

	<h2>Housing Committee</h2> <h3>8th February 2017</h3>
Title	Referral from the Chipping Barnet Area Committee for a decision on options for dealing with 56 Bedford Avenue a long term empty property
Report of	Commissioning Director – Growth and Development
Ward	Underhill
Status	Public (with a separate exempt report)
Enclosures	None
Officer Contact Details	Belinda Livesey – Private Sector Housing Manager 0208 359 7438 Clive Dinsey – Environmental Health Officer 0208 359 2494

Summary

With the current pressures on the housing market, empty properties are a waste of housing resource. The Private Sector Housing Team endeavour to 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 reviews the case of a particular property where previous compulsory purchase action has failed. Work to the premises has been progressing very slowly. Local residents, frustrated by the on-going eye sore in their street, submitted a petition to the Chipping Barnet Area Committee who asked for a report to be submitted to this meeting for consideration.

Recommendations

- 1. That the Committee note the information in the exempt report**
- 2. That in the event that sufficient progress is not made in renovating the property by March 2018 the Committee recommends that the Assets, Regeneration and Growth (ARG) Committee authorise the making of a Compulsory Purchase Order (CPO), under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 in respect of the property identified in the exempt report**
- 3. That, subject to the authorisation for the making of the Compulsory Purchase Order referred to in recommendation 2 above, the Order be submitted to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation.**
- 4. That, in the event of the Secretary of State at the Department for Communities and Local Government returning the Order for confirmation by the Council, the Order be confirmed on behalf of the Council.**
- 5. Following confirmation of the Order, that ARG Committee approves the entry into a Cross-Undertaking with the owner of the relevant property not to implement the Order on the condition that the owner agrees to bring their property back into use within a reasonable time.**
- 6. In the event that a Cross-Undertaking is not entered into as referred to in recommendation 5. above, or the terms of the Cross-Undertaking are not adhered to by the owner, to recommend that the Assets, Regeneration and Growth Committee delegates authority to the Commissioning Director – Growth and Development to proceed with the compulsory acquisition of the property in question.**
- 7. That, following a compulsory acquisition of the property, an options paper on the onward disposal be brought to the Assets and Regeneration and Growth Committee for decision.**
- 8. That Housing Committee note that the financial costs of the Compulsory Purchase Order would be funded through the approved Capital Programme.**

1. WHY THIS REPORT IS NEEDED

- 1.1** Barnet currently has circa 2,000 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 grant aid 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 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.
- 1.4 In this particular case however, previous CPO action failed and the Committee are being asked to consider the case further following the submission of a petition by local residents to Chipping Barnet Area Committee requesting action to be taken. The specific case details and property identification are contained in the accompanying exempt report.
- 1.5 Should the Council resolve to make the CPO ('the Order'); it 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-undertaking (or the terms of the cross-undertaking is 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 Order is 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.
- 1.9 The property being considered has been empty for many years and is in a very poor condition which has frustrated local residents as evidenced by a petition signed by 152 people which demands that the Council takes action in respect of this property.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The property is considered to be a high priority for targeted enforcement work to bring it back into residential use because of the very slow progression of renovation works, its poor condition and the detrimental effect that it is having on neighbouring premises and the wider community.
- 2.2 This enforcement case has been costly to the Council and Re due to the number of years that it has been on going, and the lack of willingness by the owner to try and work with the Council and comply with relevant legislation.
- 2.3 The making of a further CPO, after allowing a timely period for completion of works and occupation by the owner, will be used as 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 three other possible options for dealing with this property:

- Deal reactively with issues and ensure compliance with the relevant legislation – deal with any complaints from local residents in relation to new issues for example vermin and visit quarterly to ensure that progress continues to be made and the relevant planning and building control legislation are being met. This option would leave the owner to renovate her property, keep the drain on Council resources to a minimum whilst ensuring that the works are compliant with the relevant legislation. This option has not been recommended as it has not previously led to the property being brought back into beneficial occupation and use.
- Making of an Empty Dwelling Management Order – which is not considered economically viable due to the large amount of work required to make this property habitable..
- 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. Additionally, local resident concern would continue and their local environment would continue to be affected by the property in question.

