

## **Empty Homes – the relationship between the City Council's Empty Homes Service and the private sector.**

### **Purpose**

- 1.1 This report provides an overview of the work of the City Council's Private Sector Empty Homes Service and its working relationship with the private sector, as requested by the Regeneration and Housing Scrutiny Board.

### **Recommendation**

- 2.1 To note the report.

### **Reason**

- 3.1 Regeneration and Housing Scrutiny Board requested a report on this issue.

### **Supporting information**

- 4.1 Empty homes work in Derby is separated into two categories:
  - 'Core' – interventions to facilitate renovation and re-occupation to reduce the number of empty homes and their associated detrimental ASB and community impacts;
  - New Homes Bonus (NHB) - data verification exercise that helps ensure the Council maximises its NHB income award annually.

The relationship between both categories has been symbiotic, seeking to ensure maximum efficiencies in delivery and outcomes in each area.

- 4.2 'Core' activity over the last five years has seen:
  - 578 empty homes returned to use through direct intervention & help of the team; averaging 115 pa. Though it is worth noting that reduced resource in recent years and the demands of NHB activity have seen this average reduce to nearer 80 pa in the last couple of years.
  - Facilitated recovery of over £624,000 of debt associated with empty homes; averaging £124,000 pa.

#### 4.3 'NHB' activity since NHB commencement in 2011:

- In the early years of NHB the Service sought to maximise the income element, correctly anticipating that NHB rules would change and become less generous for LAs. During those years the Empty Homes element of NHB generated an estimated £5m for the Council.
- Having 'stretched the elastic' in those early years, later years have become more about protecting against losses e.g. if the team can prevent any growth in the number of empty homes it can prevent lost income: that is because any growth in empties can result in lost income that would otherwise be earned by a newly built homes. In this phase it is estimated that the empty homes element has effectively helped prevent potential losses to the Council up to £6m.

4.4 However, as anticipated, changes to the national NHB scheme have recently had, and will likely have greater still, significant impact upon the NHB award with the result that potential incomes for DCC are now lower than they were. Greater detail on those impacts and on the 2018 NHB activity by Empty Homes and Council Tax services can be seen at Appendix 1.

4.5 The Service becomes aware of empty homes quite early through customer reporting and complaints (often via our on-line reporting link) and through routine and NHB checks against the Council Tax database. Each year, communication is commenced where properties have been empty greater than 6 months. But, other than giving advice, the Service doesn't get too involved until they have been empty for around two years (unless they're causing ASB or safety issues) because, understandably, a much higher percentage of properties empty for up to 2 years become re-occupied through natural progress, than do those that have been empty for longer periods. The Service has limited resource so it's obviously important that we maximise the impact of the resource we do have.

Working with the private sector:

4.6 Data protection rules unfortunately prevent the Service from publishing or sharing addresses of privately owned empty homes so it's unfortunately not an option to share an address list direct with private sector investors. There is also always a question mark as to whether the availability of empty property addresses to the public may cause additional problems. For example, neighbours may potentially become subject to increased incidence of ASB or squatting if it becomes more common knowledge that the property next to them is empty. Indeed some Councils have been severely criticised for publicising the addresses of empty homes that they wish to Compulsorily Purchase, as these homes have subsequently been targeted for criminal or antisocial activity.

4.7 In addition, many of the owners who ignore the Council's approaches, which consist of a mixture of 'carrots and sticks' are likely also to ignore those of the private sector.

