

Bath & North East Somerset Council

MEETING:	Cabinet	
MEETING DATE:	11 th September 2013	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2561
TITLE:	Empty Property Policy Enforcement Action	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1: Property Details (Exempt - personal data)		
Appendix 2: High Priority Properties (Exempt - personal data)		
Appendix 3: Empty Property Policy 2013		

1 THE ISSUE

- 1.1 In January 2011 the Council formally adopted an Empty Property Policy. This policy articulates the Council's twin track approach of providing encouragement and assistance to all owners of empty properties to help bring their properties back into use whilst at the same time seeking to select high priority empty properties for bespoke assistance and potentially enforcement action. In accordance with the Empty Property Policy, and following the refusal of all offers of assistance, the author is seeking approval to obtain a Compulsory Purchase Order on two related properties.
- 1.2 In addition recent changes to the Council Tax system, notably the removal of Class A and Class C exemptions, has resulted in the need to update the Empty Property Policy.

2 RECOMMENDATION

The Cabinet agrees that:

- 2.1 The Head of Housing undertakes the appropriate and statutory steps to obtain Compulsory Purchase Orders on the two properties detailed in appendix 1 and then disposes of the properties on the open market with a contractual requirement that they shall be brought back into residential use within 18 months.
- 2.2 That the updated Empty Property Policy detailed in appendix 3 is adopted.

3 FINANCIAL IMPLICATIONS

- 3.1 Securing a Compulsory Purchase Order (CPO) is administratively complex, requires significant capital outlay and requires the permission of the Secretary of State for Communities & Local Government. It is important to note that the experience of other Local Authorities is that the cost of obtaining the order can vary significantly, not least due to the amount of legal opposition shown by the owner to the action or the potential for differences between property acquisition and subsequent resale values.
- 3.2 The principal costs associated with obtaining a CPO include: housing services officer time; legal and surveyor costs; statutory advertising; stamp duty; owners compensation and property purchase costs. In addition if the owner challenges the decision then the Council would need to fund the costs of a public enquiry. Whilst the purchase costs should be recoverable following sale (minus any further transaction fees) the other costs would not be recoverable. It should be noted that the largest single element of the non-asset cost relates to statutory compensation to the owner, known as a basic loss payment, and set at 7.5% of asset value. Only in very limited cases can the right to this compensation be removed.
- 3.3 The gross cost of obtaining the CPO for both properties is estimated to be around £405,000 assuming no public enquiry and that compensation is payable. Should an enquiry be required then costs could potentially rise to around £440,000. However, the capital asset, valued at £362,000, would be realised following subsequent sale minus any further transaction costs. As such the net cost to the Council is estimated to be around £50,000 for both properties rising to around £80,000 should a public enquiry be required. Appendix 1 details these costs more fully.
- 3.4 The net funding for this action would be met through capacity within the capital programme, approved in February 2013, which confirmed...

Investment of £550k per annum in 2013/14 & 2014/15 is included for Provisional Approval subject to the provision of a detailed project plan and business case. This provision is for supporting work on tackling empty homes, increasing the delivery of affordable housing and associated costs. Such provision will contribute towards attracting inward investment through the New Homes Bonus and help achieve aims within the Council's Core Strategy and the Housing and Well-being Strategy. Political and Corporate approval will be sought for each spending proposal to ensure value for money and purpose of outcome.

4 CORPORATE OBJECTIVES

- *Promoting independence and positive lives for everyone*
- *Creating neighbourhoods where people are proud to live*
- *Building a stronger economy*

5 THE REPORT

Enforcement Action

- 5.1 In January 2011 the Council formally adopted an Empty Property Policy which stated that the Council will...

Use the following twin track approach to bring empty properties back into use:

- Provide advice, assistance and incentives to all owners to help them bring empty properties back into use; and
- Prioritise properties which have been empty for over 1 year for targeted action.

5.2 Since adopting this policy Housing Services have undertaken a range of work streams and activities including:

- (1) With the Revenues & Benefits Service identified all properties that have been empty for 6 months or longer;
- (2) Inspected and prioritised all properties empty for 1 year or more. The prioritisation system uses a combination of length of time empty, property condition and the impact of the property on neighbours and the local community to create a points score. Empty properties were then grouped into low, medium and high priority groups. Based upon the latest information there are:
 - 250 properties that have been empty for over 6 months but under 1 year and hence not prioritised for action
 - 200 “low priority” empty properties
 - 32 “medium priority” empty properties
 - 16 “high priority” empty properties
- (3) Written or contacted all empty property owners to encourage the effective use of the property, inform them of their options and provide free advice if required.
- (4) With our West of England colleagues produced and distributed a bi-annual newsletter providing advice and offer of assistance and also designed and developed the “No Use Empty” website. This website provides a wealth of information for owners and residents including a reporting function and an option for owners to advertise their properties for sale.
- (5) Since the later part of 2011 various financial assistance and incentive packages has been made available to higher priority empty properties including the offer of low-interest rate loans up to the value of £30,000.