4. POST DECISION IMPLEMENTATION

4.1 Should the recommendation be approved the owner will be notified in writing. If insufficient or inadequate progress is made over the next 12 months an application will be made to the Secretary of State at the Department for Communities and Local Government for consideration and confirmation of a fresh CPO.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:

- Of opportunity, where people can further their quality of life
- Where people are helped to help themselves, recognising that prevention is better than cure
- Where responsibility is shared, fairly
- Where services are delivered efficiently to get value for money for the taxpayer

5.1.2 The policy meets the Council's key Corporate Priorities detailed in the Barnet Corporate Plan 2015-2020 as follows:

- Increasing the available housing stock meeting minimum standards will help ensure that people can further their quality of life.

5.1.3 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.

5.2 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.

Capital

5.2.2 If a CPO were made the capital costs would be funded from the current capital programme. The estimated value of the property in 2008 when the original CPO was approved was estimated to be £354,000. In its present condition the estimated value of the property is thought to be around £550,000. The Council has a capital budget for Empty Properties to assist in bringing empty properties back into residential use. This funding would be used to support the purchase of properties and any property security, repairs or improvements that need to be done prior to sale. Current draft (subject to approval of Policy and Resources Committee on 23rd February 2017) capital budget figures are as follows:-

	£000
2016/17	1,500
2017/18	2,100
2018/19	1,000
2019/20	1,000

5.2.3 If the CPO is confirmed, the next stage will be to proceed, if necessary, with the acquisition of the property. Compensation will be payable to the owner 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 owner takes the appropriate action to either repair and reoccupy their property or to sell the property.

5.2.4 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.

In this case, a Prohibition Order under the Housing Act 2004 is in place and there is no entitlement to a basic loss payment.

Revenue

- 5.2.5 Revenue Costs – For this CPO, the revenue cost of making the Order and associated administration has been provided by funds from the North London Housing Sub Region. These funds are currently held in the Council's reserves- the Empty Property reserve under Re's management, which currently has £243,000 available. The estimated costs of this case are £22,000. These funds would not cover the cost of any appeal. These would need to be covered through the capital programme.
- 5.2.6 The acquisition and immediate disposal of this property may result in nomination rights for the Council to meet the needs of accepted homeless families, if the property were sold to a Registered Social Landlord.

5.3 Legal and Constitutional References

- 5.3.3 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.
- 5.3.4 In 2015 the Department for Communities and Local Government issued the document: 'Guidance on compulsory purchase process and the Crichton Down rules for disposal of surplus land acquired by, or under threat of, compulsion'. The guidance is clear that Compulsory Purchase powers only be used in the last resort and where there is a compelling case in the public interest. The action must not unduly interfere with the owner's human rights. Historically 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 into residential use. Authorities will first 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.
- 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 potential exercise of Compulsory Purchase powers may be justified in due course 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 states:

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 The Council Constitution, Responsibility for Functions – sets out the terms of reference of the Housing Committee which includes "All matters related to regulation of private sector housing, including enforcement, licensing, empty properties and squatting".

5.3.9 The Council Constitution delegates to the Assets, Regeneration and Growth Committee all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

5.4 Risk Management

5.4.1 There are three risks associated with the CPO of this property:

- Reputational risk and cost for the Council if a CPO is not confirmed by the Secretary of State following objection by the Owner
- 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 the Assets, Regeneration and Growth Committee for a decision to be made at the appropriate and opportune time.

5.5 Equalities and Diversity

- 5.5.1 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.
- 5.5.2 The Equality Act 2010 sets out the Public Sector Equality Duty which requires public bodies to have due regard to the need to:
- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
 - foster good relations between persons who share a relevant protected characteristic and persons who do not
- 5.5.3 The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 5.5.4 The proposed action has been reviewed against the protective characteristics and it is considered that there will not be any specific adverse impact on any of the groups.
- 5.5.5 It is considered that requiring the improvement of this property has a positive impact for all local residents. This property is 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. Local residents have submitted a petition asking the Council to take whatever corrective action is necessary to restore the house to fit and habitable state.
- 5.5.6 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 this property regarding the CPO process and grants available from the Council to assist with carrying out works to enable occupation of the property.

6 BACKGROUND PAPERS

- 6.1 [Cabinet Resources Committee Report, 28 April 2008, \(Decision item 1 exempt\) in relation to the making of Compulsory Purchase Orders \(CPOs\).](#)
- 6.2 Department for Communities and Local Government entitled Guidance on Compulsory Purchase Process and the Crichel Down rules for disposal of surplus land acquired by, or under threat of, compulsion' 2015.