## The Council's Approach

- 4.8 There is an unfortunate misconception, fuelled in part by TV programming, that empty homes are 'low lying fruit' whose owners are simply waiting for an approach and offer of help. If only that were the case, the task of LA empty homes services would be so much easier; but the reality is that there are frequently quite complex emotional, mental health, capability, criminal, delusional, financial, legal, etc. issues to address or unravel.
- 4.9 Our initial offer to private sector owners and/or investors is laid out on our webpages and includes:
- advice and help on the options available, and support through these processes
  - supported referral to other Council departments, such as planning or housing standards, where necessary
  - links with Housing Options and its Private Sector Housing and Derby Homefinder schemes to help find a tenant and/or property management
  - links to locally available Private Sector Leasing partners
  - discounted fees for sale or auction available to owners who are referred through the Council
  - free property appraisals to help judge the costs of renovation and the property's current value
  - an interest free loan to help with repair costs to help bring properties back into use more quickly - called 'Empty Homes Assistance'.
- 4.10 By the time a report is brought to Cabinet for more severe enforcement consideration, the Service will have made every attempt to trace and communicate with owners. Where owners can be traced they will initially have been approached in a very supportive way through our Empty Homes Service, who will suggest the best ways to return the property to use and point out the numerous personal, financial and social benefits of doing so, along with the dis-benefits of not doing so. The owner will have received several letters, wherever possible (most cases) numerous telephone conversations, attempts to meet face-to-face at the property or, failing that, at the Council House or at the owners own home address.
- 4.11 Owners will have been encouraged to consider sale on the open market via estate agents or auction (with Council negotiated discounts available on commission), rental through a private agent, rental through private sector leasing, voluntary sale to the Council, owner occupation (ideally using a professional to refurbish in a timely manner and to a good standard rather than via slow DIY project). The Council offers support with all these options and more is offered.

- 4.12 In particular, the Council's Empty Homes Assistance scheme has proved to be a popular and effective tool over the years. It is a fully repayable, recyclable, interest free loan fund, being particularly popular and effective in working with private sector partners wishing to invest in acquisition, refurbishment and re-occupation of empty homes that may otherwise be unviable propositions.
- 4.13 If owners still fail, or are unable, to take advantage of the incentives available, our approach moves from supportive toward enforcement whilst always making it clear that a voluntary solution is our preferred approach and the best solution for all. When it's clear the owner either cannot be traced or is failing to engage or cooperate, the case is referred onto the Compulsory Purchase and Enforcement Officer. Whilst we still try to achieve a voluntary solution, the CPO Officer works more steadily toward the most appropriate enforcement solution, considering service of major statutory repair notices, Enforced Sale, Empty Dwelling Management Order and Compulsory Purchase.
- 4.14 78 such long term empty properties have been returned to use via Compulsory Purchase powers in last 5 years, averaging 15pa. However, all through the process, properties may reach a voluntary solution and only a proportion makes it to Cabinet, with only a proportion of those having to progress to full compulsory possession.
- 4.15 Successful compulsory purchase requires intense casework in tackling some of the city's very worst and most problematic long-term empty homes – typically posing real nuisance, blight and neighbourhood problems. Officers' actions have been upheld successfully via Secretary of State scrutiny in confirmation of orders, challenge via Public Inquiry and formal Written Representations and legal system scrutiny via Judicial Review. All Orders made have been confirmed by Secretary of State. It is that methodical approach and the ultimate 'stick' of the more severe forms of statutory enforcement that often brings the most recalcitrant owners to the table to talk. Without that very real enforcement threat, the Empty Homes Service could not be as successful as it is.
- 4.16 Derby City's Empty Homes Service has long been seen as a best practice model for empty homes work. As recently as this year, our Compulsory Purchase and Enforcement Officer having been presented with awards at the National Empty Homes Network Conference:

'Practitioner of the Year 2018'; and

'Meeting the Challenge' for her effective approach to a specific long term empty home compulsory purchase case.

In addition, our previous Empty Homes Manager was also awarded 'Practitioner of the year'.

- 4.17 In 2017, Derby's 'Lunar 21' considered: 'Is Derby making the best use of empty homes?'; and concluded:
- ☐ Derby City Council's Empty Homes Strategy is working.
  - ☐ We are lucky to have a council addressing the issue effectively.
  - ☐ Rescuing property is a 'green' option, reducing the need for new build and helping to reinforce existing communities. It is worthy of recognition and support.
- 4.18 In 2018-19 the service was audited by Central Midlands Audit Partnership:

