

## Bath & North East Somerset Council

MEETING:	Housing and Major Projects Policy Development & Overview Panel	
MEETING DATE:	31 <sup>st</sup> January 2012	AGENDA ITEM NUMBER
TITLE:	Empty Property Policy Update	
WARD:	ALL	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> Appendix 1: Empty Property Policy		

### 1 THE ISSUE

- 1.1 In January 2011 the Council formally adopted the Empty Property Policy attached in Appendix 1. Central to the policy is the twin track approach of encouraging all empty property owners to bring their properties back into use whilst taking bespoke enforcement action on high priority properties. Following adoption of the above policy Housing Services sought to prioritise empty properties for bespoke action. This work has now been completed.
- 1.2 Following a meeting with the Executive Member for Housing & Major Projects; the Chair and Vice-Chair of this panel and officers it was requested that an update paper be brought to panel including options on how this work stream could be progressed and enhanced.

### 2 RECOMMENDATION

The Housing and Major Projects Panel is asked to:

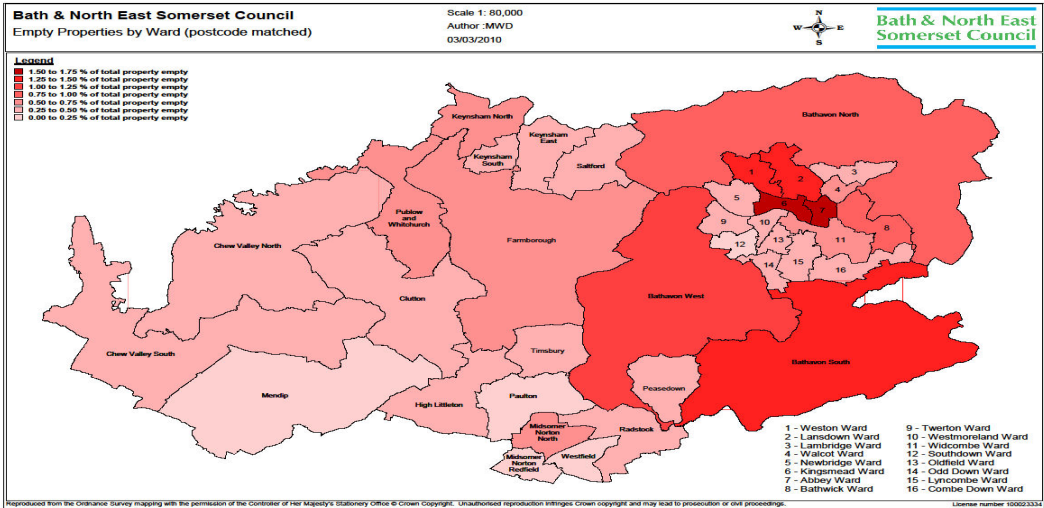
- 2.1 Note and comment on the proposed options.

### 3 FINANCIAL IMPLICATIONS

- 3.1 Funding for empty property recovery is currently limited to 0.5 FTE Empty Property Officer. There is no specifically identified funding in the Council’s current capital plan for empty property recovery activities, such as, incentives or enforcement action.
- 3.2 Some of the options discussed in this paper would require additional funding. If deemed appropriate these would need to be secured through the Council’s budget process and in an acknowledged context of financial constraint and competing demands. However, it should be noted that empty properties recovered attract New Homes Bonus funding as so the incentives proposed in option 2 would effectively be self-financing and could potentially generate a small income for the Council.

### 4 THE REPORT

- 4.1 To support and encourage the formal adoption of an Empty Property Policy research was undertaken in 2009/10. At the time Council Tax records indicated that there were around 500 properties (0.7% of housing stock) that had been empty for 6 months or more. It should be noted that this compares favourably with the national figure of around 1.3%. Approximately 40% of the 500 properties had remained empty for over a year (0.40% of housing stock).
- 4.2 There is a higher percentage of empty properties within Bath and the surrounding areas than other parts of the district.



