

Report to: Cabinet

Date of Meeting: 6th June 2016

Report Title: Compulsory Purchase Orders (CPO) Long Term Empty Street Properties (Part 1 report)

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Purpose of Report

The purpose of this report is to bring to the attention of the public that the Cabinet is to consider at its meeting compulsory purchase action on twenty privately owned empty homes as part of the Empty Homes Strategy Enforcement Programme. A report included in Part 2 of the Cabinet Agenda entitled Compulsory Purchase Orders (CPO) Long Term Empty Street Properties (part 2 report) sets out the statement of reasons for acquiring the properties and makes recommendations concerning compulsory purchase.

Recommendation(s)

That Cabinet approves the detailed recommendations set out in the report included in Part 2 of the Agenda and approves the making of compulsory purchase orders of the twenty long term empty homes

Reasons for Recommendations

The Council's empty homes strategy sets out a number of enforcement powers available to the Council, including the compulsory purchase of long term empty homes. In addition to taking action to bring empty homes back into use, it is hoped that taking this action will demonstrate to the owners of empty homes that it is unacceptable to leave property empty for an unreasonable period of time. This action will demonstrate to owners of these empty homes that the council will take the necessary action to bring these homes back into use for the benefit of the community.

Introduction

1. The empty homes Compulsory Purchase Order (CPO) Programme is a significant component of our enforcement model for bringing long term empty homes back into use. It is being used to help deliver the Council's Empty Homes Strategy and to return homes to use, where other approaches have been exhausted. A resolution from Cabinet is necessary to allow the CPO process to progress to a formal stage.
2. The key benefits of the CPO programme are:
 - Support for the Council's Vision to make Hastings a place with a decent home for all.
 - An increase in the availability of good quality accommodation for purchase or rent through refurbishment.
 - Assistance with area and Town Centre regeneration objectives.
 - Achievement of empty homes strategy targets for bringing empty homes back into use.
 - An improvement in look and feel of the built environment by reducing eyesores.
 - A reduction in anti-social behaviour associated with empty homes, including rubbish dumping, vandalism, arson, drug taking and other nuisances.
 - An increase in the number of private sector homes brought up to the decent homes standard.
 - An improvement in community sustainability and cohesion.
 - Reduced pressure on a number of Council services, for example Public Realm & Community Safety.
 - Increased private investment in Hastings housing stock through the refurbishment of empty homes.
 - An enhancement of the Council's reputation within our community.
 - A demonstration to owners of empty homes that it is unacceptable to leave homes empty for unreasonable amounts of time.

Background information

3. The Department for Communities and Local Government (DCLG) is the department responsible for shaping housing policy in England and it is up to individual District and Borough Councils to formulate and implement their own policies to deal with empty homes.
4. DCLG Policy Statement: "It is important to maximise use of the existing housing stock so that we can minimise the number of new homes that need to be built each year, particularly in areas of the country where housing demand is high, such as the south east of England."

5. The Council employs a dedicated Empty Homes Officer with the objective of bringing empty homes back into use. Considerable success has been achieved through the use of empty homes grants, informal negotiation, advice, persuasion and pressure. There is now greater emphasis on enforcement to achieve the Council's aims. CPO powers are a clear and demonstrable enforcement tool available to the Council to help ensure empty homes are returned to use.

6. The CPO procedure is only considered where it is clear that:

No (further) progress can be made by negotiation with the owner/controlling party;

There is no real imminent prospect of the situation being resolved other than by the intervention of the Council;

All other realistic options have been reviewed and CPO is judged to be the best way forward;

The course of action proposed will deliver changes that will benefit the owners and occupiers of homes in the surrounding area;

The course of action will support the strategies and policies of the Council by enabling the Council's specific objectives to be achieved specifically the reduction in the number of long-term empty homes.

7. The Council's strategies and policy on enforcement and Empty Homes are set out in the following:

[The Housing Strategy](#)

[The Housing Renewal Financial Assistance Policy](#)

[The Housing Renewal Enforcement Policy](#)

The Empty Homes Strategy

8. In 2005 (updated in 2007) Cabinet agreed the Council's CPO policy, which provides an overview of the Compulsory Purchase process and lists some of the principal issues requiring consideration when assessing the appropriateness of pursuing a CPO. A flow chart showing the stages and time frames associated with a CPO is set out at Appendix 1.