### Summary of Audit Findings

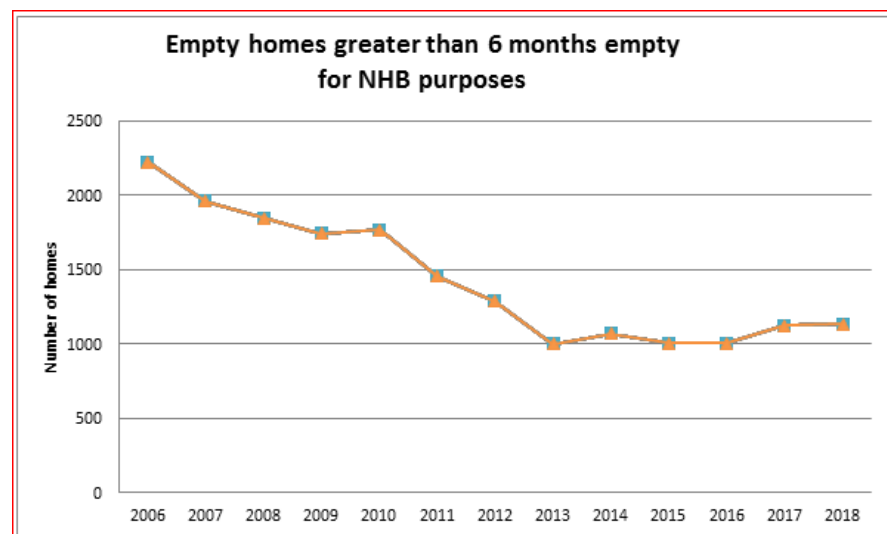
Control Objectives Examined	No of Controls Evaluated	No of Adequate Controls	No of Partial Controls	No of Weak Controls
Ensure the Empty Homes Strategy is comprehensive and supported by adequate governance arrangements, policies and processes for its implementation	4	4	0	0
Ensure processes in place for obtaining information, maintaining data, communication and reporting are adequate	4	4	0	0
Ensure that approved eligibility criteria are properly applied for award of Empty Homes Assistance (EHA) loans and loans are recovered in a timely manner.	6	6	0	0
Ensure that the process for obtaining and enforcing Compulsory Purchase orders is robust	6	6	0	0
<b>TOTALS</b>	<b>20</b>	<b>20</b>	<b>0</b>	<b>0</b>

The audit report contained "no recommendations as no key control weaknesses were identified by the audit review."

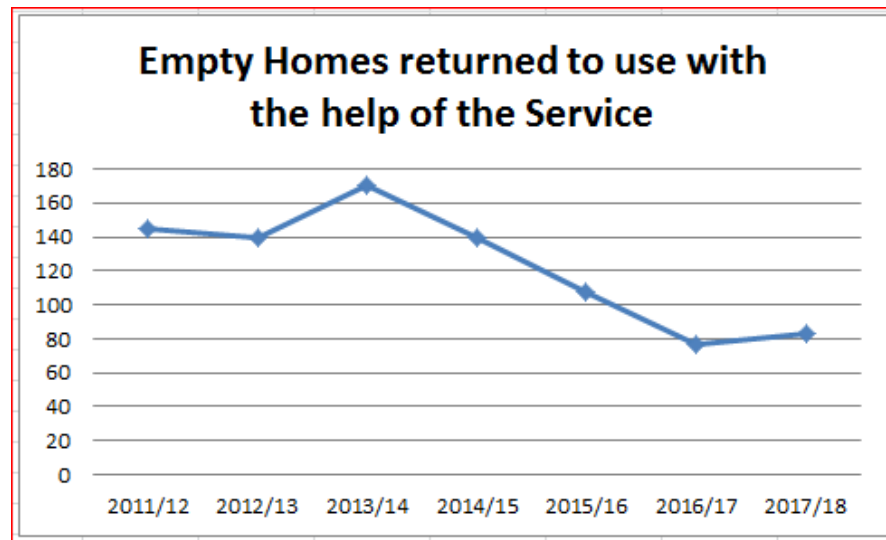
4.19 However, it is undoubtedly the case that reduced resource within the Service and the annual resource demand of the NHB exercise is now detrimentally affecting service impacts, particularly in relation to the effectiveness of 'core' empty homes casework throughout the year [Graphs below]. There is an 'invest to save' rationale that indicates that restoring replacement resource for greater Empty Homes activity could have the following impacts:

