

HOUSING CABINET MEMBER MEETING

Agenda Item 115

Brighton & Hove City Council

Subject: Empty Property Strategy: Compulsory Purchase Order for a long term empty property

Date of Meeting: Cabinet Member meeting : 21 April 2010

Report of: Director of Housing Culture & Enterprise

Contact Officer: Name: **Martin Reid** Tel: **29-3321**

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Key Decision: No

Wards Affected: Woodingdean;

FOR GENERAL RELEASE

Note: The individual address for this property is exempt information as defined in paragraph 6 of Schedule 12a to the Local Government Act 1972. In addition to this the Empty Property Strategy aims to work with owners where possible and does not reveal addresses of empty properties until action is approved. Property address will not be made public before the decision is taken.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To seek approval to initiate formal compulsory purchase action on a privately owned long term empty property as part of the council's Empty Property Strategy, and in accordance with the Compulsory Purchase Order (CPO) Policy approved in January 2006.
- 1.2 The Empty Property Enforcement Group is charged with evaluating the option of compulsory purchasing empty properties where efforts to encourage the owner to bring properties back into use have failed. The group is made up of Senior Officers from Private Sector Housing, the Empty Property Team, Planning and Legal Services. It evaluates each empty property on a case by case basis and makes recommendations to the Cabinet Member in cases where the only likelihood of bringing the property back into use is through enforcement action.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Housing approve formal action, by means of a Compulsory Purchase Order (CPO), on this long term empty properties and subsequent disposal of the property under Part 11 of the Housing Act 1985 Section 17.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Council's Empty Property Strategy (2006-2009) is based on the principles of Identify, Encourage and Enforce to bring empty private sector properties back into use. The Empty Property Strategy has an excellent performance record. Performance targets are consistently met and Brighton & Hove is one of the top performing local authorities nationally.

- 3.2 The council's CPO Policy is a powerful tool in persuading owners that the council is serious about dealing with empty property in the city, and will take action where appropriate. This momentum needs to be maintained to ensure that the strategy continues to deliver results. Owners of empty property often live elsewhere and do not bear the consequences of living next to it, both in terms of community safety issues for neighbours and de-valuation of adjacent property.
- 3.3 The city has significant housing need of all kinds. There are a large number of concealed households (those living within another household and who can't access the housing market directly) who are unable to afford to rent privately or buy. There are currently over eleven thousand households on the council's Housing Register (Oct 2009) and an estimated shortfall of some twelve hundred affordable homes per year (Housing Needs Survey 2005).

3.4 Further Information: Legislation

- 3.4.1 Part 11 of the Housing Act 1985 Section 17 is a general 'enabling' piece of legislation that allows Local Authorities to acquire property and land for residential purpose. This is the relevant legislation for CPO. Acquisition of the property or land must achieve quantitative or qualitative housing gain. The main uses are to assemble land for housing and ancillary development; to bring empty properties into housing use or to improve sub-standard or defective properties.
- 3.4.2 Guidance from the Department of Communities and Local Government (DCLG) states that CPO action must only be taken as a last resort. The Local Authority needs to show that reasonable steps have been taken and the owner has been given options to sort out the problem.
- 3.4.3 Current practice is of Local Authorities acquiring property or land compulsorily to dispose of it to preferred partners such as Housing Associations or in the private sector. Regulation 15 and 16 in the Local Authorities Capital Finance Regulations 1990 (amended) make special provisions for onward disposal.
- 3.4.4 The Empty Property Enforcement Group (EPEG) has identified this property as one of four properties where CPO appears to be the only means of bringing them back into use. In all cases the Empty Property and Private Sector Housing Team (Environmental Health) have given repeated advice to owners about maintaining the properties and bringing them back into use.
- 3.4.5 A summary is given below and photographs are attached as Appendix 1 below. A full case history of the property will be included as part of the Order paperwork

Table 1: Property Details : Summary

Property B	
Last Occupied	Empty since July 1998
No. of complaints or correspondence from the public	<p>June 2005 letter of complaint from neighbour to local councillor as property has been empty for some time ; garden is unkempt and full of wrecked cars.</p> <p>January 2008 – verbal complaint to Empty Property Officer during visit poor and dangerous condition of property. Also complaint of children getting into property.</p> <p>July 2009 complaint from neighbour (different to previous letter) re condition of property</p>
No. of letters and contact from Empty Property Officer	<p>A combination of at least 10 letters sent from the Empty Property Team and the Private Sector Housing Team. Phone contact with owner several times. Repeated non-approvable planning applications (overdevelopment).</p> <p>2009 Empty property officer in detailed discussions with Agent appointed by owners. Help, including with planning matters offered but no further progress.</p> <p>January 2010 Investor information forwarded (on behalf of potential buyer) – owner response that they don't want to sell.</p>
Involvement by other Teams	<p>Private Sector Housing Team involvement due to rubbish build up, potential pests and dilapidated condition. Visits & inspections carried out. Notices served.</p> <p>Planning Team involvement with processing of unsuccessful planning applications.</p> <p>Council Tax team involvement with summons to owner for unpaid council tax & visit to property to recommend removal from rating.</p>
Statutory Action	<p>6 August 2009: S16 local Government (Miscellaneous Provisions) Act 1976</p> <p>25 Aug 2009: S4 Prevention of damage by pests Act 1949</p> <p>25 Aug 2009: S29 Local Government (Miscellaneous Provisions) Act 1982</p>
Other	<ul style="list-style-type: none"> • Woodingdean Ward

A detailed Case History of the property will be prepared as part of the Order.

