



# EXECUTIVE MEMBER DECISION

<b>REPORT OF:</b>	Executive Member for Growth and Development Executive Member for Finance and Governance
<b>LEAD OFFICERS:</b>	Strategic Director of Growth & Development
<b>DATE:</b>	23 June 2023

**PORTFOLIO/S AFFECTED:** Growth and Development Finance and Governance

**WARD/S AFFECTED:** Ewood;

**SUBJECT: EMD – Compulsory Purchase of an Individual Property at 128 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.

## 1. 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 for Growth and Development, in conjunction with the Deputy Director for 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 for 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 Deputy Director for 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 for 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 Deputy Director for Legal and Governance to make deletions from and/or minor amendments and modifications to the proposed Order and Order plans.

## 2. 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 last tenant vacated in November 2017 and is currently in serious disrepair.
- 3.2 The proposed CPO site is outlined in red on the attached plan (Appendix 2).
- 3.3 This pre-1919 mid terraced, pavement fronted property is situated in the Ewood ward of the Borough and is set in a row of two storey terraced houses built of brick with a stone frontage and pitched slate roofs. This particular property stands in the middle of the row and the rear elevation has been rendered. The surrounding area comprises of housing of a similar age and style.
- 3.4 It is anticipated that the property comprises two living rooms with a kitchen situated in the ground floor annexe, with 2 bedrooms and a bathroom at the first floor level. This assumption is made due to the fact that an external inspection only has been carried out and the assumption is based on previous inspections of similar neighbouring properties which were built at the same time and are of a similar size.
- 3.5 Currently, the property stands obviously empty with the front first floor window smashed and the front and rear ground floor windows boarded, having previously been open to access in May 2019. It has been plagued by vandalism, fly-tipping, squatting and drug use, causing a severe nuisance to the local neighbourhood. The building has therefore been subject to multiple and repeated complaints regarding its condition and the related anti-social behaviour issues, which are having a negative impact on the local surrounding area.
- 3.6 This long term empty property was first inspected by the Empty Properties Team on the 2<sup>nd</sup> August 2018. It was noted that the front door was boarded and fly-tipping was evident in the rear yard. 4 Letters were subsequently sent to the owner over the course of a 6-month period, commencing on the 3<sup>rd</sup> August 2018. The first response received from the owner was on the 6<sup>th</sup> March 2019, when he refuted the number of letters that had been sent to him. He advised that work to refurbish the property would not commence for at least another 6 months and wasn't a priority.
- 3.7 On the 21<sup>st</sup> March 2019 a further letter was sent to the owner advising that the Council would consider buying the property by agreement. The owner responded on the 4<sup>th</sup> April 2019 indicating that he was interested in a sale by agreement as work would not start on the property for another 12 months or until work had completed on his other properties.
- 3.8 The property was reported as open to access in May 2019 and despite the property being secured by the owner, Lancashire Police reported it open to access again on the 7<sup>th</sup> July 2019. Numerous attempts were made to contact the owner, where he was advised to re-secure it. The Empty Properties Officer re-visited on the 5<sup>th</sup> July 2019, where it was noted that the kitchen appeared to be fire damaged. As no attempts were made by the owner to secure the premises, the property was boarded by the Council on the 8<sup>th</sup> July 2019 and again on the 28<sup>th</sup> October 2019 and a charge placed on the property to recover the costs.

- 3.9 The property has been re-inspected at regular intervals from August 2018 and a letter from the Planning Enforcement Team regarding a Section 215 notice was issued to the owner on the 27<sup>th</sup> August 2019. There was a steady accumulation of fly-tipping at the front and in the rear yard of the property as that remained insecure until the owner secured it in December 2019. Fly-tipping has continued to remain prevalent at the property and the owner was subsequently fined £220, with costs of £320 and a victim surcharge of £32 on the 27<sup>th</sup> October 2020 for failing to comply with a Section 4 of the Prevention of Damage by Pest Act 1949.
- 3.10 In January 2021, the owner claimed that refurbishment work was going to commence in March / April 2021 but was considering the selling the property but had been unable to find a buyer. In October 2021 the Empty Properties Officer met the owner, where he stated that work would start once another property had been refurbished. He was advised that a potential buyer had expressed interest and contact details were subsequently provided.
- 3.11 In January 2022 the owner advised that he sold the property to an investor prior to Christmas, following ongoing discussions for the past 4 to 5 months. In February 2022, he subsequently advised that the buyer had postponed a meeting to discuss the sale further. In June 2022, the owner reported that another sale was progressing on the property and advised that he didn't have the necessary funds to renovate it so a sale was absolutely essential. In January 2023 the owner claimed that another sale was being negotiated but no evidence of this has been provided.
- 3.12 It is therefore 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 2,718 empty properties (May 2023) accounting for 4.4% of the total housing stock in the Borough, of which 1,834 (2.9%) are classified as empty and unfurnished with 985 (1.56%) of those homes classified as long term empty homes. Some properties have already been removed by clearance activity. Of the rest, although some will only be empty for a short time, others have been empty for a long time and need to have action taken to remedy this.
- 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 owners 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, 30 properties have been acquired either by purchase by agreement or compulsory purchase through the Neighbourhood Intervention Project. This has facilitated the renovation and re-occupation of some of the most problematic properties across the Borough and helped to reduce anti-social and criminal activities, which the empty properties attract

## **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.

## **7. 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.

## 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 and published if applicable.

<b>VERSION:</b>	<b>0.01</b>
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<b>CONTACT OFFICER:</b>	<b>Nicola Fox – Principal Housing Projects Manager</b>
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<b>DATE:</b>	<b>02/06/2023</b>
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<b>BACKGROUND PAPER:</b>	<b>Empty Property Strategy</b>
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