



Report sponsor: Rachel North, Strategic
Director of Communities and Place
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Compulsory Purchase and Enforcement Officer

Compulsory Purchase of Empty Homes

Purpose

- 1.1 This report seeks Cabinet approval to initiate compulsory purchase proceedings in relation to 4 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 under the Government's current rules.
- 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 1 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 Director of Legal, Procurement and Democratic Services and Monitoring Officer and the Director of Legal Services 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;
- iv take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting or defending related proceedings
- v 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 (MCLG) 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 1,085 long-term empty homes currently. During this financial year the Council has so far brought 70 dwellings into use through a combination of voluntary assistance and enforcement tools.

- 4.4 The Council encourages a voluntary solution in respect of privately owned homes. However, the council will use its compulsory purchase powers where appropriate, for example where owners cannot be confirmed; where probate remains unresolved or where known owners fail 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 help address housing need across the city.
- 4.5 Property 1 – this property has been vacant since 2014. Since 2017, the Council has communicated with the owner offering all assistance available as well as warned of the prospect of enforcement. The owner has not engaged at all and the property is declining in condition and appearance. The owner is currently liable to pay the empty homes premium but arrears stand at over £9000. A change in ownership is considered in the public interest.

Property 2 – has been empty since 2013. It was sold in 2017, but the new owner has since failed to engage and the property continues to decline and has remained empty. A recent visit to the property resulted in the Notice, pursuant to section 215 of the Town and Country Planning Act 1990 requiring proper maintenance of land, including buildings, being served on the owner in November 2019. The Notice had to be complied with by 10 January 2020. It is believed that a change in ownership is in the public interest.

Property 3 – this property has been empty since 2012. In 2015 the owner successfully applied for an empty homes assistance loan, which required the property to be renovated and occupied within 12 months. Renovation has been progressing very slowly since 2015. It is hoped that a CPO 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 4 – this property has been empty since 2004. The owner had been dealing with the empty homes team since 2010 and repeatedly claimed an intention to renovate, but has failed to evidence this. The property continues to decline and is an eyesore. Notice, pursuant to section 215 of the Town and Country Planning Act 1990, requiring proper maintenance of land, including buildings, was served on the owner to be complied with by 24 January 2019. The owner has failed to carry out the necessary work or comply with the notice. It is hoped that a resolution to compulsory purchase will help encourage the owner to complete the renovation and reoccupation, 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 bring long-term empty properties within the city back into use thereby negating their negative social impact as well as increase housing supply within a reasonable timescale.

- 4.7 The Council will initially consider whether any compulsorily acquired property is to be added to the Council's housing stock. Where this is not appropriate consideration will be given to their sale to another registered provider or disposed of on the open market. Where added to the Council's housing stock or transferred to a registered provider, this will be at values assessed by the District Valuer. Where properties are sold on the open market this will usually be by public auction but other methods, such as sealed bids, 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.
- 4.9 Where the Council retains the property, energy efficiency measures will be installed in order to contribute to addressing climate change. Exact measures will be determined on a property by property basis.

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. The Council tax arrears owing for Property 1 are still a personal debt and are not registered against the property.
- 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 for these long term empty homes.

Financial and value for money issues

- 7.1 The total valuation of the subject properties is approximately £375,000. 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 to other another 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 £3,650. 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 suggests 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 £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 £650,000 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	13 January 2020
Finance	Mandy Fletcher	7 January 2020
Service Director(s)	Greg Jennings	6 January 2020
Report sponsor	Rachel North	
Other(s)	Jayne Sowerby-Warrington	7 January 2020
	Ian Fullagar	8 January 2020

Background papers:

List of appendices: Appendix 1 – Property Details and Plans (Confidential)