4. CONSULTATION

- 4.1 The Empty Property Team has advised the local Ward Members that CPO action is being sought on a property in their ward (including the address of the property). Members will be kept updated regularly regarding progress of the proposed action.
- 4.2 Where appropriate The Empty Property Team will consult the Planning Team to establish whether there are any planning issues or whether it is listed or situated in a Conservation Area.
- 4.3 Where there is an outstanding Council Tax debt on the property the Empty Property Team will consult the Revenues Court Team to establish if they are pursuing the case for a bankruptcy, or to allow them to register a charge against the property which can be recovered when the property is sold.
- 4.4 A notice will be published in The Argus to allow any person with an interest in the property to challenge the CPO. Any challenge must be made in writing and addressed to the Department for Communities and Local Government. Any challenge will prompt a Public Local Inquiry.

5.0 FINANCIAL & OTHER IMPLICATIONS

5.1 Financial implications:

The recommendations in the report support the key objectives in the 'Empty Property Strategy 2006-2009'. There is budget provision for enforcement action within the strategy; therefore there will be no additional costs to the housing strategy budget'

Finance Officer Consulted: Neil Smith

Date: 30/11/2009

Accountant for Housing Strategy

5.2 Legal Implications:

Paragraph 3.4 of the Report summarises the basic legal provisions that enables CPO action to be taken. Even though a property may be subject to CPO action, the majority of cases will be resolved by the Owner entering into an undertaking to take action to bring their empty property back into residential use within specific time scales and adhering to those time scales. The ability to progress the CPO will be a fall back position where an undertaking is breached. It is important that where a CPO runs its full course, a sub-sale is negotiated with a third party, so that the Council does not become liable to stamp duty land tax. It is not considered that any individual's Human Rights Act rights will be adversely affected by the recommendation in this report.

Lawyer Consulted: Joanne Dougnaglo

Date:09/12/2009

5.3 Equalities Implications:

Lack of suitable housing disproportionately affects the most vulnerable members of society. Bringing empty homes into use increases the supply of housing in the city.

5.4 Sustainability Implications:

Bringing empty homes back into use helps towards improving the quality of life in local neighbourhoods and to maximise housing resources. It helps to tackle and reduce incidents of antisocial behaviour, crime and disorder; it avoids existing housing going to waste providing much needed accommodation in the city.

5.5 **Crime & Disorder Implications:**

Empty Properties are known to blight areas and cause a nuisance to local people, attract anti-social behaviour, graffiti, drug activity and vandalism, and lead to dumping of rubbish and an increase in rodent and pigeon activity.

5.6 **Risk and Opportunity Management Implications:**

A general risk assessment for properties where a CPO is to be sought has been considered by the Empty Property Enforcement Group evaluation process.

5.7 **Corporate / Citywide Implications:**

Bringing empty homes back into use meets the following Council priorities:

'Protect the environment while growing the economy' by re-using existing housing stock and making property economically active, and

'Fair enforcement of the law' through use of relevant enforcement legislation.

Bringing empty homes back into use meets the following Adult Social Care & Housing priorities:

'Homes to meet the needs of the City' by increasing housing provision,

'Improving housing quality' by bringing property up to Decent Homes / liveable standards

The performance of the Empty Property Strategy is measured through a local PI set under the 'Improving housing & Affordability' section of the Local Area Agreement 2008 – 2011

In addition to the above bringing empty homes back into use improves the 'liveability' of local neighbourhoods, reducing potential hotspots for anti-social behaviour, and may generate additional council tax revenue.

6. **EVALUATION OF ANY ALTERNATIVE OPTION(S):**

6.1 Grant funding under the Empty Property Assistance Scheme has been offered to owners (where applicable), however this has not to date been taken up by owners.

6.2 Owners have also been given advice on letting the property and selling the property, and contact details have been sent to the owner of parties interested in buying the property (where applicable). Again these options have not been taken up by the owners.

6.3 Even though a property may be subject to CPO action the majority of cases will be resolved by the owner entering into an undertaking to take alternative actions to bring their property back into residential use within a specific time scales and adhering to those time scales. The ability to progress the CPO will be a fall back position where an undertaking is breached. Officers will continue where possible to engage with the owner.

7. **REASONS FOR REPORT RECOMMENDATIONS**

7.1 It is officers' opinion that without compulsory purchase action the property will remain empty. Officers have little confidence that the properties will be returned to use without this action. Approval of this action will work to focus the owner's actions to bring it back into use themselves through an undertaking, or the CPO will be the fall back position.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 Photographs

Background Documents

1. Empty Property Strategy 2006-2009
2. Empty Property Strategy; Compulsory Purchase Orders
Report to Policy and Resources Committee, 25th January 2006

Property B :

2 bed bungalow
Empty since July 1998

Street scene taken Nov 08