- more empty homes returned to use thereby helping to tackle housing shortfalls in the city and the associated costs
- greater recovery of debt associated with empty homes, helping to off-set staffing cost.
- regarding 'NHB' activity: if additional resource were to help return only 20 extra empty properties to use (Band D or 30x Band A), that contribution alone has the potential to earn (or prevent losses of) approx. £30,000 pa for the Council in each of the following 4 years (approx. £120,000 over the 4 years).
- fewer problematic empty homes attracting ASB, nuisance, complaints and blight for our neighbourhoods and communities – always a high profile work area for local councillors.

4.20 Graphs showing declining or plateaued outcomes since reduced resource



4.21



- 4.22 The negative impact of reduced resource within the Service has been further exacerbated in recent months with the retirement of both the very experienced Compulsory Purchase and Enforcement Officer and Empty Homes Officer post-holders, who are yet to be replaced. The retirement of two post holders within an overall team of three, will inevitably impact on this year's empty homes outcomes.
- 4.23 In order to address these issues the team is being restructured to replace the Team Manager role that was deleted several years ago and will include a net gain of one post. This additional resource will increase both the capacity and robustness of the team.
- 4.24 As identified in the 'affordable housing delivery' report earlier on this agenda, the Council is seeking to increase the number of additional affordable homes that it acquires from the open market. This acquisition programme, is becoming increasingly beneficial in terms of bringing Empty Homes back into use. Owners of most empty properties now have an additional option of selling an empty home to the Council.
- 4.25 In addition, it is now the default position that Empty homes acquired through a CPO process will generally be refurbished and returned to use as Council affordable housing. Whilst a few properties may not be suitable because of their design or refurbishment costs, the majority will be taken into Council stock.
- 4.26 The additional team resource referred to in paragraph 4.23 above will not only increase generally the number of properties brought back into use, but also the number of empty homes, available for those in housing need.

### **Public/stakeholder engagement**

- 5.1 Not applicable to this 'for information' report submitted at request of Regeneration and Housing Scrutiny Board.

### **Other options**

- 6.1 Not applicable to this 'for information' report submitted at request of Regeneration and Housing Scrutiny Board.

### **Financial and value for money issues**

- 7.1 No implications arising from this 'for information' report

### **Legal implications**

- 8.1 No implications arising from this 'for information' report

### **Other significant implications**

- 9.1 No implications arising from this 'for information' report

**This report has been approved by the following people:**

<b>Role</b>	<b>Name</b>	<b>Date of sign-off</b>
<b>Legal</b>	Olu Idowu	12/02/19
<b>Finance</b>	Amanda Fletcher	8/02/19
<b>Service Director(s)</b>	Greg Jennings	
<b>Report sponsor</b>	Christine Durrant	
<b>Other(s)</b>	John Massey	8/02/19
	Ann Webster	6/02/19

<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 –New Homes Bonus - Empty Homes and Council Tax Service's activity - 2018

### New Homes Bonus - Empty Homes and Council Tax Service's activity - 2018

#### Background:

Unfortunately, the financial impact of NHB for the City Council has been dramatically diminished since governmental changes to the original NHB scheme:

- each LA has an 'expected' baseline growth to achieve of 0.4% (national average Band D equivalent\*) before any NHB can be earned; and
- instead of the award being paid in each of 6 years, the award has been reduced such that in:
  - 2017-18 the award period dropped to 5 years of payments;
  - 2018-19 the award period dropped to 4 years of payments.

