

Agenda Item No: 5

Report to: Cabinet

Date of Meeting: 7 July 2014

Report Title: Empty Homes Compulsory Purchase Programme

Report By: Andrew Palmer
Head of Housing and Development

Purpose of Report

The purpose of this report to bring to the attention of the public that Cabinet is to consider at its meeting Compulsory Purchase action on twenty seven privately owned empty properties as part of the Empty Homes Strategy enforcement programme. A report included in Part 2 of the Cabinet Agenda, entitled 'Empty Homes Strategy: Compulsory Purchase Orders for twenty seven long term empty properties (Part 2 report)' sets out the statement of reasons for acquiring the properties and makes recommendations concerning compulsory purchase.

This report also gives an update on the successful progress on the existing twenty seven empty homes considered for compulsory purchase by Cabinet.

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 in respect of the twenty seven long term empty properties.

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 suitable properties.

In addition to taking action to bring individual empty properties 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 time. This action will demonstrate to owners of these empty homes that the Council will take the necessary action to bring these back into use again 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 Councils revised Empty Homes Strategy and 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. Progress on the existing twenty seven empty homes approved for compulsory purchase by Cabinet is given later in this report.
3. 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 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 empty homes, including rubbish dumping, vandalism, arson, drug taking and other nuisances.
 - An increase 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

4. 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.
5. 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."

6. The Council employs a dedicated Empty Homes Officer with the objective of bringing empty homes back into use. Considerable success has been achieved through 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.
7. 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 number of long-term empty homes.
8. 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 2009 - 2013
9. 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

10. Twenty seven long term empty homes have been identified for Compulsory Purchase. A further report is listed under Part 2 of the Cabinet Agenda, titled 'Empty Homes Strategy: Compulsory Purchase Orders for twenty seven 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 twenty seven homes.
11. 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.

12. The employment of the Councils Compulsory Purchase powers for the twenty seven properties identified in the report listed under Part 2 of the Cabinet Agenda, titled 'Empty Homes Strategy: Compulsory Purchase Orders for twenty seven long term empty properties (Part 2 report)' is considered proportionate and in the public interest.

Financial and Legal Implications

13. The costs of a CPO can vary depending on the circumstances of the case. There will be recoverable and non-recoverable costs.

14. 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.

15. 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.

16. 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.

17. There is currently £239,000 of the £250,000 budget made available to deal with Compulsory Purchase action. This sum is included in the capital programme.

18. 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.

19. 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

20. The timescales involved with a CPO vary and are dependant 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.

Progress on the original CPO resolutions

26. Reports have been previously brought before Cabinet, bringing forward in total forty two long term empty homes for compulsory purchase. The following provides a brief update on the progress with these empty homes:

Cabinet agreed CPO	Address of Property	Progress to date
December 2010	101 Cambridge Road	CPO confirmed by secretary of state. Property sold, works on site.
December 2010	85 The Ridge	Property Sold. Occupied
December 2010	79 Manor Road	CPO confirmed. Occupied
December 2010	68 Emmanuel Road	Occupied
December 2010	5 Trinity Villas	CPO confirmed by secretary of state. Occupancy from 16th June 2014
December 2010	7 Abbey Road	CPO confirmed by secretary of state. Occupied
December 2010	Lower Ground Floor Flat 106 Marina	CPO confirmed by secretary of state. Action as postponed while freeholder issue resolved but CPO now being progressed
August 2011	23 Eversfield Place (5 units)	Renovation nearing completion. To be leased to YMCA September 14
August 2011	100 St Georges Road	Occupied
August 2011	4 Southwater Road	Council took possession March 2012. Sold at auction, now occupied. (See table below)
August 2011	65 Vicarage Road (3 units)	Occupied. Leased to YMCA
August 2011	89 Victoria Avenue	Occupied. Second home
August 2011	11 Beaufort Road	CPO confirmed. Works in progress under cross-undertaking. Occupancy expected July 2014
August 2011	4 Broomgrove Road	Sold . Occupied
August 2011	210 Harold Road	Council possession from May 2014. Auctioned June 2014. (See table below)
August 2012	18 Harbour Way	Sold. Occupied
August 2012	5 Nelson Road (4 units)	Sold September 2013. In process of renovation
August 2012	34 Caves Road	CPO notice served, awaiting confirmation from Secretary of State to proceed
August 2012	56 St Mary Terrace	Occupied
August 2012	35 Emanuel Road	Occupied
August 2012	108 Hughenden Road	Occupied
August 2012	72 Manor Road	CPO notice served, awaiting

		confirmation from Secretary of State to proceed
August 2012	142 Marina, St Leonards on Sea (4 units)	Works in progress but CPO likely to be served in June 14
August 2012	24 Milward Crescent (3 units)	Occupied
August 2012	263 Mount Pleasant Road	Work should have commenced, likely to serve CPO June 14
August 2012	130 Bohemia Road	Owner compliant with officer requests to bring back into use. Planning consent for change of use to a one bedroom home and a shop granted in March 2014. work should commence in June 14
August 2012	214 Old London Road	Occupied
August 2012	55 Victoria Avenue	CPO notice served 2014. To go to public inquiry September 2014

Homes that the Council have taken possession of and re-sold at auction.

4 Southwater Road.	Possession from May 2013. This is a pre-1919 three storey, 3 bedroom terraced house. It sold at auction for £120,000 (24 July 2013) The owner has not yet submitted a claim for compensation, though he has 6 years from the possession date to do so. The auction valuation will form the basis of the compensation negotiation.	
210 Harold Road.	Possession date May 2014. This is a pre-1919, 3 storey, 2 bedroom terraced house that was sold at auction for £141,000. (13 July 2013). The executor has not yet submitted a claim for compensation, though he has 6 years from the possession date to do so. The auction valuation will form the basis of the compensation negotiation. The 7% basic loss payment will not apply to this case as the Council had served a Section 215 Notice (Town And Country Planning Act 1990)	

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.
28. 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.
29. 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.
30. Of the 42 homes that the council have given resolution to CPO, 19 of these have been removed from the empty homes list. It is anticipated that a further 13 are to be removed prior to October 2014. In addition, one of the empty homes is being converted to three flats thereby adding two additional new homes that will provide additional New Homes Bonus funding.
31. 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

32. 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.
33. In terms of impact to the environment, the reuse of empty homes makes the most efficient use of existing building resources.
34. 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 nuisances.
35. 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.

36. The Councils Estates, Marketing and Legal Services will be instrumental in ensuring the effective disposal of these homes once acquired compulsorily.

Wards Affected

37. Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Gensing, Maze Hill, Old Hastings, Old Hastings, Ore, St Helens, Silver Hill, Tressell, West St Leonards

38. Area(s) Affected

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

40. Policy Implications

41. 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 | Yes |
| • Local People's Views | Yes |

Background Information

42. Background Papers

43. The Councils adopted CPO policy 2005 (updated in 2007)

Appendices

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

Officer to Contact

James Smith
jsmith@hastings.gov.uk
01424 451341