

# EXECUTIVE MEMBER DECISION



<b>REPORT OF:</b>	Executive Member for Growth and Development Executive Member for Finance and Governance
<b>LEAD OFFICERS:</b>	Director of Growth and Development
<b>DATE:</b>	5 <sup>th</sup> November 2020

<b>PORTFOLIO/S AFFECTED:</b>	Growth and Development	Finance and Governance
<b>WARD/S AFFECTED:</b>	Ewood	

**SUBJECT: Compulsory Purchase of an Individual Residential Property at 132 Infirmary Street, Blackburn. BB2 3SF**

## 1. EXECUTIVE SUMMARY

To seek approval to initiate compulsory purchase action on the above privately owned property as part of the Council's Empty Property Strategy to reduce the number of long term empty properties and provide much needed accommodation for the Borough.

## 2. RECOMMENDATIONS

That the Executive Member:

Upon being satisfied that:

- a) it would contribute to the economic, social and environmental well-being of the borough;
  - b) there is a compelling case in the public interest as the interference with Human Rights involved is proportionate in the interests of bringing empty properties back into use;
  - c) sufficient funds exist for carrying the resolution into effect;
  - d) no impediments exist to the implementation of the scheme to redevelop the property (subject to the making of the order) and there is a reasonable prospect of its implementation, should the order be made;
  - e) the whole of the legal estate could not be acquired by agreement.
- 2.1 Authorise the Director of Growth and Development, in conjunction with the Director of HR, Legal and Governance to prepare and make a Compulsory Purchase Order (CPO) under section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981, for the purpose of acquiring the property to bring about its re-use.
  - 2.2 Authorise the Director of Growth and Development to negotiate terms for the acquisition by agreement of any outstanding interests in the land within the Order prior to its confirmation.
  - 2.3 Authorise the Director of HR, Legal and Governance (in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order) to confirm the order if he is satisfied that it is appropriate to do so.

- 2.4 Authorise the Director of Growth and Development to approve agreements with the land owner setting out the terms of withdrawal of objections to the Order (including the power to defer implementation post confirmation) and in consultation with the Director of HR, Legal and Governance to make deletions from and/or minor amendments and modifications to the proposed Order and Order plans.

### **3 BACKGROUND**

- 3.1 As part of the Council's commitment to bringing empty properties back into use, this property has been evaluated using the priority scoring matrix (Appendix 1). It scores highly due to the fact that the property has been empty since the 4<sup>th</sup> June 2018 and is in disrepair with significant fly tipping at the rear. The Council has also received multiple complaints concerning this property and it is within an investment area.
- 3.2 The proposed CPO site is outlined in red on the attached plan (Appendix 2).
- 3.3 The freehold mid terraced property is situated in the Ewood ward of the Borough and is set in a row of pre-1919 two storey terraced houses built of stone, with pitched blue slate roofs. Infirmary Street is a residential street consisting of 40 terraced properties and is situated within close proximity to 2 modern housing developments comprising mixed housing types.
- 3.4 It is anticipated that the property comprises a living room, a dining room, and a kitchen on the ground floor, 2 bedrooms and a bathroom at the first floor level. The assumption is based on previous inspections of similar neighbouring properties that were built at the same time and are of a similar size.
- 3.5 Externally, the property is in a poor state of repair. Currently, the front door and ground floor window is boarded together with the rear ground floor window, which had been open to access following an alleged attempted break in July 2019. Despite it being secured, further attempts have been made by intruders to access the property. The rear yard has also been open to access for over 2 years and is now completely overrun with significant fly tipping, spilling out into the rear alleyway making access impossible. The property owners were prosecuted on the 17<sup>th</sup> March 2020, fined £300, and ordered to pay £250 but the rubbish remains at the rear.
- 3.6 Substantial efforts have been made by the Project Manager (Empty Housing) to contact the owners to encourage them to bring the property back into use. The council has tried to correspond with the owners since the 3<sup>rd</sup> August 2018 and multiple letters have been sent.
- 3.7 Despite these attempts, the owners have only made contact twice following council intervention. Once on the 13<sup>th</sup> June 2019 following the erection of a notice on the property on the 12<sup>th</sup> June 2019 requesting the owners to contact as the council was considering enforcement action. At that time one of the owners advised that he intended to start work on the property in July 2019 and expected it to be completed in 8 weeks. On the 8<sup>th</sup> July 2019, Environmental Health spoke to one of the owners and requested the property to be secured, as it was open to access. The owner advised that the window would be secured. On the 9<sup>th</sup> July 2019, the other owner stated that the property had been broken into and the police and the insurance company had been informed. At the property inspection on the 17<sup>th</sup> July 2019, it was confirmed that the rear ground floor window had been secured, although the yard was still open to access.
- 3.8 On the 27<sup>th</sup> August 2019, Planning Enforcement also wrote the other owners explaining that the external appearance of the property was a source of concern and that work to remedy the concerns should be carried out in within the 21 days. The work was not undertaken.

