

## Compulsory acquisition of empty homes

### SUMMARY

- 1.1 This report seeks Cabinet approval to initiate compulsory purchase proceedings in relation to three long term vacant houses. The houses have stood vacant for some years, have been neglected and are the source of nuisance to and/or complaint from local residents.
- 1.2 The aim of the Council's Empty Homes Strategy is to encourage and persuade owners of such properties to take action to enable the satisfactory renovation of the empty houses, to facilitate re-occupation and thereby make a contribution toward meeting the increasing housing need in the City. The actions will also go toward eliminating the anti-social and environmental nuisance that neglected properties can so often present. The re-use of these homes will also contribute towards the Council's New Homes Bonus income.
- 1.3 Where owners cannot be traced or where a voluntary solution has been fully explored and exhausted, there is a compelling case in the public interest for enforcement action to be taken by the Council to ensure that the aims of the Strategy are achieved. Such enforcement can, where considered appropriate, include taking compulsory purchase measures as in the cases detailed below.
- 1.4 Over recent years, the use by the Council of compulsory purchase powers has had significant impact on ensuring the return of particularly problematic long term empty houses to the useful housing stock.
- 1.5 On 18 October 2011, Council Cabinet, to support the empty homes initiative resolved to initiate compulsory purchase proceedings in relation to six long-term vacant houses and to dispose of the houses by public auction. In order to provide flexibility in the method of sale, this report also now seeks consent to a minor variation of the Council Cabinet approval of 18 October 2011, by authorising the disposal by auction or other appropriate method, including informal tender.

### RECOMMENDATION

- 2.1 That the Council makes Compulsory Purchase Orders under the Acquisition of Land Act 1981 (pursuant to the power under section 17 of the Housing Act

1985) for the acquisition of the houses, together with the associated land, as identified in Appendix 2 for the purposes of their renovation and reoccupation as housing accommodation.

- 2.2 That the Acting Strategic Director of Adults Health & Housing be authorised, following consultation with the Cabinet Member for Urban Renewal, the Director of Legal & Democratic Services and the Interim Head of Strategic Asset Management and Estates to:
- 2.2.1 take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Orders;
  - 2.2.2 acquire the legal interests in the properties, whether by voluntary agreement or compulsorily using statutory powers set out in the preceding paragraph;
  - 2.2.3 suspend the compulsory purchase order proceedings, or withdraw an order, in relation to any particular property on being satisfied that the subject house will be satisfactorily renovated and re-occupied voluntarily;
  - 2.2.4 take all necessary action to deal with all matters relating to the payment of compensation and statutory interest including, where appropriate, instituting or defending related proceedings
  - 2.2.5 dispose of the properties in accordance with the proposals set out in this report
  - 2.2.6 take all other necessary action to give effect to these recommendations
- 2.3 To agree that resolution 88/11 (Compulsory Purchase of Long Term Empty Houses), made by Council Cabinet on 18 October 2011, be varied to approve the disposal of the compulsorily acquired houses by auction or other appropriate method, including informal tender.

<b>REASON FOR RECOMMENDATION</b>
----------------------------------

- 3.1 The properties identified in Appendix 2 (this exempt appendix appears later in the agenda) have been vacant for a number of years and all reasonable options open to the Council to encourage the respective owners to voluntarily bring them back into use have proven unproductive.
- 3.2 Restoring the houses to the useful housing stock will contribute to meeting the increasing housing needs in Derby.
- 3.3 Some of the buildings have been badly neglected and present a nuisance to local residents and adjacent buildings - others have been the subject of trespass, vandalism or anti-social and criminal activities. All will likely impact negatively on their local environments while they remain vacant and the neglect continues.

- 3.4 More recent Council Cabinet reports seeking authorisation to initiate compulsory acquisition of long-term empty dwellings, allow for the disposal at auction or other appropriate method, but this was not included in the report before Council Cabinet on 18 October 2011. Approval of this variation will enable properties acquired following consideration of that report to be disposed of with the same degree of flexibility as with more recent approvals.



