



Report sponsor: Rachel North, Strategic
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Compulsory Purchase and Enforcement
Manager

Compulsory acquisition of empty homes

Purpose

- 1.1 This report seeks Cabinet approval to initiate compulsory purchase proceedings in relation to 5 long-term vacant properties where the owners have not sufficiently demonstrated that they will be occupied in the near future.
- 1.2 The Council's Empty Homes Strategy aims to facilitate the renovation and re-occupation of vacant dwellings; thereby contributing towards meeting local housing demand. The actions will also help tackle any anti-social and environmental nuisance that neglected properties can present. The re-use of these homes will contribute towards the Council's New Homes Bonus income.
- 1.3 Where owners cannot be traced or are unwilling/unable to bring the property into use, there is a compelling case in the public interest for the Council to take enforcement action to achieve the aims of the strategy.
- 1.4 Compulsory purchase can return problematic empty homes to useful housing stock.

Recommendations

- 2.1 To resolve to make 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 Strategic Director of Communities and Place be authorised, following consultation with the Cabinet Member for Adults, Health and Housing, the Monitoring Officer and the Strategic Director of Corporate Resources to:
 - i take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Orders;
 - ii acquire the legal interests in the properties, whether by voluntary agreement or compulsorily using statutory powers set out in the preceding paragraph; dispose of the properties in accordance with the proposals set out in this report; apply financial procedure rules regarding acquisition and disposal of property;

- iii suspend or abandon the compulsory purchase order proceedings, or withdraw an order, in relation to any particular property on being satisfied that the subject dwelling will be satisfactorily renovated and re-occupied voluntarily;
- 2.3 take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting or defending related proceedings
- 2.4 take all other necessary action to give effect to these recommendations

Reasons

- 3.1 The properties identified in Appendix 1 (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 The risk of common problems associated with empty buildings such as trespass, vandalism, fly tipping or anti-social activities will be reduced.

Supporting information

- 4.1 Nationally and locally, housing need continues to increase, as the number of new homes provided falls behind requirements. The Right to Buy has resulted in the loss of social housing stock across the city. Removal of the spare room subsidy from affordable housing has also increased the demand for primarily smaller housing accommodation. Current demographic trends indicate that demand for housing will continue to outstrip supply.
- 4.2 The Ministry of Housing, Communities & Local Government encourages the use of enforcement powers to tackle empty homes. It forms part of the National Planning Policy Framework and its priority is also evidenced by the inclusion of empty properties in the New Homes Bonus scheme, which rewards Local Authorities for increased number of occupied houses in their area.
- 4.3 The number of empty homes in Derby has declined overall due to the work of the empty homes team. In 2010 there were around 4,500 vacant homes, of which, around 2,500 were long-term empty. This has reduced to 3,000 vacant homes with some 1,500 long-term empties currently.

- 4.4 Derby City Council encourages a voluntary solution in respect of privately owned homes. However, the council uses its compulsory purchase powers where appropriate, for example where owners cannot be confirmed; where probate remains unresolved or where known owners refuse to make progress. Persuasion towards voluntary progress will continue throughout the compulsory purchase process. There is strong demand for all of the properties contained within the report to be brought into use to address housing need across the city.
- 4.5 Property 1 – is a large house, converted to 7 flats. Housing Standards Officers have served both improvement notices and a prohibition order due to poor conditions whilst previously tenanted. Renovation has been progressing slowly since 2015. It is hoped that a resolution will help encourage the owner to complete the project and bring the property into use within a reasonable time but if that is not achieved then change in ownership is considered in the public interest.
Property 2 – has been empty since Housing Standards Officers served a prohibition order due to poor conditions whilst tenanted. The owner has since failed to engage and the property continues to decline. It is believed that a change in ownership is required.
Property 3 – the owner has not engaged at all and the property is declining in condition and appearance. A change in ownership is considered in the public interest.
Property 4 – the owner has reported an intention to convert these properties to city centre flats, however they have continually failed to demonstrate that this intention is serious. No plans have been submitted, despite the owner's repeated claims. The property is not under renovation and has attracted complaints of blight to the local area. It is believed that a change in ownership is in the public interest
Property 5 – This is a derelict mixed use site. The owner has repeatedly claimed an intention to let and now sell but has repeatedly failed to evidence this. The property continues to decline and is an eyesore. It is hoped that a resolution to compulsory purchase will help encourage the owner to complete a sale but if that is not achieved then change in ownership is considered in the public interest.
- 4.6 The compulsory purchase proposals are in the public interest, as they will help meet the Council's aim to increase housing supply within a reasonable timescale.
- 4.7 The Council will initially consider whether any compulsory acquisition is to be added to the Council's housing stock or disposed of. Where added to the Council's housing stock, the properties will be transferred at values assessed by the District Valuer. Where properties are unsuitable for use as council accommodation, they will be sold on the open market; usually by public auction but other methods can be considered. Conditions will be included requiring the dwelling to be brought up to standard and re-occupied within twelve months of disposal, or other such reasonable period.
- 4.8 The market value as assessed by the District Valuer or as realised by open market sale will be used as the basis for the relevant statutory compensation.