3.9 The property has been the subject of many complaints from local residents regarding its condition. Over 20 complaints have been received, including,

- Fly tipping and accumulation of waste in the rear yard.
- Causing dampness to a neighbouring property.
- The property being open to access.
- Flood damage & theft.
- The general condition of the building and the fact it continues to remain empty.

3.10 Regular external property inspections have been undertaken since June 2018 but the property continues to remain in a state of disrepair. No apparent refurbishment work has taken pace and no attempts have been made to remove the significant fly tipping from the rear yard. Letters have continued to be sent to the owners and very little response has been received. As refurbishment works have still not commenced and the fly tipping has not been removed from the property, it is recommended that approval to move to CPO is given to ensure that this property is satisfactorily refurbished and brought back into use in a timely manner.

#### **4. KEY ISSUES & RISKS**

4.1 Tackling empty properties supports the key priorities in the Council's Corporate Plan and the Empty Property Strategy.

4.2 There are currently around here are currently around 2,897 empty properties (4.7% of the total stock) in the Borough, of which 1,989 (3.2%) are classified as empty and unfurnished. 393 of those homes have stood empty for over 2 years and are being charged a Premium rate for Council Tax (as at 02.11.20). Contact has been made with many owners of long term empty properties and as a direct result of that intervention, 764 empty properties were brought back into use in 2019/20. However, as quickly as properties are removed from the empty property list, others are added to it.

4.3 Continued efforts are required to ensure that properties are empty for a minimum period of time and the Council's message that long term empty properties will not be tolerated, continues to be communicated.

4.4 There are currently no grant funding opportunities available to support empty homes refurbishment (previous HCA initiatives ended in March 2015). Direct support and signposting is offered to help owners to bring their properties back into use. Where owners are unwilling or unable to bring their properties back into use, enforcement action is considered to be the most appropriate course of action to be taken.

4.5 Engagement with the owner of the property has been exhausted and compulsory purchase action is now considered to be the only course of action left to the Council to ensure that the property is brought back into use.

4.6 Empty properties in the borough can have negative environmental impacts on neighbourhoods in addition to being a wasted housing resource. At neighbourhood level, empty properties attract fly tipping, crime, arson and nuisance. It is a priority to tackle these problems through enforcement as part of the wider effort to improve neighbourhoods and prevent blight.

4.7 Bringing empty properties back into use creates extra accommodation for rent or sale and could also generate additional income for the Council via New Homes Bonus (NHB) payment.

- 4.8 The costs will be funded from the Neighbourhood Intervention Fund which is part of the Council's Housing Capital Programme; there are sufficient uncommitted funds available within the programme to support the making of this individual CPO.
- 4.9 Once acquired by CPO, the property will be offered for sale via a local estate agent to the highest bidder with preference given to buyers who intend to owner/occupy the property once renovated. A building licence will be granted to the buyer and formal sale is completed once the property has been renovated to the Council's required standard. This approach also encourages the use of local labour and local spend.
- 4.10 To date, 23 properties have been acquired using Neighbourhood Intervention Project funding. Of these, 17 have been successfully refurbished and occupied and 4 are in the process of being refurbished following the exchange of contracts. 2 properties are with our legal department awaiting exchange of contracts.