The Implications of using CPO Powers

9. Twenty long term empty homes have been identified for Compulsory Purchase. A further report is listed under Part 2 of the Cabinet Agenda, titled 'Compulsory Purchase Orders (CPO) Long Term Empty Street Properties for twenty long term empty properties (Part 2 report)' as it contains exempt information and sets out the details of the properties and the Statement of Reasons for resolving to use Compulsory Purchase powers for each of the proposed empty homes.

10. The Council's Empty Homes Officer has undertaken casework in an attempt to urge the owners of these long term empty homes to bring them back into

use. These efforts have failed and it is therefore necessary to pursue the CPO action detailed in this report.

11. The employment of the Council's Compulsory Purchase powers for the properties identified in the report listed under Part 2 of the Cabinet Agenda, titled Compulsory Purchase Orders (CPO) Long Term Empty Street Properties (Part 2 report) is considered proportionate and in the public interest.

Financial and Legal Implications

12. The costs of a CPO can vary depending on the circumstances of the case. There will be recoverable and non-recoverable costs.
13. The Council would have to fund the cost of market value compensation to the owner. This would be based on a fixed independent valuation, which would be challengeable at the Lands Tribunal. This expenditure would be partly or fully recoverable on the sale of the property and the sale value would be subject to positive or negative market fluctuations.
14. There are a range of unrecoverable costs:
 - Legal costs
 - Advertising costs
 - Land registry fees and Stamp Duty Land Tax (where applicable)
 - Public inquiry costs (if needed)
 - Objector's costs (if the CPO is not confirmed by the Secretary of State)
 - Surveyor's costs of ex-owner for negotiating the compensation
 - Basic loss payment (7.5% of the value of the interest to a maximum £75,000, whichever is lower). This can be avoided if the person has not complied with certain statutory notices, e.g. grot buster action (section 215). If this is payable then the valuations of the properties we are considering would need to be carefully considered.
15. In the worst case scenario the unrecoverable costs detailed above could total between £20,000 to £30,000. This could be more with the Basic Loss Payment. For example an empty home valued at £200,000 could attract a further Basic Loss Payment of £15,000, which would be a further unrecoverable cost.
16. There is currently £220,000 of the £250,000 budget made available to deal with Compulsory Purchase action. This sum is included in the capital programme.
17. The remaining budget will be sufficient to cover the costs of taking a CPO action against each property sequentially. This includes the costs of maintaining our engagement of external legal representation from [NPLaw](#). This is the shared Legal Service for the local authorities in Norfolk.

18. There are two main powers under which local authorities can compulsorily acquire empty homes; one is contained in section 17 of the Housing Act 1985 and the other is contained in section 226 of the Town and Country Planning Act 1990. In addition there is a further Compulsory Purchase power contained in section 93 of the Local Government and Housing Act 1989. This power would only be available for homes in the declared Central St Leonards, Housing Renewal Area. Often there is a choice of which power to use. Section 226(1)(a) of the 1990 Act allows a local authority to acquire land and buildings to facilitate their improvement, development or redevelopment provided that this will bring social, environmental or economic benefits to the area. Each of the homes listed proposed for Compulsory Purchase is in need of improvement and bringing these homes back into use will secure the aforementioned benefits, i.e. by the provision of a unit of accommodation, by improving the appearance of the property, and by generally enhancing the locality.

Risk Management

19. The timescales involved with a CPO vary and are dependent on the complexity of the case and whether there is a requirement for public enquiry. CPOs for empty homes are not considered to be overly complex. They should therefore take between three (without an enquiry) and fifteen months (with a public enquiry) from Cabinet approval to a confirmed CPO. This has an effect on when the Council would be able to take possession of the property and dispose of it.
20. In the current financial climate it is unlikely that a suitable Registered Provider (previously a Registered Social Landlord) will be prepared to enter into a back to back purchase deal. Consideration will therefore be given to the disposal of the properties on the open market. If this is the case, covenants of sale relating to time scales on bringing the property back into use and undertaking renovation works will be applied.
21. Any restrictive covenant could have an adverse impact on its sale value. However, the experience of other Local Authorities is that the majority of properties will end up being purchased by a developer. In such circumstances the developer is usually intent on renovating and bringing the property back into use. The covenants would therefore be considered to have negligible impact upon property values.
22. It should be noted that should the Council not be able to dispose of the property in the short term, it would still be liable for the payment of compensation and other associated costs.
23. It will be essential to ensure that any property subject to a CPO is secured against unauthorised access. This may be an additional small cost that the Council would have to absorb. This would be particularly important if there are delays in the disposal of the property.

24. There is a possibility that the Secretary of State does not confirm the CPO. If this is the case then all costs, including the owner's costs, would have to be paid by the Council.

CPO resolutions

25. CPO Reports brought before Cabinet previously have included a total of sixty-nine long term empty street properties seeking resolution to compulsory purchase. The vast majority were returned to use without us taking possession, the threat of a CPO has been sufficient to get the owner to take action
26. Since the CPO Programme began, we have taken possession of 5 empty homes, 4 of which have already been sold at public auction, and the latest possession will be auctioned in July 2016.

The New Homes Bonus

27. The "New Homes Bonus" is a Government scheme which is aimed at encouraging local authorities to create new housing in return for additional revenue. The funding is not ring-fenced and the scheme has been in operation since April 2011. Every home added to the Council Tax register (after deducting recent demolitions) receives a payment. Qualifying new homes include new build, conversions and empty homes brought back into use. For each new home, the Government pays an amount equivalent to the national average for that home's council tax band. This amount is paid every year for six years. The National Audit Office shows that a local authority adding a band D home to its council tax base between October 2011 and October 2012 will receive £1,444 per year for the six years from 2013-14 to 2018-19, which is £8,664 in total.
28. Each home brought back into use as a result of the Council's CPO action is removed from the Council Tax list of homes classed as 'empty over six months'. The fall in numbers of such homes is recorded in October of each year and used for the calculation for the new homes bonus amount to be awarded for empty homes brought back into use.
29. Of the 69 homes that the council have given resolution to CPO, 57 of these have been removed from the empty homes list. As well as the obvious financial benefit of the CPO programme when long term empty homes are brought back into use, residents and communities in the Borough are also recognising huge social and environmental improvements as the problems often associated with empty properties disappear as a direct result of CPO action.

Policy Implications and Conclusion

30. An equalities impact assessment has been carried out on the Empty Homes Strategy, which includes implications on the use of CPO powers. The main

conclusion of the EIA was that the strategy does not have a differential impact on any particular group.

31. In terms of impact to the environment, the reuse of empty homes makes the most efficient use of existing building resources.
32. The CPO programme addresses crime and fear of crime in two clear ways. It reduces eyesores by tackling empty homes and land and reduces anti-social behaviour associated empty homes, including illegal occupation, rubbish dumping, vandalism, arson, squatting; drug taking and other forms of nuisance.
33. In deciding to take Compulsory Purchase action regard has to be had to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of dwellings, Article 8 of the Convention. The Council has to weigh the human rights interest of public need as against private property rights and to consider that sufficient justification exists for the making of these Compulsory Purchase orders. By authorising these orders the Council is therefore of the opinion that a compelling case exists in the public interest.
34. In order to minimise risk, the Councils Estates, Marketing and Legal Services will be instrumental in ensuring the effective disposal of these homes once acquired compulsorily.
35. The costs associated with the CPOs are set out in the body of the report under a specific heading.

Wards Affected

36. Ashdown, Baird, Braybrooke, Castle, Central St Leonards, Gensing, Old Hastings, St Helens, Silverhill, West St Leonards, Wishing Tree

Area(s) Affected

37. Central Hastings, East Hastings, North St. Leonards, South St. Leonards

38. Policy Implications

39. Please identify if this report contains any implications for the following:

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| • Equalities and Community Cohesiveness | Yes |
| • Crime and Fear of Crime (Section 17) | Yes |
| • Risk Management | Yes |
| • Environmental Issues | Yes |
| • Economic/Financial Implications | Yes |
| • Human Rights Act | Yes |
| • Organisational Consequences | No |
| • Local People's Views | Yes |

Background Information

40. Appendix 1. A flow chart showing the stages and time frames associated with a CPO

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