<b>SUPPORTING INFORMATION</b>
-------------------------------

- 4.1 Concern continues to increase at both national and local levels about homes left vacant unnecessarily, as representing an unacceptable waste of housing resources in a time of increasing housing need. Common agreement is that the situation needs to be addressed.
- 4.2 Nationally, housing needs continue to increase while the number of new dwellings provided continues to fall behind requirements. The position in Derby reflects this.  
Local housing trends have maintained the demand for social housing. The tenants' 'Right-to-Buy' policy and the recent amendments to it, have resulted in the Derby Homes stock falling significantly, but the number of new build properties, primarily with Registered Social Landlords, has not replaced the loss of social housing stock. The effect of benefits changes, often referred to as 'the bedroom tax', has also been to increase the demand for certain types of, primarily smaller, housing accommodation.  
With the lack of available properties, and with current demographic trends, demand for housing will continue to outstrip supply.
- 4.3 The Secretary of State for Communities and Local Government, has stated in a written statement to Parliament that 'tackling the 700,000 Empty Homes across the country is a priority for the department'.
- 4.4 That it is a major priority, is also evidenced by the inclusion of empty properties in the national New Homes Bonus scheme, a scheme which rewards Local Authorities for any increase in the number of occupied houses in their area.
- 4.5 The Audit commissions' 2009 report 'Building Better Lives' reports that 'Improving the housing stock that already exists will help more people than building new houses'
- 4.6 Research published in April 2015 by Call Credit Information Group showed that 58% of the public think regeneration and the transformation of empty properties are the best way to tackle the current housing crisis. This is compared to 26% saying new housing is the best way to address the housing shortage.
- 4.7 The National Policy Framework 2012 recommends the use of compulsory purchase powers in respect of long term empty properties where considered necessary and appropriate.

- 4.8 As part of the national strategy for addressing the problem, individual Local Authorities are encouraged to pay particular attention to this wasted valuable asset, and take action to ensure the return of Empty Homes to the useful housing stock. Local authorities are expected to have, and to implement, their own Empty Homes Strategy. The City Council's Strategy - includes a policy to continue to encourage the re-use of underutilised or vacant properties for residential uses, including the use of compulsory purchase as outlined in 1.4 above.
- 4.9 The Council always prefers to look towards a voluntary way forward in respect of privately owned dwellings. Every endeavour is therefore made to encourage and persuade those in control of such residences towards an informal progress for the desired renovation and re-occupation. There remain instances however where owners cannot be traced or confirmed, where probate issues prove unnecessarily protracted or are not addressed, or where exhaustive attempts to promote progress from known owners prove unproductive. The City Council has been making use of its compulsory purchase powers in such circumstances for some years now. The steps taken have proved successful, and the outcomes have proven popular with the general public - not least because in addition to enhancing housing availability, the anti-social and criminal activities which empty buildings can so often attract are also addressed as a consequence of the enforcement.
- 4.10 This report refers to other longstanding vacant properties, where the endeavours to encourage the voluntary progress towards their return to the useful housing stock have proved unsuccessful.
- 4.11 The subject properties have been unoccupied for a minimum of around three years; some will require substantial improvement to raise them to a habitable and otherwise acceptable condition. As is not uncommon with empty buildings, some have been the subject of anti-social and/or criminal activities and have generated public complaint and a local environmental blight.
- 4.12 All the properties have the potential for providing good family homes at reasonable expense.
- 4.13 Those in control of the houses have failed to demonstrate why it is reasonable to ignore the considerable attempts by the Council to persuade and encourage steps to facilitate voluntary re-occupation.
- 4.14 The compulsory purchase proposals are considered a last resort, being in the public interest, and the only reasonable means remaining available to ensure acceptable improvements and re-occupation within a reasonable timescale.
- 4.15 Attempted persuasions towards voluntary progress will continue throughout the compulsory purchase process and this is reflected in the recommendation set out at paragraph 2.2.3.
- 4.16 The Council is willing to assist present owners to achieve market value sale if they eventually opt to dispose of their properties voluntarily. However, where it

proves necessary for the Council to take possession of the individual houses, it is proposed that a transfer to Council housing stock or Derby Homes Ltd. is explored at values provided by the District Valuer, or that the properties be sold at public auction (or other appropriate open market sale).

Such transfer/sale will include a condition that the accommodation be brought to a standard no less than the minimum standards prescribed under housing and other relevant legislation, and that the property be re-occupied within twelve months of transfer (or such other period considered reasonable).

- 4.17 The market value as assessed by the District Valuer, or as realised at the auction (or other appropriate open market) sale, will be used as the basis for the statutory compensation of the dispossessed owners.
- 4.18 Whilst the 18 October 2011 Cabinet resolution 88/11 provided the authority to dispose of the properties mentioned in the report by auction, more recent Council Cabinet reports seeking authorisation to initiate compulsory acquisition of long-term empty dwellings allow for the disposal at auction or by other appropriate methods.
- 4.19 It is proposed that Resolution 88/11 be varied as set out below to enable properties acquired following consideration of that report to be disposed of with the same degree of flexibility as with more recent approvals.
- 4.20 Paragraph 2(e) of the decision detailed in resolution 172/09 authorises disposal of the properties as such:

*"[resolved] to dispose of the properties in accordance with the proposals set out in the report"*

- 4.21 If approved, paragraph 2(e) of the decision detailed in resolution 88/11 will be varied to read as follows (additions in bold):

*"[resolved] to dispose of the properties, **by auction or other appropriate method, including informal tender,***

## OTHER OPTIONS CONSIDERED

### 5.1 Do nothing.

This is not considered an appropriate option. The properties, in their present condition, would remain a waste of potentially good housing accommodation; and, in the continued absence of maintenance and proper management, will become an increasing environmental blight, posing health, safety and anti-social behaviour risks within their respective neighbourhoods.

