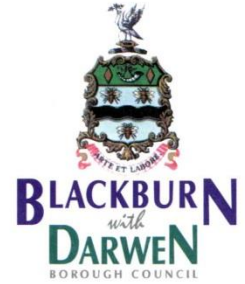


Executive Member Decision



REPORT OF: Executive Member for Finance and Governance,
Executive Member for Growth and Development

LEAD OFFICERS: Strategic Director of Place

DATE: Friday, 17 December 2021

PORTFOLIO(S) AFFECTED: Growth and Development

WARD/S AFFECTED: Darwen East;

SUBJECT:

EMD - CPO of individual property at 146 Olive Lane, Darwen

1. EXECUTIVE SUMMARY

To seek approval to initiate Compulsory Purchase Order 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; and,
 - e) the whole of the legal estate could not be acquired by agreement.
- 2.1 Authorise the Strategic Director of Place, in conjunction with the Strategic Head of 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 Strategic Director of Place 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 Strategic Head of 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 Strategic Director of Place 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 Strategic Head of 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 stood empty for over 6 years, is currently in serious disrepair following a break-in. The Council has also received a series of complaints with regards to this property.
- 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 Darwen East 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. Olive Lane is a busy residential street comprising of many terraced properties located less than ½ mile from the Town Centre, allowing easy access to shops and services.
- 3.4 The property comprises a living room, dining room and a kitchen on the ground floor with 2 bedrooms and a bathroom at first floor level.
- 3.5 The property is in a poor state of repair with the front door boarded over following a break-in in June 2021.
- 3.6 Numerous complaints have been received in relation to the condition of the property from both local Councillors and local residents, who have expressed concern about the nuisance that the property is causing to the local neighbourhood, including;
- Fly-tipping in the rear yard.
 - Causing dampness to an adjoining property.
 - The general condition of the building and the fact that it is now boarded over following the break-in.
- 3.7 Substantial efforts have been made by the Project Manager (Empty Housing) to identify and make contact with the owners to encourage them to bring the property back into use. Between January 2016 and September 2021 all efforts have been made to locate and open a dialogue with the owners but no response has ever been received to our letters, emails and telephone calls.
- 3.8 The property was inspected at regular intervals by the empty properties team and it became clear that nobody was visiting the property due to the volume of mail behind the front door.
- 3.9 Initially, the condition of the property was not a matter for concern but deterioration has been witnessed over the last 6 years beginning with reports that the rear yard gate had been vandalised in January 2017, resulting in open access to the rear yard.
- 3.10 Further complaints were received from local residents and via a ward councillor regarding;
- Rubbish and overgrown foliage in the front garden.
 - Fly-tipping in the rear garden.
 - Dampness to party wall causing mould growth to adjacent property.
 - The general appearance of the empty property.
- 3.11 In June 2021, a report was received that the property had been broken into via the front door, leaving the property open to access. Upon internal inspection it was noted that somebody may have been squatting at the property.
- 3.12 The front door was secured and the owner was advised by letter that failure to commence

refurbishment would result in the Council considering enforcement action by way of Compulsory Purchase. As no response was received to this letter, the owner was advised by letter in September 2021 that Council approval to take Compulsory Purchase action under s17 of the Housing Act 1985 was to be sought. A site notice was also attached to the property requesting that the owner or anyone with a legal interest in the property contacts the Empty Properties Team as a matter of urgency.

- 3.13 Despite many attempts to contact and open a dialogue with the owner, no response to any communication has ever been received over a 6 year period. The condition of the property is deteriorating and the break-in in June of this year leaves the property vulnerable to further unlawful entry.
- 3.14 Given that the owner of the property has not shown a willingness or ability to bring the property back into use in a timely manner, Compulsory Purchase action is considered to be the only action available as a last resort to bring about a positive outcome in this matter.

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 2,791 empty properties (4.5% of the total stock) in the Borough, of which 1,920 are classified as empty and unfurnished. 384 of those homes have stood empty for over 2 years and are being charged a Premium rate for Council Tax (as at 02.11.2021). Contact has been made with all owners of long term empty properties and as a direct result of that intervention, 653 empty properties were brought back into use in 2020/21. 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 Government 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 can 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, 26 properties have been acquired using Neighbourhood Intervention Project funding. Of these, 18 have been successfully refurbished and occupied, 1 has been refurbished and is awaiting occupation and 6 are in the process of being refurbished. 1 property are with our legal department awaiting exchange of contracts and 1 property is ready to go on the market for sale.

HUMAN RIGHTS IMPLICATIONS

- 4.11 A CPO 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).
- 4.12 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.
- 4.13 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.

5. POLICY IMPLICATIONS

- 5.1 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.
- 5.2 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.

6. FINANCIAL IMPLICATIONS

- 6.1 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.
- 6.2 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.

- 6.3 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.
- 6.4 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.

7. LEGAL IMPLICATIONS

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.

8. RESOURCE IMPLICATIONS

- 8.1 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.
- 8.2 Some support will be required from the property services team and Capita Symonds to carry out a valuation of the property concerned.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below.

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.

10. CONSULTATIONS

- 10.1 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.

10.2 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.

11. 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.

12. 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 in the Summary of Decisions published.

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DATE:	11 th November 2021
BACKGROUND PAPER:	Empty Property Strategy