



Report sponsor: Simon Riley, Strategic Director
of Corporate Resources
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Manager

ITEM 9

Enforced Sale of Empty Properties and Land

Purpose

- 1.1 The report seeks Cabinet approval to establish delegated authorities for the expedient recovery of outstanding, qualifying debts owed to the Council by use of enforced sale powers, where owners of currently long-term empty properties have repeatedly failed to repay such debts and/or bring the property into beneficial use.

Recommendation(s)

- 2.1 To resolve that the Strategic Director of Corporate Resources, following consultation with the Cabinet Member for Finance, Assets and Digital, be delegated authority to exercise the power of enforced sale where:
 - (a) there are qualifying debts due from owners of currently long-term empty properties who have repeatedly failed to repay such debts; and/or
 - (b) long term empty property owners fail to bring such properties back into beneficial use

Reason(s)

- 3.1 Some long-term empty properties attract nuisance and environmental problems which affect neighbours or local communities. Neglected properties can also decline in condition so that the integrity of the property is affected. The Council's Empty Property Strategy aims to address such issues where owners are unwilling or unable to do so themselves, in addition to bringing empty homes back into use.

Supporting information

- 4.1 In order to address environmental issues and property defects, the Council may serve certain notices pursuant to the Prevention of Damage by Pests Act 1949, Environmental Protection Act 1990, Town and Country Planning Act 1990, Housing Act 2004 and Building Act 1984. Where owners fail to comply with these notices, the Council can carry out the work in default and recover the costs; including administration costs and interest. Until costs are recovered the debt remains registered as a local land charge.

- 4.2 The Council invoices empty property owners for work in default that has been carried out but not all owners respond to invoices and subsequent reminders. These debts therefore remain as a local land charge on the property and in some instances are not repaid until the property is sold, sometimes years later. A robust enforced sales programme will speed up the recovery of debts owed to the Council, return neglected empty homes to use and represent better value for money for residents of the city.
- 4.3 After recovery of the debt and costs associated with the enforced sale process, along with any applicable interest accrued, the net balance of the proceeds from the sale of the property will be held in perpetuity for the dispossessed owner or beneficiaries to claim.
- 4.4 This process would only be applied to vacant, registered property where voluntary debt recovery negotiations have been exhausted. The properties will have been a source of neighbourhood environmental problems, in a dilapidated condition and/or lying empty with little prospect of imminently being brought back into beneficial use. It is anticipated there will be up to three properties a year where this process could be applied, with work in default debts averaging between £1,000 - £2,000. There are also more rarer instances where properties have residential care debts attached and no family member willing or able to commence probate after 12 months of negotiation and these debts can be upwards of £20,000.
- 4.5 By enforcing sale, the local authority, alongside recovering the outstanding debt, administration costs and interest owed, will then have the opportunity to work with the new property owner to ensure there is not a repeat of the previous issues experienced by the local community. The Council typically does this by inserting provisions in the conveyance contract that secure occupation within agreed timescales.
- 4.6 The Ministry of Housing, Communities & Local Government advises that local authorities, where appropriate, should make use of enforcement powers to tackle the problem of empty homes. The high priority for the re-use of unnecessarily vacant housing is also evidenced by the inclusion of empty properties in the New Homes Bonus scheme, which provides a financial allocation to Local Authorities for decreasing the number of empty homes in their area.

Public/stakeholder engagement

- 5.1 Internal stakeholders will be consulted and neighbours and interested parties relating to any property subject to this process will be informed as necessary.

Other options

- 6.1 Do nothing.

This is not considered appropriate, as it would delay recovery of debts owed to the Council and return neglected properties back into use with the associated benefits for the local neighbourhood.

6.2 Alternative means of debt recovery.

The Council can recover debt through bailiffs and court action against the owner, however, enforcing sale of the property means that the property will be taken out of the hands of an owner that has failed to address environmental issues or allowed the condition to decline and all administrative costs and interest can be recovered. The proposed use of enforced sale for empty properties means there is no need to go to court to gain possession as the process results in the local authority being granted the status of a mortgagee in possession.

6.3 Compulsory Purchase

The use of compulsory purchase powers may be an equally valid tool for some empty properties with the relevant debts outstanding. However, compulsory purchase requires the council to pay for administration of the process whereas the proposed enforced sales process enables the council to recover its administration costs from the empty property owner.

Financial and value for money issues

- 7.1 The pressures facing local government funding means local authorities need to look at expediently recovering outstanding debts. Recovering qualifying charges by enforced sale, will recover debts faster than permitting such debts to remain as charges against the property until such time as current owners decide to sell.
- 7.2 Where debts are likely to be in excess of the property value the Council will need to decide whether to proceed with this process in order to recover as much debt as possible or whether to use alternative means of recovery. However, implementation of this process will go some way to ensuring this does not happen in future by recovering debt more quickly and not allowing local land charges to build up.
- 7.2 If the enforced sale proceedings are successful, the council will take possession of the property and offer the property for open market sale by public auction or by way of closed tenders. The sale price is used as the basis for determining the market value of the property.
- 7.3 By recovering qualifying debts pursuant to the Public Health Act 1936 and Law of Property Act 1925 the Council's charge will be the priority charge and recovered above any prior existing charges.

Legal implications

- 8.1 Certain work in default debts are recoverable pursuant to section 291 of the Public Health Act 1936. The cost of the work, administrative expenses and interest remain a charge on the property and all estates and interests therein until recovered. For the purpose of enforcing the charge the local authority has the same powers and remedies under the Law of Property Act 1925, and otherwise as if they were mortgages by deed having powers of sale.

- 8.2 The Law of Property Act 1925 authorises the Council to serve notice under Section 103, three months after which, if the debt is not paid, the authority can sell the property to recover that owing. On sale, the legal costs in undertaking the enforced sale procedure, conveyancing costs in connection with the sale, auctioneer's or other marketing costs, and other officer time in relation to the enforced sale process can be recovered from the sale proceeds before this is made available for the dispossessed owner to claim.
- 8.3 The rights of the owner are protected by statutory appeals provisions at various steps in the process.

Climate implications

- 9.1 Improved insulation and energy efficiency measures can be incorporated into the renovation of empty homes once onward sale is achieved. The Empty Homes Team encourage owners to improve thermal efficiency of properties being renovated and help owners access any supporting funding scheme.

Other significant implications

- 10.1 This proposal supports commitments within the Council Plan to create additional available housing and improve existing housing stock, as dilapidated empty homes will be brought up to acceptable standards for occupation.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Olu Idowu	30.04.21
Finance	Simon Riley	18.06.21
Service Director(s)	David Fletcher	17.05.21
Report sponsor	Simon Riley	18.06.21
Other(s)	Ian Fullagar	30.04.21

Background papers:
List of appendices: