

EXECUTIVE MEMBER DECISION



REPORT OF:	Executive Member for Growth and Development Executive Member for Finance and Governance
LEAD OFFICERS:	Director of Growth and Development
DATE:	XX January 2020

PORTFOLIO/S AFFECTED:	Growth and Development	Finance and Governance
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WARD/S AFFECTED:	Darwen West
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SUBJECT: Compulsory Purchase of an Individual Residential Property at 18 Cobden Street, Darwen BB3 2NY.
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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 is currently in serious disrepair following an arson attack and the Council has also received a series of complaints with regards to this property. According to the Council's records, however, it has only been recorded as empty for just over 12 months.
- 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 West 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. Cobden Street is a residential street consisting of 28 terraced properties and is situated below a small modern housing development comprising of semi-detached and detached homes built in 1996.
- 3.4 It is anticipated that the property comprises a living room and a kitchen/dining room on the ground floor, 2 bedrooms and a bathroom at the first floor level and an attic room. This assumption is made due to the fact that an external inspection only has been carried out for health and safety reasons. The assumption is based on previous inspections of similar neighbouring properties which were built at the same time and were of a similar size.
- 3.5 The property is in extremely poor condition following an arson attack that took place in January 2019.
- 3.6 Currently, the windows to the majority of the property are unglazed and un-boarded, leaving the property open to the elements. The roof is in severe disrepair and a temporary covering is in place. The rear yard is open to access, however it is inaccessible as it is full of building materials and fire damaged waste from the property. Internally, the property is also in a poor state of repair due to large amounts of building materials and fire damaged waste.
- 3.7 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;
- Water ingress into neighbouring property,
 - Building materials left under scaffolding on the public footpath for long periods of time,
 - Ladders left against the scaffolding on the public footpath for long periods of time attracting antisocial behaviour,
 - Fly tipping,
 - Roofing nails and screws strewn over the public footpath and road.
 - The general condition of the building and the fact it continues to remain empty and open to access.
- 3.8 Substantial efforts have been made by the Project Manager (Empty Housing) to identify and make contact with the owner to encourage him to bring the property back into use. Between January 2019 and March 2019 all efforts were made to locate the owner and on 21st March 2019, the council received a telephone call from a friend of the owner who claimed that scaffolding was being erected and works were being carried out to ensure that the property was wind and weather tight. The property was inspected on 22nd March 2019 the scaffolding had

been erected.

- 3.9 The property was re-inspected at regular intervals by both the empty properties and housing standards teams throughout April 2019, but there was no evidence that repair works had commenced.
- 3.10 On the 3rd May 2019, the Housing Standards Team served a statutory notice on the owner under s80 of the Environmental Protection Act 1990 relating to the water ingress affecting neighbouring properties. This resulted in the owner contacting the Council by telephone to confirm that works to refurbish the property would be completed within 6 months. However, further inspections in May 2019 revealed that works had not commenced. As a result, a further letter requesting an update on progress made in relation to the refurbishment was sent to the owner on 24th May 2019.
- 3.11 Whilst maintaining contact with the owner between June 2019 and September 2019, the property continued to be a local eyesore despite the owner's assurances that refurbishment works were due to commence and a site meeting was arranged for 3rd October 2019 to discuss the refurbishment. The owner cancelled the site meeting on the morning of 3rd October 2019.
- 3.12 On 11th November 2019 the council wrote to the owner to advise him that as work had not started to refurbish the property, council approval would be sought to proceed to make a Compulsory Purchase Order (CPO) under s17 of the Housing Act 1985. The owner telephoned the office to give his assurances that works would commence shortly and it was agreed that enforcement action would be delayed to enable him to commence the required works with progress being reviewed in the 2nd week of January 2020.
- 3.13 That progress review has not satisfied officers that works will be completed in a timely manner and it is, therefore, recommended that approval to move to CPO is given as a last resort 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 2,923 empty properties (5% of the total stock) in the Borough, of which 2,047 are classified as empty and unfurnished. 399 of those homes have stood empty for over 2 years and are being charged a Premium rate for Council Tax (as at 02.01.20). Contact has been made with all owners of long term empty properties and as a direct result of that intervention, 507 empty properties were brought back into use in 2018/19. 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, 22 properties have been acquired using Neighbourhood Intervention Project funding. Of these, 16 have been successfully refurbished and occupied and 3 are in the process of being refurbished. 1 property is with our legal department awaiting exchange of contracts and 2 properties are 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:	0.01
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CONTACT OFFICER:	Nicola Fox – Project Manager (Empty Housing)
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DATE:	January 2020
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**BACKGROUND
PAPER:**

Empty Property Strategy