



## Housing and Growth Committee

16 March 2020

**Title**

**Compulsory purchase of a long term vacant property**

**Report of**

Chairman of Housing and Growth Committee

**Wards**

Golders Green

**Status**

Public with accompanying exempt report (Not for publication) by virtue of paragraphs 6 of Schedule 12A of the Local Government Act 1972 as amended) as this relates to information relating to an individual and information relating to the Council's intention in respect of further action to be taken in respect of an order or notice

**Urgent**

No

**Key**

Yes

**Enclosures**

none

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### Summary

Empty properties place extra pressure on the housing market. 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 recommends the making of a Compulsory Purchase Order (CPO) in relation to a long term vacant property following approval of a report to the Housing Committee on 23 October 2017.

## **Officers Recommendations**

- 1. That the Housing and Growth Committee, having succeeded the Assets, Regeneration and Growth Committee, authorise the making of a Compulsory Purchase Order, under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981, in respect of the property identified as 'e' in the exempt report.**
- 2. That the Compulsory Purchase Order referred to in recommendation 1 above, is submitted to the Secretary of State for Housing, Communities and Local Government for consideration and confirmation.**
- 3. That, in the event of the Secretary of State for Housing, Communities and Local Government returning the Order for confirmation by the Council, the Deputy Chief Executive be authorised to confirm the Order.**
- 4. Following confirmation of the Order, to authorise the Deputy Chief Executive to proceed with the compulsory acquisition of the property in question.**
- 5. To authorise the Deputy Chief Executive to enter into negotiations for a private treaty acquisition of the property at current market value or to enter into alternative dispute resolution with the owner.**
- 6. In the event of a compulsory acquisition of property 'e' it will be sold directly to the open market through public auction.**
- 7. To note that the financial costs of the CPO will be funded through the currently approved capital programme.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 Since the report to the Housing Committee (Background Papers below) was considered and approved on 23 October 2017, the owner of the property referred to as "e" in that report has not come forward with any plans for the property or any other communication.
- 1.2 Formal approval of the compulsory purchase of this property by the Housing and Growth Committee is required if the action is to proceed.

### **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The property has been empty for over 15 years. It is in poor condition and the source of multiple neighbour complaints.
- 2.2 The owner of the property is uncontactable and has not made any contact with staff from Environmental Health. The condition of the property continues to deteriorate and without statutory action there is no realistic prospect of the property being brought back into use.

2.3 Two notices under Section 215 of the Town and Country Planning Act 1990 have also been issued by the Planning Service to address issues of visual amenity and remain outstanding.

2.4 Barnet Homes are not interested in buying this property due to the high purchase and renovation costs.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 There are three other possible options for dealing with this property:

- A forced sale relying on the council's statutory power of sale arising from section 215 default notices- as works in default have not been carried out and a debt to the Council has not been incurred this is not an option at the current time.
- Making of Empty Dwelling Management Orders - due to the amount of work required to make the property habitable, this option holds more financial risk for the Council.
- Do nothing – this is not felt to be appropriate due to the drain on Council and other public resources for example Police in the event of squatters, LFEPA in the event of fire, and the pressure on the existing housing stock.

### **4. POST DECISION IMPLEMENTATION**

4.1 Should the recommendation be approved, the owner of property "e" will be notified in writing. If insufficient or inadequate progress is made in bringing the property back into use, an application will be made to the Secretary of State at the Ministry of Housing, Communities and Local Government for consideration and confirmation of a CPO.

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

5.1.1 The Corporate Plan 2019-2024 is based on three main outcomes:

- A pleasant, well maintained borough that we can protect and invest in
- Our residents live happy, healthy, independent lives with the most vulnerable protected
- Safe and strong communities where people get along well.

Each outcome has a set of key priorities underneath it. Of relevance to the fees considered in this report are:

- Ensuring decent quality housing that buyers and renters can afford, prioritising Barnet residents

5.1.2 Keeping well and promoting independence are part of the overarching vision detailed in the Health and Wellbeing Strategy. One of the key themes of the strategy is how we live

and wellbeing in the community. Bringing empty properties back into residential use increases public perception that the local community is a safe environment.

5.1.3 As detailed in Barnet's Joint Strategic Needs Assessment Barnet was London's most populous borough in 2018 and its population is projected to continue to increase. The high cost of home ownership in Barnet has led to a tenure shift away from owning a property and towards privately rented accommodation, so that over a quarter of households in the borough now rent from a private landlord. Between 2001 and 2016, the use of privately rented accommodation in Barnet rose from 17% to 26% of households. As such it is key that the local authority is taking the appropriate action to ensure that empty properties are brought back into residential use.

