, an owner may belatedly come forward with proposals. In such instances, a local authority can enter into an undertaking (in the form of a legally enforceable agreement) with the owner to bring the property back into use within an agreed reasonable time-scale and not object to the making of the CPO or to withdraw any objection and allow it to be confirmed unopposed. This would mean that the Council cross-undertakes not to implement the CPO within the agreed time period, but if the owner fails to carry out works, then the CPO having been confirmed can move to possession. This negates the need for an Inquiry and all the costs involved in the Inquiry process.

- 9.8 Once the Orders are confirmed, and if there are no cross-undertaking (or the terms of the cross-undertaking are not adhered to by the owner), the Order can be implemented either by way of Notice to Treat or by General Vesting Declaration (GVD). The Notice to Treat procedure would enable the Council to take possession of the property very quickly. However, it would not give the Council ownership of the property. Ownership can only be transferred when compensation has been paid. If the level of compensation is disputed and the matter is referred to the Lands Tribunal for settlement, it may take up to two years for the Council to obtain ownership. Throughout this period it would not be possible to sell the property for refurbishment. The GVD procedure, which is the preferred route, enables possession to be obtained only three to four months after confirmation thus allowing prompt transfer and commencement of refurbishment without waiting for compensation issues to be settled. The owner can apply for 90% advance payment of the Council's valuation. The balance of the compensation (or the whole if no advance payment is claimed) is payable on completion of the transfer of ownership. Whether the Council proceeds by way of Notice to Treat or GVD, it will also have to pay interest on the compensation from the date of entry to the date of completion of the purchase. The rate of interest is prescribed by regulation made under the Land Compensation Act 1961.
- 9.9 Once the Orders are confirmed, the property would be sold with a mechanism to ensure that the house is brought back into repair and habitation.

Disposal of Properties Secured Through CPO

- 9.10 Properties "c" and "d" were purchased in January 2014. These have been valued at:

Property	Estimated Value in Present Condition
Property 'c'	£510,000
Property "d"	£550,000

- 9.11 Options for onward disposal are contained in Appendix 1 and 2.
- 9.12 Barnet Homes have been approached and are not interested in purchasing these properties.

10. LIST OF BACKGROUND PAPERS

- 10.1 The Council's CPO Procedure (Final Draft 28 March 2008).
- 10.2 Barnet's Empty Property Strategy 2013-14
- 10.3 Barnet's Housing Strategy 2010-2025
- 10.4 Development and Regulatory Services Enforcement Policy
- 10.5 Homes and Communities Agency "Empty Homes Tool Kit"
- 10.6 Mayor of London's Draft Revised Housing Strategy (currently in consultation)

10.7 Anyone wishing to inspect these papers should telephone Belinda Livesey on 020 8359 7438.

Cleared by Finance -JH	13th February 2014
Cleared by Legal -TD	14th February 2014

Appendix 1 - Property "c"

This is a three bedroom property which has an existing ground floor of 53m² and first floor of 50m².

It is in a poor condition with kitchen, toilet and bathroom stripped out. There is evidence of rising damp and roof leaks. There is a large unkempt garden to the rear.

The property could be remodelled and extended to provide a five bedroom property of ground floor 84m², first floor 70m² and roof space of 20m²

Options for disposal are:

Option 1 - Sell in its existing state of repair with planning permission. Sale at this stage has attracted costs for administration i.e. fees, and Stamp Duty. The property would be offered for sale immediately.

Option 2 - Refurbish the existing building to a habitable standard. This will incur costs for fees and Stamp Duty plus **£100,000** for -Repairs, Decoration, Improvements and Services to Compliance Standards.

Option 3 - Refurbish and maximise the potential of Existing Building. This will incur costs for fees and Stamp Duty plus £200,000 for construction, development, surveys and Professional Fees: **£200,000**. This option would be dependent on the required permissions being forthcoming.

A three bedroom neighbouring property sold in September 2010 for £562,500 (adjusted to £639,725 using the land registry index).

Whichever option is pursued the property will be sold on the open market.

Appendix 2- Property “d”

This is a three bedroom property which has an existing ground floor of 58m² and first floor of 54m².

The property is in a derelict condition with rear windows/door missing. The interior has been completely stripped out and floor boards removed. There is a large garden to the rear. The garage has been demolished.

The property could be remodelled and extended to provide a five bedroom property of ground floor 95m², first floor 72m² and roof space of 20m²

Options for disposal are:

Option 1 - Sell in its existing state of repair. Sale at this stage has attracted costs for administration i.e. fees, and Stamp Duty

Option 2 - Refurbish the existing building to a habitable standard. This will incur costs for fees and Stamp Duty plus **£110,000** for -Repairs, Decoration, Improvements and Services to Compliance Standards .

Option 3 - Refurbish and maximise the potential of existing building. This will incur costs for fees and Stamp Duty plus for construction, development, surveys and Professional Fees: **around £215,000**. This option would be dependent on the required permissions being forth coming.

A four bedroom neighbouring property sold in August 2013 for £762,000 (adjusted to £793,827 using the land registry index). A four bedroom property neighbouring property in an excellent condition sold in April 2010 for £820,275 (adjusted to £949,245 using the land registry index).

Whichever option is pursued the property will be sold on the open market.