

CABINET

DATE	29 October 2014
REPORT OF	Councillor Watson - Portfolio Holder for Environment and Housing
RESPONSIBLE OFFICER	David Moore – Assistant Director Economy
SUBJECT	Compulsory Purchase Orders
STATUS	Open. Appendix is Not for Publication as it contains Exempt Information under paragraphs 3 and 6 of Schedule 12A of the Local Government Act 1972 (as amended)
FORWARD PLAN REF NO.	PLA 10/14/06

CONTRIBUTION TO THE COUNCIL PLAN / STRATEGIC AIMS

The compulsory purchase and subsequent sale of five residential properties will contribute directly towards the Council's priority for 'Stronger Economy' through supporting a sustainable environment by reducing the number of problematic vacant properties as defined in the Council Plan 2014/5.

EXECUTIVE SUMMARY

On the 3rd of September 2007, Cabinet approved an Empty Homes Strategy to address the problem of empty properties in the area including the use of Compulsory Purchase Orders for long term empties, where the owners have failed to co-operate in bringing the properties back into use.

This report seeks authority for the council to pursue Compulsory Purchase Orders (CPOs) for five long term problematic empty homes for which all other options for bringing them back into use have failed. Once acquired, the properties would be sold. Shoreline Housing Partnership have confirmed their intention to purchase four of the properties with repairing conditions and the fifth would be disposed of on the open market with repairing conditions. The Council would not therefore incur any costs of repairing the properties.

The purchase and legal costs incurred by the council in the acquisition of these properties will be met from existing budgets and the capital receipts generated from the sale will be fed back into the Capital Investment Programme.

RECOMMENDATIONS

It is recommended that Cabinet approve:

1. To make a Compulsory Purchase Order under section 17 of the Housing Act 1985 to compulsorily acquire (subject to the confirmation by the Secretary of State for Community and Local Government) all interests in the five properties.
2. That the Monitoring Officer be authorised to complete the formalities to acquire the properties for the Council.
3. Once the CPOs have been issued, the decision to dispose of these properties be delegated to the Chief Executive.
4. That following acquisition of the properties by the Council the Monitoring Officer is authorised to complete the formalities to sell the properties in accordance with the contents of this report.

REASONS FOR DECISION

A CPO provides a mechanism for the Council to purchase problematic long term empty properties where there are no other options available to bring the property back into use. A CPO is proposed where owners of property have failed to engage with officers and are unwilling or unable to bring the property back into use. Whilst it is acknowledged that CPO action can take a significant amount of time to progress, the benefits provide the council with a greater control in determining a sustainable outcome for the property providing opportunities to improve neighbourhoods and generate New Homes Bonus.

RISK ASSESSMENT

Crime and Disorder – Long term empty homes often pose a problem in a neighbourhood attracting anti-social behaviour and crime.

Human Rights - The courts recognise that English CPO law and procedure complies with the European Convention on Human Rights. The council, in pursuing this course of action, has considered the balance to be struck between individual rights and the wider public interest. Interference with human rights, if any, is justified in terms of the benefits that the action would have for the community as a whole

Equality and Diversity – No implications

Value for Money – The value of these properties is determined by an independent residential valuation. The compulsory purchase of these properties would see the properties being sold on the open market or to a Registered Social Landlord which will enable the Council to recycle a large element of the capital expenditure required for this scheme. Homes which have been empty for longer than six months which are brought back into occupation generate New Homes Bonus.

The impact on the social, economic and environmental well-being of the borough

– Empty homes have a detrimental impact on neighbourhoods. They are a wasted resource with the potential to adversely affect local housing markets and prevent regeneration. This course of action will have a positive impact by bringing properties to the market for improvement and occupation or to enable area regeneration.

1. BACKGROUND AND ISSUES

1.1 The Housing Act 1985 provides powers for local authorities to use Compulsory Purchase Orders to tackle long term empty properties where the owners are unable or unwilling to bring the properties back into use.

1.2 In order to pursue a CPO, the council must be able to demonstrate that all other options for encouraging the owners to improve and occupy, to let or sell the property have been exhausted. This leaves CPO as the only option in order to provide the clear title required to force a change of ownership and achieve a positive outcome for each property. This can be demonstrated for each of the properties referred to in this report.

1.3 The following properties are recommended for compulsory purchase and the details of the owners and estimated valuations are attached in the Appendix which is a “closed” item.

1.3.1 **Property 1: 3, Burns Grove, Grimsby** – The property was taken out of the council tax rating system on the 27 July 2000 as it had been badly vandalised. The Council’s first involvement was in 2007. The property is semi derelict and has a negative impact standing in an area which has previously undergone regeneration by Shoreline. The property is owned by a local business man. Shoreline Housing Partnership intend to purchase the property.

1.3.2 **Property 2: 14, Burns Grove, Grimsby** – The property has been vacant since June 2010. Land Registry confirmed the owner. On investigation, the Council found the owner had a bankruptcy order made against him. The Insolvency Service confirmed that the Official Receiver has disclaimed his interest in the property. Unable to engage with the owner, officers have tried to set up dialogue with the mortgagee. Unfortunately, there has been no response. There have been numerous service requests to re-secure and clear fly tipping from the property. Shoreline have a tenant occupying the neighbouring property. There is substantial risk of harm to the occupants of the attached property if the property is vandalised or set on fire. Shoreline Housing Partnership intend to purchase 14 Burns Grove. Purchasing the properties will improve the quality of life for their residents, reduce anti-social

behaviour linked to the property, regenerate the immediate area and provide a much needed home.

