

**Cabinet**

**16 July 2013**

**Report of the Cabinet Member for Health, Housing and Adult Social Services**

**COMPULSORY PURCHASE OF A LONG TERM EMPTY PROPERTY**

**Summary**

1. This report seeks Cabinet approval for the initiation of compulsory purchase proceedings in relation to a particular long-term empty property.

**Background**

2. At its meeting on 27<sup>th</sup> September 2011, the Cabinet Member for Health, Housing and Adult Social Services approved the Council's new Empty Homes Strategy and Action Plan 2012-2015. The aim of the strategy is to maintain low numbers of empty properties in the city by encouraging and assisting owners of such properties to achieve their re-occupation.
3. The Strategy also provides for the use of compulsory purchase powers in respect of long term empty properties in the city, as a last resort when all other endeavours to persuade, encourage, or enforce action to facilitate re-occupation have failed.
4. The property concerned has been empty for approximately 15 years and has been the source of nuisance to, and complaints from local residents and local councillors.
5. Anti-social and criminal activities at the property have necessitated repeated attendance by North Yorkshire Police.
6. All informal means of encouraging the owner to take action to bring the property back into use voluntarily have so far failed to achieve reoccupation.

7. In the absence of an acceptable response it is considered that there is a compelling case in the public interest for enforcement action.
8. The property identified in confidential Annexes C and D, has been unoccupied for a considerable period of time, and will require investment to bring it up to a habitable condition.
9. The Council is willing to assist the owner to achieve a market value sale in order to avoid the need for compulsory purchase.
10. The proposed action is considered as the only reasonable means available to achieve renovation and reoccupation.
11. The market value of the property as realised at the auction sale should substantially cover the compensation claim of the current owner, as reviewed in confidential Annex A.

### **Consultation**

12. In the summer of 2011, a consultation exercise was carried out with the owners of long-term empty properties in the city. Questionnaires were sent to 110 owners asking them whether a more robust approach by the council would alter their approach. Whilst only 16 owners responded, the responses received indicated that the use of Compulsory Purchase Orders would have a positive effect on owner's decisions.
13. Residents and Residents Groups in the area where the property is situated have made known their views through representations to council officers, elected members and independently through the local media.

### **Options**

14. There are a number of options available in relation to the compulsory purchase of this long term empty property.
15. Option 1 – Take no further action with regard to the use of this power
16. Option 2 – Explore the use of alternative powers

17. Option 3 – Authorise the use of a Compulsory Purchase Order in the event that purchase by agreement cannot be achieved.

### **Analysis**

18. Option 1: No Further Action

Making use of compulsory purchase powers could be considered a draconian measure that will restrict the individual rights of the property owner. However, doing nothing is not considered to be an appropriate option in the case of the reported property. In its present condition the property would remain a waste of good housing accommodation, continue to be a source of blight for local residents and put the reputation of the council at risk.

19. Option 2 – Explore Alternative Legal Remedies

- a) Enforced Sale –The Law of Property Act1925 empowers local authorities to enforce the sale of a property where it holds a Local Land Charge against it. However, the property to which this report refers does not have a Local Land Charge applied to it and any that could potentially exist in the future are unlikely to be sufficient to substantiate the use of enforced sales procedures.
- b) Empty Dwelling Management Orders (EDMO's) - Local Authorities can consider making such Orders under the Housing Act 2004 to secure the improvement and future use of empty dwellings. The Council would be required to take over the Management of the property or appoint a Registered Housing Provider to manage it on its behalf. The ongoing financial; legal; administrative and housing management issues associated with EDMO's mean that this is not considered an appropriate option in relation to this property.
- c) Other Enforcement Powers – Various legal powers are available to a local authority, for example, to deal with structural danger, statutory nuisance or other environmental problems. However, in this particular case these powers alone would not address the suitability of the property for occupation; influence ongoing maintenance and future management arrangements, or achieve reoccupation.

## 20. Option 3 – Make use of Compulsory Purchase Orders

The proposed action is considered as a last resort, in the public interest, as the only reasonable means remaining available to ensure acceptable improvements to the property and provide a good standard of housing accommodation in response to the increasing housing needs and demands in the city.

The encouragement of voluntary action by the owner will continue, including the offer of voluntary sale to the Council, but it is considered that the Compulsory Purchase Order should be made in order to secure the improvement and re-occupation of the property, should those efforts prove unsuccessful.

Sufficient safeguards are in place within the legislative framework for owner to make formal representations to challenge the appropriateness of the Council's action (see Annex B).

The property can be withdrawn from the compulsory purchase proposals, or the Compulsory Purchase Order not implemented in respect of them, if satisfactory progress by the owner is evidenced in the meantime.

Upon acquisition of the property, either through negotiation or compulsorily, the Council has a number of options:

- (i) Disposal at auction in its unimproved condition
- (ii) Renovation followed by immediate sale
- (iii) Renovation followed by management by the Council as part of its wider housing stock through the Housing Revenue Account

### **Council Plan**

21. The report objectives are in line with key outcomes identified within the Building Strong Communities section of the Council Plan but also contribute to Creating Jobs and Growing the Economy theme.