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

### 5.2.1 Finance and Value for Money:

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

#### Estimated Capital Cost

- a. The property has an estimated desktop valuation, in its present condition, of £1.2m to £1.3 million.

The Council has an Empty Property Capital budget to assist in bringing empty properties back into residential use. This funding will be used to support the purchase of the property and any property security, repairs or improvements that need to be carried out prior to sale. The current capital budget for Empty Properties is as follows:-

2019/20	£ 3,000,000
2020/21	£ 1,137,000

Any unspent budgets from 19-20 will be rolled forward so budgets should be available for this expense.

- b. If the Compulsory Purchase Order is confirmed, Barnet will proceed if necessary with the acquisition of the property. Compensation will be payable to the owner, if they come forward, 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 this compensation i.e. the purchase cost in full. In the current economic conditions it is anticipated that the risk to the Council could be high. There is however a possibility 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.

- c. 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 Compulsory Purchase Order 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
- d. As two notices under section 215 of the Town and Country Planning Act 1990 remain outstanding on the property, compensation is not likely to be payable as they are “specified” notices.

### Revenue Costs

- In-house property acquisition costs (including inspection, valuation, security and maintenance, liaison with legal services, negotiations with the owner throughout the Compulsory Purchase Order) are estimated at £15,000 per property. These costs will need to be financed from the Empty Property Capital budget.

5.2.2 While enforcement engenders the aforementioned revenue costs, once the property in question is returned to use, it will no longer generate a demand for Council resources, enabling these to be focused on other priorities.

5.2.3 **Procurement:** At this time there are no procurement implications.

5.2.4 **Staffing:** With the property remaining empty it is likely to involve some level of Council staff involvement in the future due to the property conditions potentially deteriorating.

5.2.5 **Property:** At this time there are no property implications.

5.2.6 **IT:** At this time there are no IT implications.

5.2.7 **Sustainability:** Leaving a property empty in a borough with a shortage of housing is not an ideal solution to this issue.

### 5.3 Social Value

5.3.1 Social Value considerations will be considered in relation to the disposal options for this property.

### 5.4 Legal and Constitutional References

5.4.1 Section 17 of the Housing Act 1985 (‘the 1985 Act’) empowers local housing authorities to acquire either by agreement or compulsorily land, houses or other properties for the provision of housing accommodation. Acquisition must achieve a quantitative or

qualitative housing gain.

- 5.4.2 In 2015 the Department for Communities and Local Government issued the document: 'Guidance on compulsory purchase process and the Crichel 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.
- 5.4.3 Article 7 of the Council's Constitution, 'Committees, Forums, Working Groups and Partnerships' sets out the terms of reference of the Housing and Growth Committee including commissioning of environmental health functions for private sector housing and responsibility for housing grants.
- 5.4.4 In making its recommendations, the Housing and Growth 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'.
- 5.4.5 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.
- 5.4.6 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."
- 5.4.7 In the case of this empty property 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.
- 5.4.8 It should be noted that the transfer of the property to the eventual buyer will contain a restriction that the owner must carry out works agreed with the Council, and complete the work and be in occupation within two years.

## 5.5 Risk Management

- 5.5.1 There are risks associated with compulsory purchase. These arise from two sources:
- 5.5.2 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. 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.
- 5.5.3 There is also a risk to the Council in not dealing with empty properties, both in the way central government assesses the Council's strategic housing performance and in the way residents see the ability of the Council to intervene in the problems which beset them.
- 5.5.4 If the acquisition does not proceed, no action will take place. The property will continue to deteriorate and be the subject of neighbour complaints

## 5.6 Equalities and Diversity

- 5.5.1 The Corporate Plan 2019-2024 contains a commitment to treating residents equally, with understanding and respect, with all having access to quality services. 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 Section 149 of 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.
- 5.6.4 The proposed refusal to purchase this property has been reviewed against the protected characteristics and it is considered that there will not be any specific adverse impact on any of the groups.

## 5.7 Corporate Parenting

- 5.7.1 There are no corporate parenting considerations.

## 5.8 Consultation and Engagement

5.8.1 All efforts have been made to communicate regularly with the property owner. There are legal requirements relating to the publicising of CPOs and these requirements will be adhered to

## 5.9 Insight

5.9.1 Regulatory Services work with Council Tax to identify long-term empty properties and encourage property owners to bring them back into residential use.

## 6.1 BACKGROUND PAPERS

6.1.1 Report to Housing Committee 23 October 2017 (Public)  
<https://barnet.moderngov.co.uk/documents/s42706/Compulsory%20Purchase%20of%20Long%20term%20vacant%20properties%20public.pdf>