### 5.2 Enforced sale

The Law of Property Act 1925 empowers a local authority to enforce the sale of a property where it holds a Charge against it; and the Council is in the

throes of initiating such action at other properties in the city. However, in the case of the subject properties any debt is either insufficient to justify the use of enforced sale procedures or there are circumstances which render enforced sales proceedings inappropriate.

### 5.3 Empty Dwelling Management Orders

Local Authorities can consider making Empty Dwelling Management Orders under the Housing Act 2004 to address the improvement and future use of empty dwellings. However, such action involves the eventual return of the management responsibilities for the property to its original owner – this is not considered appropriate in the particular circumstances of the report properties, where those in control have shown little evidence of reasonable intentions or of competent management abilities, and have chosen to ignore all endeavours to persuade a voluntary progress. A change of ownership is considered a more appropriate way forward.

### 5.4 Other enforcement powers

Various legal powers are available to a Local Authority to improve the condition of a neglected building, for example, to deal with structural danger, nuisance or other environmental problems. However these alone would not address the suitability of the accommodation for occupation, the on-going upkeep of the building, its re-occupation nor the future management of the property. These measures can only be viewed as piecemeal, reactive and relatively expensive short term approaches and do not provide the long term solution presented by the report proposals.

#### **This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Risk Management</b> <b>Human Resources officer</b> <b>Estates/Property Officer</b> <b>Service Director(s)</b> <b>Other</b>	Olu Idowu Head of Legal Toni Nash Head of Finance Richard Boneham Head of Governance and Assurance Liz Moore Acting Head of Service Alistair Burg Interim Head of Strategic Asset Management and Estates Perveez Sadiq Interim Strategic Director, Adults Health and Housing Ian Fullagar Head of Strategic Housing
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	<b>Name:</b> Sarah Watts <b>Tel:</b> 01332 640322 <b>email:</b> sarah.watts@derby.gov.uk None Appendix 1 – Implications Appendix 2 - Property Details, Plans and Histories - CONFIDENTIAL

<b>IMPLICATIONS</b>
---------------------

**1. Financial and Value for Money**

- 1.1 Owners are entitled to be compensated as a consequence of compulsory purchase. Whilst the market value compensation for an owner is met from the Council's initial sale of the property, there remain other cost implications – general administration costs, legal costs, Land Registration costs, and other compensation issues such as conveyance and professional costs, basic loss payments, etc.
- 1.2 The Council, as the acquiring authority, will argue that the property value as assessed by the District Valuer, or as achieved at auction (or other open market) sale, if obtained close to the valuation date for the Compulsory Purchase Order, be adopted as the appropriate market value compensation level to be paid to the dispossessed owner(s). However this is open to challenge by the claimant and ultimately open to appeal to the Upper Tribunal (Lands Chamber), and although unlikely and rare, could result in the determination of a higher value. This, and the addition of surveyors' fees and legal costs, could result in the Council incurring a deficit between the property value assessed by the District Valuer or that achieved at sale, and the total outlay. The risk is mitigated by a close and effective working relationship with the Council's Asset Management officers.
- 1.3 Any capital receipt from the transfer/auction of the properties will need to be ring-fenced for the discharge of the Council's compensation obligations.
- 1.4 Total valuation of the subject properties is approximately £350,000. However, this does not represent the capital cost implications for the Council of pursuing compulsory purchase here. In each case where a CPO is pursued to its conclusion, the council will Vest the property into its possession and then either:
- offer the property for sale at the next available public auction (or other appropriate open market) sale, with a condition attached that the property be renovated and returned to use within 12 months (or other suitable period) of purchase; or
  - offer the property for acquisition as Council housing stock via the Housing Revenue Account or to Derby Homes Ltd at a value assessed by the District Valuer.
- The sale price will then be used as the basis for determining the dispossessed owners' statutory compensation.



Past experience is that we can expect that some of the report properties will progress to an eventual satisfactory voluntary conclusion before compulsory purchase has to be formally exercised.

The average capital cost incurred by the council in relation to the empty homes included in compulsory purchase resolutions has to date been less than £5000 per property. The eventual capital cost implications of those houses included in this report will be fully contained within the budget for the Housing Capital Programme.

