

EXECUTIVE MEMBER DECISION



REPORT OF:	Executive Member for Growth and Development Executive Member for Finance and Governance
LEAD OFFICERS:	Strategic Director of Growth and Development
DATE:	5 th October 2022

PORTFOLIO/S AFFECTED:	Growth and Development	Finance and Governance
WARD/S AFFECTED:	Darwen West	

SUBJECT: Compulsory Purchase of an Individual Residential Property at 82 Tockholes Road, Darwen, BB3 1LL

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 Strategic Director of Growth and Development, in conjunction with the Director 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 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 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 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 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 for over 5 years, is currently in a severe state of disrepair and the Council has exhausted all alternative options to ensure this property is brought back into occupation.
- 3.2 The proposed CPO site is outlined in red on the attached plan (Appendix 2).
- 3.3 The freehold semi-detached property is situated in the Darwen West ward of the Borough. Tockholes Road is mainly a residential street consisting of a mixture of terraced, semi-detached and detached properties. There is an ongoing development directly in front of 82 Tockholes Road and land adjacent to the property is currently for sale with planning permission for 2 dwellings.
- 3.4 The property is in a very poor state of repair, and requires a full refurbishment. The external condition of the property is poor and neglected, the majority of the external doors and windows to the property are boarded following anti-social behaviour and reported break-ins.
- 3.5 The property is the subject of complaints from both local Councillors and local residents, including,
- The general poor condition and appearance of the building
 - The property being open to access
 - The fact the property continues to remain empty.
 - Anti-social behaviour and reported break-ins
 - Dampness/disrepair, which is affecting the neighbouring property
- 3.6 Substantial efforts have been made by the Project Manager (Empty Housing) to identify and make contact with the joint owners to encourage them to bring the property back into use. Between May 2018 and February 2021 the Council has corresponded separately with both owners of the property, who have engaged intermittently and due to circumstance are unable to sell the property or refurbish the property to bring the property back into occupation.
- The mortgagee is unwilling to take possession of the property due to fact that one of the joint owners is elderly.
 - The owners do not have the funds to refurbish the property
 - The joint owners are not in communication with each other, hindering a potential market sale.
- 3.7 Regular inspections of the property have taken place since May 2018. It has continued to deteriorate which has negatively impacted on the neighbouring property and the current owners do not have the means to bring the property back into occupation. Compulsory purchase action is determined to be the most appropriate course of action to bring this property back into use.

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 2,782 empty properties (4.4% of the total stock) in the Borough, of which 1,867 (3.%) are classified as empty and unfurnished. 342 of those homes have stood empty for over 2 years and are being charged a Premium rate for Council Tax (as at 02.10.22). Contact has been made with all owners of long term empty properties and as a direct result of that intervention, 826 empty properties were brought back into use in 2021/2022. 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 All attempts to communicate with the owners of the property have now been exhausted. We have been unable to engage with one owner and the other owner does not have the funding required to satisfactorily refurbish the property and so compulsory purchase action, as a last resort, is now considered to be the only course of action available to the Council to bring the property 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, 30 properties have been acquired using Neighbourhood Intervention Project funding. Of these, 20 have been successfully refurbished and occupied and 6 are in the process of being refurbished. 3 properties are with our legal department awaiting exchange of contracts. 1 property is on the market for sale.

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.

VERSION:	0.02
-----------------	-------------

CONTACT OFFICER:	Nicola Fox – Project Manager (Empty Housing)
-------------------------	---

DATE:	5th October 2022
--------------	------------------------------------

BACKGROUND PAPER:	Empty Property Strategy
--------------------------	--------------------------------