- 1.3.3 **Property 3: 19, Shelley Avenue, Grimsby** – The property was first brought to the Council’s attention in 2007. The property has been subject to repeated vandalism over a period of years and is now semi derelict. The owner lives in Worcester. The attached property is owned by Shoreline Housing Partnership and is currently occupied. After repeated attempts by officers, the owner has shown no intention to bring the property back into use.
- 1.3.4 **Property 4: 10, Walton Grove, Grimsby** – The property has been empty since March 2007. The property has been the subject to repeated vandalism, fly tipping and an attempted arson attack. The attached property is occupied and let by Shoreline Housing Partnership. The Council have carried out numerous works in default to either clear or board up the property. The owner in partnership with the Empty Homes Team have explored a number of options to bring the property back into use. The owner bought the property at the height of the property market boom which means his mortgage exceeds the value of the property. Without additional finance, the owner is unable to finance repairs, unable to sell the property or access any additional lending either commercially or through the NELC empty homes loan scheme. Shoreline intend to purchase the property as this will improve the quality of life for their residents in the immediate area. There is also a substantial risk of harm to the resident living in the attached property, from vandals and intruders.
- 1.3.5 **Property 5: 49, Bentley Street, Cleethorpes** – This property comprises a traditional end terrace house with rear yard. The property was taken out of the council tax rating system in March 2000. The property was made safe by the owners at the time by bricking up all external openings. Number 49 is causing substantial damp problems to the neighbouring property number 51, which is in private ownership. Formal notice has been served on the owner to carry out essential repairs. The owner has not complied with the notice and the Council is considering prosecution.

2. OTHER OPTIONS CONSIDERED

- 2.1 A range of approaches have been taken with the individual properties over a number of years in an attempt to return these properties back into use without success. Compulsory Purchase Orders are being sought as a last resort.

3. CONSULTATION WITH SCRUTINY

- 3.1 There has been no consultation with scrutiny at this point.

4. FINANCIAL IMPLICATIONS

- 4.1 Funding for the Compulsory Purchase Orders is to be provided through the Housing Assistance and Derelict Land and Commercial Property capital budgets.
- 4.2 These schemes generate capital receipts that can be recycled into the Capital Investment Programme.

5. LEGAL IMPLICATIONS

- 5.1 Government Advice (ODPM Circular 06/2004) states that bodies possessing compulsory purchase powers are encouraged to use them proactively wherever appropriate to ensure real gains are brought to residents and the business community without delay.
- 5.2 The relevant legislative power to acquire properties compulsorily states that "a local authority may acquire houses or a building which may be made suitable as houses together with any land occupied with the house or building (section 17(1)(b) Housing Act 1985).
- 5.3 It is established that the power extends to the acquisition for improvement and to secure repair of vacant unfit housing.
- 5.4 The council, having acquired the properties compulsorily, need to bring them back into use. In the event of a sale by the council, appropriate contract conditions would be imposed requiring the properties to be made into habitable condition and brought back into use.
- 5.5 In terms of the application of the Human Rights Act, Cabinet is advised that: Article 1 protects the rights of everyone to the peaceful enjoyment of their possessions. No person can be deprived of their possession except in the public interest and subject to the relevant national and international law; and.
- 5.6 Article 8 protects private and family life, the home and correspondence. No public authority can interfere with this interest except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the Borough.
- 5.7 Cabinet needs to balance whether the making and potential exercise of this CPO is compatible with the European Convention on Human Rights. In that respect, Cabinet may conclude that there is a compelling case in the public interest for a CPO.

5.8 The CPO will follow existing legislative procedures and all parties will have the right to object to the CPO and attend any public inquiry arranged by the Secretary of State. Parties not included in the CPO may be afforded that right if the inquiry inspector agrees. The decision of the Secretary of State can be challenged by way of proceedings, following judicial review procedures. The Land Owners will receive compensation based on the CPO compensation code principles and should the quantum of compensation be disputed the matter can be referred to the Lands Tribunal for determination. The Courts have held that this framework complies with the Convention and as such a decision to proceed with the recommendation is compatible with the Human Rights Act.

6. HUMAN RESOURCES IMPLICATIONS

6.1 There are no human resource implications arising from this report.

7. ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

7.1 The repairs frequently required to enable an empty home to be reoccupied and brought back into use generally include new windows and heating systems. These and many other improvements improve a building's energy efficiency and reduce carbon emissions.

8. WARD IMPLICATIONS

8.1 Properties 1 to 4 are in the South Ward and property 5 is in croft Baker Ward. This action will have a positive impact on both wards.

9. BACKGROUND PAPERS

9.1 None

10. CONTACT OFFICER(S)

Assistant Director - Economy	Service Manager – Strategic Housing	Technical Advisor Home Improvement Service
David Moore	Debbie Fagan	Jacqui Wells
Place Directorate, NELC	Place Directorate, NELC	Cofely
01472 324875	01472 324977	01472 32776

Councillor David Watson
Portfolio Holder for Environment and Housing