## **Implications**

### Financial

22. The options set out in the report can be funded from within existing budgets. Further detail is set out in confidential Annex A.

### Human Resources (HR)

23. There are no Human Resource implications.

### Equalities

24. Increasing housing supply by bringing empty homes back into use will help meet the needs of vulnerable residents in the City.

### Legal

25. Part XVII of the Housing Act 1985 allows the Council to implement the actions proposed in this report. This legislation in turn applies, with modifications, to Acquisition of Land Act 1981 (compulsory purchase procedure), The Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation). These powers are summarised in Annex B.
26. The Human Rights implications are also summarised in Annex B.

### Crime and Disorder

27. The re-occupation of the property in question will reduce occurrences of anti-social behaviour and fear of crime, and remove the cause of attendance by emergency service personnel.

### Information Technology (IT)

28. There are no IT implications.

## Property

29. The proposal will return a presently wasted property back to the useful housing stock of the city.
30. In the first instance Property Services will seek to negotiate a purchase price directly with the owner.
31. Where the Council takes possession, either by negotiation or compulsorily, one of the following options are available:
  - (i) Immediate disposal at auction in its current condition. The sale will include a condition that the accommodation is brought up to a standard no less than the minimum standards prescribed under Housing and other relevant legislation and statutory guidelines, and to provide its occupation within twelve months of transfer, or such other period considered reasonable.
  - (ii) Renovation to the standard set out in (i) above through the General Fund, followed by immediate disposal through sale.
  - (iii) Renovation to 'Decent Homes Standard' through the Housing Revenue Account and let as part of the Council's wider housing stock.

## Risk Management

32. The following risks are identified with this course of action:
  - (i) objections to where funding is spent
  - (ii) delays and costs of protracted legal procedures
  - (iii) applications for permission to acquire houses compulsorily being refused by the Secretary of State
  - (iv) the potential for appeal to the Upper Tribunal (Lands Chamber) to determine a true market value over the transfer/auction sale price
33. The above risks have been mitigated by the following considerations:

- (i) doing nothing is not considered an appropriate option
- (ii) other alternative actions have been discounted as unachievable or inappropriate
- (iii) favourable publicity gained as a result of the Council taking action
- (iv) costs are offset by other savings or incomes
- (v) procedural delays are unavoidable, but acceptable in relation to the progress made
- (vi) the existence of extensive and robust evidence for a compelling case in the public interest
- (vii) working with Legal Services to prepare convincing submissions that the Council's actions are appropriate
- (viii) the unlikely risk of market value exceeding those realised by way of statutory appeal is mitigated by:
  - a close and effective working relationship with the Council's Legal and Property Services Departments
  - an effective working relationship with the Council's Legal and Property Services Departments
- (ix) the cost of options being considered are fully contained within the Empty Homes Programme line of the Housing Capital Programme

## **Recommendations**

34. That Cabinet consider:

- (i) Approving the use of Compulsory Purchase Orders under section 17 and Part XVII of the Housing Act 1985, and the Acquisition of Land Act 1981 for the purchase of the property and associated land identified in confidential Annexes C and D, for the purposes of their renovation and reoccupation as residential accommodation.
- (ii) Authorising the Head of Asset and Property Services to seek the purchase of the reported property by agreement in the first instance.
- (iii) Authorising the Deputy Head of Legal Services to take the following steps in the event that purchase by agreement cannot be achieved:
  - a) Take all necessary steps to secure the making, confirmation and implementation of the Compulsory

- Purchase Orders including the publication and service of all notices and the presentation of the Council's case at any public enquiries.
- b) Suspend the Compulsory Purchase Order proceedings, or withdraw an Order, on being satisfied that the reported property will be satisfactorily renovated and re-occupied without the need to continue the purchase proceedings.
  - c) Dispose of the property in accordance with the proposals set out in this report
  - d) Take all other necessary action to give effect to these recommendations
- (iv) Authorising the purchase (if necessary), renovation and management of the property through the Housing Revenue Account (HRA).

Reason:

The property concerned has been vacant for a considerable number of years and continues to have a detrimental impact on the neighbourhood and individual residents. All alternative avenues open to the Council to encourage the owner to bring the property back into use voluntarily have proved unsuccessful. Acquisition followed by renovation and reoccupation through the Housing Revenue Account will help the Council respond to increasing housing need within the city and improve the quality of life for local residents.



## Contact Details

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**Report  
Approved**

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**Date** 3 July 2013

## Specialist Implications Officer(s)

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**Wards Affected:** *List wards or tick box to indicate all* **All**

**For further information please contact the authors of this report**  
**Background Papers**

York Private Sector Housing Strategy  
York Empty Property Strategy and Action Plan 2011-2015  
Decision Session - Cabinet Member for Health, Housing and Adult  
Social Services (27/09/2011)

## Annexes

- A – Financial Implications **CONFIDENTIAL**
- B – Legal Implications
- C – Property Details and History **CONFIDENTIAL**
- D – Location Maps **CONFIDENTIAL**