4.3 The Empty Property Policy was formally adopted in January 2011. At the core of the policy is the twin track approach of encouragement and potential enforcement activity. The encouragement activities provided to all owners to help them bring empty properties back into use include:

- Advice & assistance from Empty Property officer
- West of England “No-Empty” page linked from Housing website: [www.no-use-emptywest.co.uk](http://www.no-use-emptywest.co.uk) which provides information on the following
  - Information on becoming a landlord

- Links to helpful websites
- List of managing agents
- List of contractors offering discounts to owners
- Information for empty property owners
  - Catalogue of empty properties
  - List of interested purchasers
  - How to report an empty property
- Frequently asked questions about empty property and information about the powers Councils have to deal with problems associated with empty properties
- Regular newsletters are sent out to owners promoting empty property initiatives

4.4 However, the policy states that Housing Services will engage on a bespoke basis with our high priority empty properties and consider the use of enforcement action in the following circumstances:

- “The Council has made numerous attempts to engage with the owner, all reasonable offers of assistance have been made to the owner and these offers have not been acted upon; and
- There is no prospect of the house being brought back into use by the owner within a reasonable time period; and
- There is a housing need and/or the property is causing a significant problem in the local neighbourhood; and
- A cost-benefit analysis demonstrates that enforcement action both financially viable and appropriate.
- Enforcement action to bring the property back into use will only be taken when the above criteria is met. Enforcement action with significant financial implications will only be taken following a single member decision by the Executive Member for Adult Social Services & Housing. Should the case for enforcement action not be demonstrated then no enforcement action will be taken.”

4.5 Following adoption of the above policy Housing Services sought to prioritise empty properties for bespoke action using a scale of P1 to P5 based upon condition, neighbourhood impact and length of time empty. This work has largely been completed. As such there is now a rational, and importantly defensible, hierarchy of empty properties. At the top of this list are around 10-12 properties which fall within the P1 category.

4.6 Nationally the formal action being adopted by Councils is varied and includes:

- Enforced sale – Law of Property Act 1925 allows the Council to force the sale of properties to release money owned to them, for example due to the Council having to board up the property or remove hazards.

- Empty Dwelling Management Orders (EDMOs) – Housing Act 2004 allows the Council, in certain circumstances, to effectively manage the property for up to 5 years. A Council can then undertake renovation & maintenance works, collect rent etc. Granted by the Residential Property Tribunal as an action of last resort.
- Compulsory Purchase Order (CPO) - Granted by the Secretary of State as an action of last resort.
- Various actions under the Building Act 1984, Town & Country Planning Act 1990 and Local Government Act 1974 covering dangerous buildings, ruinous, dilapidated & neglected sites.

4.7 The above formal actions pose two challenges for the Council. Firstly, these actions can be potentially expensive, at least in the short term. For example, in the case of an EDMO the rent obtained over 5 years may not cover the renovations and management charges. For CPOs the Council will need to fund the open value of the property; potentially compensation for severance or injurious affection and disturbance; and the legal costs of the action, which for contested cases can be high. The Council has not identified any funding for such actions.

4.8 Secondly, in the case of EDMOs & CPOs the Council will need to convince either the Residential Property Tribunal or Secretary of State that all other options have been exhausted and this is the action of last resort. Experience from other Councils shows that we will need to demonstrate that we have, over a reasonable time period, tried to work with the owner and have offered them reasonable help and assistance. Nationally this has included:

- Providing capital loans for repairs. We already have the infrastructure in place, that is, Wessex Loans. In addition it could be conditional e.g. renting to client on housing register etc.
- Private Sector Leasing. Similar to EDMO, though voluntary. Whilst we have investigated in the past it has proved financially unviable. However, could be effective if subsidised. However, potentially places the Council at significant financial risk.
- Council agreed purchases. Only works where everyone agrees. In this context the Council would have a duty of care towards the owner.
- Homesteading. Being encouraged at a national level. However, only works with excess social housing and sold at reduced costs. In the Newcastle example the houses were sold for £1 & the new owners were given improvement grants. Unlikely to be a realistic option here.
- Practical Incentives. Could include anything, in addition to what we already do, that is likely to result in getting the owner to sale/rent the property e.g. paying for: independent scheduling & costing of repair works; financial advice & modelling; 1<sup>st</sup> year letting agency fees; legal advice helplines; garden/house clearance etc.