From a housing perspective these changes have been highly detrimental in terms of potential NHB award. But, from a wider Council perspective, these NHB changes were welcomed by colleagues in Finance during their consultation period because:

*"...the council stands to gain so much from the [NHB] scheme being scaled back (with funding being redistributed to councils with social care responsibilities)."*

However, since those changes took effect, the Government, during 2018, further announced that:

- *it '...expects to increase the 0.4% baseline in 2019-20 with decisions on the baseline to be made following a review of the NHB/CTB data when it is published in November 2018. Any changes intended for the baseline in 2019-20 will be detailed at the time of the provisional local government finance settlement 2019 to 2020. Any funding intended for New Homes Bonus payments that is not used for this purpose will be returned to local government.'*
- *'2019-20 represents the final year of funding agreed through the Spending Review 2015. In light of this, it is the Government's intention to explore how to incentivise housing growth most effectively, for example by using the Housing Delivery Test results to reward delivery or incentivising plans that meet or exceed local housing need.'*

Any increase in the 0.4% baseline growth figure will obviously impact detrimentally on our NHB income e.g. if we had approx. 100,000 properties on the CT register, 0.4% means we're expected to add roughly 400 (weighted by band) to this as a baseline figure before we start to earn NHB. Therefore if 700 (weighted by band) were built, we ignore the first 400 (weighted by band) and may get NHB based on the remaining 300 (weighted by band) – BUT any increase in the number of empty properties will erode that 300 on which we may have earned income.

Our CTB shows approx. 110,000 properties; Planning expected in the region of 700 new units this year (but not all necessarily occupied by NHB count); the number of long term (greater than 6 months) empty properties was expected to rise slightly again this year,

following national trends: So we have expected NHB income to fall, but that erosion stands to be greater in future years when the baseline percentage is increased.

However, the Government's Consultation did say: *'Any funding intended for New Homes Bonus payments that is not used for this purpose will be returned to local government.'* So it does depend how that funding is to be redistributed – Finance colleagues will advise, but if that were to be redistributed based on social care needs, for example, it may, perhaps, be that Derby benefit more from that redistribution than they would have from NHB award?

Government went on to confirm that 2019-20 represents the *'final year of funding'* which may, in effect, lessen the significance of concerns about baseline increases because a review and future consultation will decide how LAs will be rewarded/incentivised from 2020-21 onward – perhaps linking it to a *'housing delivery test'* instead of the current NHB baseline percentage.

Whilst this is all indicative of the Government's direction of travel with New Homes Bonus, it did subsequently confirm, early in 2019, as part of its Local Government Finance Settlement 2019-20, that 'the payments threshold for New Homes Bonus will be retained at 0.4% for 2019 [and] the government will consult widely with local authorities on how best to reward housing delivery effectively after 2019-20.'

### **NHB activity 2018:**

Exemplary performance in previous years, combined with the NHB rule changes, challenging market conditions, limited new residential development opportunities within the city boundaries and considerable resource pressures, has made the NHB challenge even harder than usual over this last couple of years.

Despite this, through excellent team working and a process of just over 1,000 property checks, **256** property records were updated on the Council Tax database to coincide with the NHB 'snapshot' count this October – a process specifically designed to help maximise the Council's NHB award.

Those 256 timely property updates contributed to an overall growth against baseline of 580 (which equates to a growth of approx. **499** Band D equivalents). Under the original NHB scheme, growth of 499 had the potential to generate in the region of £5m for the Council (spread over 6 years); but, that is unfortunately not the outcome under current NHB rules.

Instead, a 0.4% baseline growth, calculated against Band D equivalents, would likely be in the region of **347**. Assuming that's correct, an actual growth of **152** (being 499-347), also calculated against Band D equivalents, would potentially trigger award of approx. **£ 1m** (spread over 4 years).

Had that NHB exercise not been carried out, those 256 records would have more than cancelled out the 152 growth and that income would potentially have been lost to the City Council.

This year's NHB outcome is an unfortunate indicator of the heavily reduced impact of the scheme following national changes. Fortunately for Derby, having foreseen the risk of scheme change, the Council maximised to the full its NHB impacts whilst the scheme was at its most advantageous for the city. Whilst, from a housing perspective, it's clearly unfortunate that the value of the scheme is so much reduced, its financial impact on the

Council will hopefully have been mitigated by receipt of the redistributed funding toward its social care responsibilities that was said to have been the reason for the NHB changes.

### **Summary**

**In summary, the work of the Empty Homes and Council Tax Services, specifically designed to help maximise the Council's NHB award, has again successfully protected the Council from a significant potential income loss – to the tune of some £1m over the 4 year NHB repayment period!**

\*National average Band D = £1671