- 1.5 If a continued lack of progress proves necessary to include all the order houses in compulsory purchase orders, the revenue cost of progressing the orders is likely to be in the region of £9,000; the average revenue cost of recent houses included in CPO resolutions is approximately £3,000 per property. Where owners formally object to, or otherwise challenge an Order, and thereby necessitate a public inquiry or court hearing. It is the intention to claim the Council's legal costs where the outcome results in a confirmation of the Council's actions. In the event that legal costs could not be reclaimed, any such costs arising will be met from within the Private Sector Housing Capital Programme.
- 1.6 When the properties are returned to use they will contribute toward the council's New Homes Bonus return. The success of Empty Homes and compulsory purchase work continues to make a significant contribution to the £4.8m New Homes Bonus awarded to the City Council for the overall reduction in the number of empty homes in the city since the introduction of the scheme in 2011. The possibility of Compulsory Purchase Proceedings often persuades owners of empty homes to take action which sees their properties restored to useful housing stock, thereby further increasing the level of Bonus awarded to the Council.
- 1.7 In addition, the return of the empty houses to a good use can often facilitate the repayment to various council departments of outstanding, and often longstanding, unpaid debts. These can include Council Tax arrears, charges raised by the Council for work carried out in an owner's default, unpaid residential charges for previous occupiers etc. The total debt associated with empty homes that has been recovered since 2011 now exceeds £285,000.

## **2. Legal**

- 2.1 A compulsory purchase order should only be made where there is a compelling case in the public interest. The purposes of making a compulsory purchase order therefore sufficiently justify interfering with the human rights of those with an interest in the land affected. Regard should be had, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (right to peaceful enjoyment of possession), and Article 8 of the Convention (right to respect for a private and family life, a home and correspondence).

- 2.2 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 (e.g. bringing empty properties into housing use).
- 2.3 Before the acquiring authority submits the CPO for confirmation, a notice must be published for two successive weeks in one or more local newspapers and must also be fixed on or near the land covered by the order.
- 2.4 If no objections are made and the Minister is satisfied that the proper procedure for serving and publishing notices has been observed, he/she will consider the case on its merits and may authorise the council to confirm, modify or reject the CPO, without the need for any form of hearing.
- 2.5 If any objections are raised then the Minister may order an inquiry or may deal with the matter by way of written representations. Following this, the Minister will decide to confirm, modify or reject the CPO
- 2.6 The following guidance indicates the factors to which the Minister may have regard in deciding whether or not to confirm a CPO and which the Council Cabinet might therefore find it useful to take into account:
- a) Where the purpose is to bring empty homes back into housing use:
- How long the property has been vacant;
  - What steps have been taken to encourage the owner to bring it into acceptable use;
  - What was the outcome; and
  - What works have been carried out by the owner towards its re-use for housing purposes.
- b) Where the empty property is also sub-standard:
- What are the alleged defects in the property;
  - What other measures the authority has taken to remedy matters (eg. service of a notice on the owner under section 215 of the Town and Country Planning Act 1990 requiring him or her to remedy the loss of amenity that such a property causes);
  - The outcome; and
  - The extent and nature of any works carried out by the owner to secure the improvement and repair of the property.

### **3. Personnel**

- 3.1 There are no specific Personnel implications arising from this proposal.

#### **4. IT**

- 4.1 There are no specific IT implications arising from this proposal.

#### **5. Equalities Impact**

- 5.1 None directly arising, but the proposal does seek to increase available housing stock and tackle environmental and anti-social impacts affecting neighbours and neighbourhoods.

#### **6. Health and Safety**

- 6.1 The proposals target directly the health and safety implications arising from long term empty property.

#### **7. Environmental Sustainability**

- 7.1 The proposals will restore longstanding vacant and neglected houses to the useful housing stock, and will remove the environmental blight that they can present to local neighbourhoods.
- 7.2 Re-using old buildings can reduce carbon emissions in the overall construction process and the on-going heating and running of these properties can also be reduced if equipped with energy efficient appliances and high levels of insulation.

#### **8. Property and Asset Management**

- 8.1 The proposals will restore presently wasted houses to the useful housing stock in the city

#### **9. Risk Management**

- 9.1 The key risks are financial and legal and these are fully covered within the financial and legal implication sections above.

#### **10. Corporate objectives and Priorities for Change**

- 10.1 This proposal supports the following commitments within the Council Plan:
- More private sector dwellings brought back into use or demolished
  - Reduce homelessness and increase the housing supply
  - Continue to protect residents by tackling statutory nuisance and environmental crime.