4.9 The Government has recently announced an additional £50m to the original £100m for the recovery of empty properties. This money is being administered through the

HCA<sup>1</sup> and is linked to the Government's new rental model for affordable housing, known as the Affordable Rent model. As such the funding is being directed to social housing providers, particularly in locations where there are concentrations of empty properties. However, we are currently working with local housing providers and partners to encourage local funding bids. In addition the Government has recently consulted on an Empty Property Premium which would allow Councils to increase the Council Tax on empty properties.

## 5 OPTIONS

5.1 The author proposes three options, these being:

### Option 1 – As existing

Continue to offer the existing advice and assistance with no enhancement of incentives. Bespoke action will be limited to encouragement. This is unlikely to make a step change in the number of properties brought back into use. The 2012/13 target is 25 properties brought back into action.

### Option 2 – Enhanced incentives & enforcement activity

Secure additional funding to i) enhance the range of incentives for landlords to voluntarily bring properties back into use, and ii) provide funding to initiate the recovery of one or two high priority properties. Any recovered funding, for example from the subsequent sale of a CPO property would then be re-circulated. This would create three tiers of activity:

- Intermediate assistance – as existing but with additional funding being used to provide garden & house clearance. This would be available to all owners of properties vacant for 1 year or more and conditional on the owner agreeing to market their property. £5,000 would provide funding to provide 25 such packages of intervention. In addition would aim to commission Clean Slate, or a similar organisation, to provide the labour. Clean Slate provides employment for socially excluded job-seekers and so this would assist in achieving our wider corporate aims.
- High level targeted assistance – package of higher level support for medium to high priority properties. Would include a low-cost capital loan<sup>2</sup> and assistance to bring the property to the rental market including independent feasibility survey; independent financial viability assessment provided by Bristol Credit Union or similar, legal and tax advice. £75,000 would fund between 15-25 packages of assistance, depending value of loans taken up.
- Enforcement action – enforcement action as detailed above. Cost difficult to estimate as depends upon property and course of action adopted. However, it is unlikely that an EDMO will cost less than £10,000 whilst the net cost of a CPO will be significantly higher. In addition any CPO action will require capital funding for the purchase of the property.

### Option 3 – Phased introduction

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<sup>1</sup> Home & Community Agency – Government funding agency for housing development

<sup>2</sup> Wessex Loan – Costs include loan administration & subsidy costs, though not capital.

Introduce the incentive components of option 2 during 2012/13 and the enforcement element during 2013/14 once the incentives have been operating for 12 months. As per policy any enforcement activity would be through single member/cabinet decision.

5.2 Funding permitting the author considers option 3 to be the most appropriate. This option focuses our initial activities and attention on encouragement and incentivising owners to bring properties back into use. The delayed approach to any enforcement action would demonstrate to the Residential Property Tribunal or Secretary of State that all other options have been exhausted and that enforcement was the action of last resort. In addition it allows capital funding to be spread over a number of financial years.

## **6 RISK MANAGEMENT**

A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

## **7 EQUALITIES**

7.1 An equalities impact assessment was undertaken on the Empty Property Policy in November 2010. The core objective of the policy is to encourage the recovery of empty properties and in the process increase the supply of housing in an area of high demand and reduce the negative neighbourhood impacts associated with empty properties. The assessment did not identify any negative equalities impacts. It did however identify the need to improve equalities strand data monitoring.

## **8 CONSULTATION**

8.1 Cabinet Member; Section 151 Finance Officer; Chief Executive; Monitoring Officer were consulted during the development of this policy.

8.2 Extensive consultation was undertaken to support the Empty Property Policy, agreed in January 2011. This included public consultation and meetings with Councillors.

## **9 ISSUES TO CONSIDER IN REACHING THE DECISION**

9.1 Customer Focus; Sustainability

9.2 The empty property policy addresses customer concerns about safer communities by working to remove problems such as vandalism which empty properties may cause. In addition bringing empty properties back into use makes best use of existing stock, reduces housing demand and contributes to the sustainability of the area.

## **10 ADVICE SOUGHT**

10.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input into the single member decision report on which this report has been based.

<b>Contact person</b>	Graham Sabourn, Associate Director (Housing)
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	