Public/stakeholder engagement

- 5.1 Relevant stakeholders have been consulted during the drafting of the Empty Homes Strategy 2015-2020

- 5.2 The relevant empty property owners have been offered advice and assistance multiple times, prior to enforcement consideration and such assistance will continue to be offered.
- 5.3 Where a compulsory purchase order is made, the relevant public notices will be published.

Other options

- 6.1 Do nothing. This is not considered appropriate. The properties would remain a waste of potentially good housing and increasingly blight their respective neighbourhoods.
- 6.2 Enforced sale. There are currently no relevant financial charges registered against the properties that facilitate this option.
- 6.3 Empty Dwelling Management Orders. These involve the return of the properties to the original owner. As the owners have failed to bring these empty homes into beneficial use a permanent change of ownership is considered to be most beneficial to the public interest.
- 6.4 Other enforcement powers. The local authority has powers to deal with structural danger, nuisance or other environmental problems. These alone are piecemeal and reactive in nature and do not provide a long-term strategic solution.

Financial and value for money issues

- 7.1 The total valuation of the subject properties is approximately £478,000. Where a compulsory purchase order is pursued to its conclusion, the council will vest the property into its possession and then either:
- offer the property for open market sale, usually by public auction or other appropriate alternative, with a condition attached that the property be renovated and occupied within 12 months; or other such period considered reasonable and proportionate
 - offer the property for acquisition as council housing stock via the Housing Revenue Account or other registered provider at market value, as assessed by the independent District Valuer.

The sale price is used as the basis for determining the dispossessed owners' statutory compensation and any capital receipt from the transfer/sale of the properties will be ring-fenced for this purpose.

- 7.2 The claimant can appeal to the Upper Tribunal (Lands Chamber) and although unlikely and rare, this appeal could result in the determination of a higher value.

- 7.3 The cost of general administration, Land Registration, legal, conveyance and professional fees and basic loss payments averages less than £5000 per property. Proposed legislative changes to calculating basic loss payments may reduce this further but so far, this has not been implemented. New Homes Bonus received for increasing the occupied housing stock also mitigates this cost. Compulsory purchase capital cost implications will be met by the Housing Capital Programme.
- 7.4 The average revenue cost of each compulsory purchase order is £3,000. However, where owners object to an order, necessitating a Public Inquiry, then the cost will increase. The Council may claim legal costs where the outcome results in confirmation. Where legal costs cannot be reclaimed this will be met by the Council's Private Sector Housing Capital Programme.
- 7.5 Past experience shows that some of the report properties will progress voluntarily, due to the resolution alone and in those cases formal acquisition may not need to be exercised.
- 7.6 The compulsory purchase programme has helped secure over £5.6m empty homes related New Homes Bonus funding since 2011. Compulsory purchase can also help recover unpaid debts, such as Council Tax arrears, residential care charges and work in default charges. Since 2011, the Council has recovered over £590,000 debt from empty homes owners.

Legal implications

- 8.1 Section 17 of the Housing Act 1985 empowers local housing authorities to compulsorily acquire land, houses or other properties to increase the quality or quantity of housing provision. Use of this statutory power will help the Council to increase the supply and condition of available housing stock
- 8.2 The council needs to consider 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). The council also needs to consider the public sector equality duty. Cabinet must therefore be satisfied that the proposed compulsory purchase proceedings are in the public interest.
- 8.3 Individual rights of the owner are protected by the statutory objection and inquiry procedure.

Other significant implications

- 9.1 The proposals will increase the quantity and quality of available housing stock and help to tackle environmental blight.
- 9.2 Where possible the properties will be made as accessible as possible for disabled people.

This report has been approved by the following people:

| Role | Name | Date of sign-off |
|----------------------------|--|-------------------------|
| Legal | Olu Idowu | 8 July 2019 |
| Finance | Mandy Fletcher | 9 August 2019 |
| Service Director(s) | Greg Jennings | |
| Report sponsor | Greg Jennings | |
| Other(s) | Jayne Sowerby-Warrington/ Ian Fullager | 1 August 2019 |
| | Liz Moore | 9 July 2019 |
| | | |
| | Ann Webster | 8 July 2019 |
| | Heather Greenan | 5 July 2019 |
| Background papers: | | |
| List of appendices: | | |
| | Appendix 1 – Property Details and Plans (Confidential) | |