

	<h2>Housing Committee</h2> <h3>27th October 2014</h3>
Title	<h2>Compulsory Purchase of Long Term Empty Properties</h2>
Report of	Enterprise & Regeneration Lead Commissioner
Wards	Totteridge
Status	Public (with a separate exempt report)
Enclosures	None
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<h2>Summary</h2>
<p>With the current pressures on the housing market, empty properties are a waste of housing resource. The Private Sector Housing Team try and work with the owners of these properties to bring them back into residential use through advice and financial assistance. Where this is not possible the appropriate enforcement action is taken. This report recommends Compulsory Purchase of two long term empty properties, both of which are in a poor condition. The alternative courses of action following the approval of this course of action are also detailed. Following the compulsory acquisition of any of the properties, an options paper on the onward disposal be brought to the Housing Committee for decision. The cost of purchase will be indemnified through the Corporate Capital Programme.</p>

Recommendations

- 1. That the Committee approve the making of Compulsory Purchase Orders (CPOs), under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 in respect of the properties identified as 'A' and 'B' in the exempt report.**
- 2. That, subject to the authorisation for the making of the Compulsory Purchase Orders referred to in recommendation 1 above, the Orders be submitted to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation.**
- 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.**
- 4. Following confirmation of the Orders, that Housing 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.**
- 5. In the event that a Cross-Undertaking is not entered into as referred to in recommendation 4. above, or the terms of the Cross-Undertaking are not adhered to by the owner, that authority be delegated to the Strategic Director for Growth and Environment to proceed with the compulsory acquisition of the properties in question.**
- 6. That following the compulsory acquisition of any of the properties, an options paper on the onward disposal be brought to the Housing Committee for decision.**
- 7. That Housing Committee approve that the financial costs of the Compulsory Purchase Orders be indemnified through the Corporate Capital Programme.**

1. WHY THIS REPORT IS NEEDED

- 1.1 Barnet currently has 3939 properties recorded with Council Tax as being long term empty. Some of these properties are in a poor condition and represent an environmental blight on the local neighbourhood and waste of the Borough's housing stock.
- 1.2 The Private Sector Housing Team work with empty property owners to secure property improvement and reoccupation. This is done through a combination of offering in the first instance advice, support and financial assistance to owners. Where this fails the appropriate enforcement action is taken depending. This ranges from minor enforcement action to improve and/or secure the property the properties to taking over of the property through Compulsory Purchase powers.

- 1.3 Two properties are being recommended for CPO action and the details relating to these are contained in the accompanying exempt report.
- 1.4 National and 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. 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.
- 1.5 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.
- 1.6 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 Council (the CPO having been confirmed at this stage) can move to possession. This negates the need for an Inquiry and all the costs involved in the Inquiry process.
- 1.7 Once the Orders are confirmed, and if there are no cross-undertakings (or the terms of the cross-undertakings 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 legal 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.

- 1.8 Once the Orders are confirmed, the property would be sold either with a mechanism to ensure that the house is brought back into repair and habitation, or following improvement with a mechanism to ensure that the property is occupied.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The making of a CPO is a last resort following extensive efforts by the Council to secure occupancy of the property.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 There are two other possible options for dealing with these properties:
- Making of an Empty Dwelling Management Order - due to the amount of work required to make these properties habitable, this option is considered to hold more financial risk for the Council.
 - Do nothing – this is not felt to be appropriate due to the drain on Council and Emergency Services resources caused by long term empty resources, and the pressure on the existing housing stock.

4. POST DECISION IMPLEMENTATION

- 4.1 Once the recommendation has been approved the owner will be notified in writing. An application will then be made to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 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 within 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.

5.1.2 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.

5.1.4 Re has a Key Performance Indicator to bring 100 empty properties back into residential use on an annual basis. The approval of these CPOs will assist in meeting this target.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

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

5.2.2 The capital costs are funded from the current capital programme. Costs are as follows:

Property	Estimated Value in Present Condition
Property 'a'	£887,000
Property "b"	£600,000

5.2.3 If the CPOs are confirmed, the next stage will be to proceed, if necessary, with the acquisition of the properties. Compensation will be payable to the owners based on the valuations on the date of possession, which could be higher or lower than the Council's valuations. 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 these property owners take the appropriate action to either repair and reoccupy their properties or sell the properties.

5.2.4 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, liaison with legal services, negotiations with the owner and liaison with the purchaser throughout the CPO / disposal process) are estimated at around £17,000.

5.2.5 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.

5.2.6 The Planning and Compulsory Purchase Act 2004 introduced an entitlement for non-occupying 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. However, the Act provides that the entitlement to basic loss payment is lost if certain criteria are all met:

- One of the specified statutory notices/orders set out in subsections (4) and (5) of section 33D Land Compensation Act 1973 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.

5.2.7 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 being paid by the new resident.

5.2.8 The Council has dedicated £600,000 per year 2012-2017 to assist in bringing empty properties back into residential use. Due to positive movements by property owners, funding has been rolled forward totalling £2.1million. This funding will be used to support the purchase of properties and any property security, repairs or improvements that need to be done prior to sale.

5.3 Legal and Constitutional References

5.3.1 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.

5.3.2 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

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

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.'

- 5.3.3 In reaching its decision, the Housing 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'
- 5.3.4 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 and proportionate towards meeting the Council's Housing Strategy and the environmental, social and economic well-being of the area.
- 5.3.5 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:
- A Local Authority may dispose of land for a consideration equal to its market value.
- 5.3.6 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.
- 5.3.7 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.
- 5.3.8 Council Constitution, Responsibility for Functions – sets out the terms of reference of the Housing Committee which includes "All matters relating to private sector housing including Disabled Facilities Grants"

5.4 Risk Management

- 5.4.1 There are risks associated with Compulsory Purchase that arise from two potential sources:

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.

Risk of not dealing with empty properties – There is a risk 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.

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.

5.5 Equalities and Diversity

5.5.1 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.

5.5.2 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.

5.6 Consultation and Engagement

5.6.1 The Exempt report contains details of all consultation completed with the owners of these properties regarding the CPO process and grants available from the Council to assist with carrying out works to enable occupation of these properties.

6. BACKGROUND PAPERS

6.1 Cabinet Resources Committee, 28 April 2008, (Decision item 1 exempt) in relation to the making of Compulsory Purchase Orders (CPOs).

6.2 Cabinet Resources Committee, 1 December 2008, (Decision item 7) in relation to the making of CPOs.

6.3 Decision of the Cabinet Resources Committee, 5 March 2009 (Decision item 8) in relation to the making of CPOs.

6.4 Decision of the Cabinet Resources Committee, 30 March 2009 (Decision item 9) in relation to the making of CPOs.

6.5 Decision of the Cabinet Resources Committee, 2 September 2009 (Decision item 6) in relation to the making of CPOs.

6.6 Decision of the Cabinet Resources Committee, 16 March 2010 (Decision item 12) in relation to the making of CPOs.

6.7 Decision of the Cabinet Resources Committee, 17th June 2010 in relation to the making of CPOs.

6.8 Decision of the Cabinet Resources Committee, 25th February 2014 in relation to the making of CPOs.