

Report to: Cabinet

Date of Meeting: 10th July 2017

Report Title: Compulsory Purchase of Long Term Empty Properties (Part 1 Report)

Report By: Andrew Palmer, Assistant Director, Housing and Built Environment

Purpose of Report

The purpose of this report is for Cabinet is to consider the compulsory purchase action on twelve 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 of Long Term Empty Properties' (Part 2 Report) sets out the statement of reasons for acquiring the properties and makes recommendations concerning compulsory purchase.

Recommendation

- 1. That Cabinet approves the detailed recommendations set out in the Part 2 report and approves the making of compulsory purchase orders in respect of the twelve 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. The Empty Homes Strategy enables the following:
 - 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

2. 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.
3. 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."

4. 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 enforcement powers. There is now greater emphasis on the use of CPO enforcement powers 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.
5. 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 objectives to be achieved, specifically the reduction in the number of long-term empty homes. Since 2011, the number of homes empty for over 2 years or more has fallen from over four hundred to two hundred.
6. 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
7. 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

8. Twelve long term empty homes have been identified for Compulsory Purchase in Part 2 of this report, titled 'Compulsory Purchase of Long Term Empty Properties'. It contains exempt information, 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.
9. The Council's Empty Homes Officer contacted the owners of each home in an attempt to bring them back into use. These efforts have failed and it is therefore necessary to pursue the CPO action detailed in this report.

10. The employment of the Council's Compulsory Purchase powers for the properties identified in the Part 2 report is considered proportionate and in the public interest.

Financial and Legal Implications

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

12. 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.

13. 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. grotbuster action (section 215). If this is payable then the valuations of the properties we are considering would need to be carefully considered.

14. In the worst case scenario the unrecoverable costs detailed above could be between £20,000 to £30,000 per property. A Basic Loss Payment may also be payable, 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. Based on the above in a worst case scenario the potential total cost of undertaking CPO action on these twelve properties would be between £240,000 and £360,000.

15. In 2011 a budget of £250,000 was made available to deal with Compulsory Purchase action. This sum was included in the capital programme. There is currently £179,942 remaining in the budget. To date 75 properties have been returned to use through the Council resolving to pursue CPOs. Expenditure to date totals approximately £70,000. This equates to less than £1000 per property. Whilst it is feasible therefore that the cost of securing a further 12 properties could exceed the total budget available, based upon our previous experience of CPO work (we have only needed to take possession in five cases since 2011) we are most unlikely to incur such costs in respect of the further 12 properties under consideration. The budget is therefore considered more than sufficient to cover all costs. Nevertheless the council will continue to adopt a phased

approach to pursuing orders which minimises any chance of financial exposure to the council.

16. The potential maximum budget needed to be available for unrecoverable costs associated with the CPO of the 12 properties is in excess of the £179,942 remaining in the budget, if the unrecoverable expense is £20,000 to £30,000 per property. However this is the worst case scenario. It is unlikely the full £240,000 or £360,000 will be needed. Based on previous experience of CPO work we are unlikely to incur these costs for the 12 properties. Though we seek resolution to CPO 12 empty homes, a phased approach can be used if necessary so that no more than 5 properties at one time are served with a CPO. The maximum possible unrecoverable cost of 5 CPO's is approximately £150,000. As such this should satisfactorily address this issue.
17. The remaining budget will be sufficient to cover the costs of taking CPO action against each property sequentially. It is the intention that legal work will be done directly by the Council. However budgetary provision allows for the costs of maintaining the engagement of external legal representation from Norfolk Public Law (NPLaw) in more difficult cases that may go to an inquiry. NPLAW are the shared Legal Service for the local authorities in Norfolk. It is anticipated that where a CPO is served and the legal work is carried out by the council savings of £500 will be made in each case.
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 last power however would only be available for homes in the Housing Renewal Area Central St Leonards. 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. Some of the homes listed proposed for Compulsory Purchase are 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 inquiry. CPOs for empty homes is not considered to be overly complex. They should therefore take between three months (without an inquiry) and fifteen months (with a public inquiry) 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. Given current funding programmes 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 although this option will be explored. 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 timescales 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. These costs are noted above at paragraph 13 & 14 of this report.

CPO resolutions

25. CPO Reports brought before Cabinet previously have included a total of eighty-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.

The New homes Bonus

26. **The New Homes Bonus** The "New Homes Bonus" (NHB) 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 was paid every year for six years, however, in 2017-18 the payment period will be reduced:

- The NHB will be paid for 5 years starting in 2017-18, and four years from 2018-19.
- The change will apply to NHB already being paid (so where you have already had five years of bonus for a particular property, you will **not** now get the 6th year in 2018-19).
- A 'deadweight' threshold of 0.4% will be introduced: Bonus will only be paid on the number of new units that exceeds 0.4% of the existing number of dwellings.

(Source: Summary provided by David Gibbens, Empty Homes Network, 2017)

The National Audit Office shows what a local authority adding a band D home to its council tax base between October 2016 and October 2017 will receive. This is:

- £1,444 per year for the 5 years from 2017-18, which is £7,220 in total and
- £1,444 per year for the 4 years from 2018-19, which is £5,776 in total

27. 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.
28. Of the 89 homes that the council have given resolution to CPO, 75 of these have been removed from the empty homes list. The remaining 14 are ongoing cases. 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

29. An Equalities Impact Assessment (EIA) 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.
30. In terms of impact to the environment, the reuse of empty homes makes the most efficient use of existing building resources.
31. 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, substance-abuse and other forms of nuisance.
32. 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.
33. In order to minimise risk, the Council's Estates, Marketing and Legal Services will be instrumental in ensuring the effective disposal of these homes once acquired compulsorily.
34. The costs associated with the CPOs are set out in the body of the report under a specific heading.

Wards Affected

Baird, Castle, Central St Leonards, Hollington, Old Hastings, Ore, St Helens, West St Leonards, Wishing Tree.

Policy Implications

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

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
Anti-Poverty	Yes

Additional Information

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

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