## **5. HUMAN RIGHTS IMPLICATIONS**

- 5.1 A Compulsory Purchase Order should only be made where there is a compelling case in the public interest. Members should be sure that the purposes for which it is making a CPO sufficiently consider the human rights of those with an interest in the land affected. In particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the European Convention on Human Rights (which provides every person is entitled to respect for his home and private life).
- 5.2 Notwithstanding the acknowledged impact that the CPO will have with regard to some aspects of the Human Rights Act 1998, the benefits identified in this report present a compelling case in the public interest for making the proposed CPO and compensation will be payable under the statutory compensation code.
- 5.3 The making of the proposed CPO is in the public interest because: -
- It will promote the social, environmental and economic well-being of the area and increase residents' confidence in the area.
  - It will create extra accommodation for sale or rent.
  - It will reduce the negative environmental impacts on the neighbourhood as empty properties attract fly-tipping, crime arson and nuisance.

## **6. POLICY IMPLICATIONS**

- 6.1 The Corporate Plan prioritises new house building and improvement of conditions in older housing. Bringing empty properties back into use is an alternative means of increasing supply and also improves housing conditions and is, therefore, relevant to both of the key corporate objectives.
- 6.2 Bringing housing back into use would increase housing supply in the borough. Properties may be occupied by owner/occupiers or be available as private rented accommodation. It would also free the local community of the problems created by properties standing empty and derelict for such a long time.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 The funding for Orders made pursuant to section 17 of the Housing Act 1985 is available in the Neighbourhood Intervention Fund which is part of the Council's Housing Capital Programme.
- 7.2 The costs will be funded from the Neighbourhood Intervention Fund which is part of the Council's Housing Capital Programme; there are sufficient uncommitted funds available within the programme to support the making of this individual CPO.
- 7.3 Some revenue budget will be required to fund the CPO action and subsequent sale of the property. The amount required will be approximately £3,000 for the appropriate service of the required legal notices and £1,000 for the estate agent's fees. The total figure of £4,000 will be funded from within existing budgets.
- 7.4 Capital receipts from sale of assets funded by the Neighbourhood Intervention Fund are recycled back into the project so that further CPO's can be undertaken as and when required.

## **8. LEGAL IMPLICATIONS**

- 8.1 Under the provisions of section 17 of the Housing Act 1985, the local authority may acquire houses or buildings which may be suitable as houses, together with any land occupied with the houses or buildings. The power is available even if the ownership of the property is to be transferred to someone else.
- 8.2 The Council also needs to consider the Guidance on Compulsory Purchase Process and the Crichel Down Rules published by the Ministry of Housing Communities & Local Government.
- 8.2 Legal challenges to compulsory purchase are always a possibility and can lead to a Public Local Inquiry, which would incur additional costs for the Council. A CPO on an unoccupied single property is likely to have a very limited number of possible statutory objectors, although in this case the registered owner is known. The owner will be served with the relevant statutory notices in accordance with the Acquisition of land Act 1981.
- 8.3 The making of a CPO does not prevent negotiations with any person holding an interest in land affected by the CPO as these negotiations can proceed in parallel with the statutory process. Indeed, it is advised that where possible, negotiations can continue throughout the process even up to confirmation of the Order.

## **9 RESOURCE IMPLICATIONS**

- 9.1 Resources needed to make the CPO and serve the relevant statutory notices will be provided by the Empty Properties Team. Some support will be required from the legal team which will increase if the CPO action results in a Public Local Inquiry.
- 9.2 Some support will be required from the property services team and Capita Symonds to carry out a valuation of the property concerned.

## **10. EQUALITY AND HEALTH IMPLICATIONS**

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

## 11. CONSULTATIONS

- 11.1 Comprehensive consultation has been undertaken to understand the impacts of empty properties on local communities. The Strategic Housing Market Assessment (SHMA) supports bringing empty properties back into use. This has also been reflected in the Council's Local Plan which treats empty properties as a valuable resource towards meeting housing need within the borough.
- 11.2 The further development of the Council's Empty Property Strategy has also consulted stakeholders and agencies prior to consideration of further tools to tackle empty properties.

## 12. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 13. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>0.01</b>
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<b>CONTACT OFFICER:</b>	<b>Nicola Fox – Project Manager (Empty Housing)</b>
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<b>DATE:</b>	<b>5<sup>th</sup> November 2020</b>
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<b>BACKGROUND PAPER:</b>	<b>Empty Property Strategy</b>
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