5.3 As a result of this action the number of properties that were empty for 6 months or longer has fallen from around 600 to the current level of around 500. This work has already generated £193,979 and £333,104 of New Homes Bonus funding in 2011/12 and 2012/13 respectively and will continue to generate funding for the next few years. However, despite working with owners to recover around 100 properties in the last year this 500 figure has remained fairly static due to new empty properties. This reinforces our approach to target resources on the long term empty and consequently higher priority properties.

5.4 Out of the original 17 original high priority properties all bar two owners have engaged with the Council and given a firm intention to bring the property back into use. Indeed one has now been sold and occupied and 3 are currently being advertised for sale. However, the owners of the two properties detailed in

appendix 1 have not engaged with the Council, taken any action to bring the properties back into use or committed to taking any action to bring the properties back into use.

5.5 The empty property policy states that in the first instance Housing Services will work with owners to try to bring their property back in to use but will consider enforcement action where the following four criteria have been met:

- 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.

5.6 The above four criteria for taking enforcement action have been met in relation to the properties identified for enforcement action. Appendix 1 provides the supporting evidence for this statement.

Proposed Update to Empty Property Policy

5.7 In April 2013, Council Tax changes introduced a premium charge (150% council tax) for those properties empty over 2 years. The aim of this premium is to incentivise owners who are leaving properties empty to bring them back into use. The re-coding of Council Tax classifications meant that the Class A and Class C exemptions which identified when a property had been empty for over 6 months was removed. While the introduction of a premium for properties empty over 2 years will be a benefit to Housing Services, the disadvantage has been the re-coding of Council Tax classifications leading to a loss of data source for properties empty over 6 months. While it may be theoretically possible to maintain a list of properties empty over 6 months, it is unlikely to be accurate and would take an unreasonable amount of officer time which could be spent more productively.

5.8 It is therefore proposed to change the definition of “empty property” for the terms of the policy to properties empty over 2 years. It should be noted that properties empty less than 2 years tend to be low priority and normally come back into use without our intervention. This also aligns the definition with Council Tax and our data source. This allows effective use of resources on those properties which remain empty and cause problems for neighbours. Advice will still be available to owners with properties empty under 2 years, via the website and the bi-annual newsletter can be sent to owners recorded as having an empty property to prevent properties remaining empty longer than necessary. In addition an exceptional circumstance clause has been included so that properties empty under 2 years which are causing problems to neighbours can be included on the decision of the Head of Housing.

5.9 The policy will include new sections on compliments, complaints, appeals and exceptional circumstances. This is in line with other Housing Services policies.

6 RISK MANAGEMENT

6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

7 EQUALITIES

7.1 An Equalities Impact Assessment has not been completed for the following reasons:

- The enforcement action follows from the Empty Property Policy which has been the subject of a detailed Equalities Impact Assessment, and
- The proposed changes to the Empty Property Policy are of a minor nature.

8 RATIONALE

8.1 Bringing empty properties back into use can achieve a number of benefits including:

- Helping to meet local housing demand;
- Reducing the need for new housing development;
- Reducing the crime & vandalism which empty properties often attract;
- Reducing problems to neighbouring properties which poorly maintained empty properties can sometimes cause;
- Improve & regenerate localities;
- Generate Council funding through the New Homes Bonus Scheme

8.2 This enforcement action will clearly demonstrate the Council's commitment to the recovery of empty properties and encourage other owners to work with the Council in a positive and constructive manner.

9 OTHER OPTIONS CONSIDERED

Do not take enforcement action

9.1 This would mean that the properties identified would not be recovered, which would run counter to the Empty Home Policy. In addition failure to take action would reduce the Council's ability to persuade other empty property owners that the Council is serious about the recovery of empty properties.

Empty Dwelling Management Order

9.2 There are a number of reasons why this option has been discounted including: not considered a permanent solution; significantly more staff resource intensive; effectively a 7 year project; potentially a more expensive option; and would require revenue funding rather than the capital funding currently available.

10 CONSULTATION

10.1 Ward Councillor; Cabinet members; Policy Development and Scrutiny Panel; Other B&NES Services; Section 151 Finance Officer; Chief Executive; Monitoring Officer

10.2 Formal consultation has not been completed for the following reasons:

- (1) The enforcement action follows from the Empty Property Policy which was the subject of extensive consultation including member workshops and Policy Development and Scrutiny Panel review.
- (2) The Housing & Major Projects Policy Development and Scrutiny Panel has been verbally advised of the proposed enforcement action and the minor amendments to the Empty Property Policy and did not raise any concerns.

11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 Social Inclusion; Sustainability; Property; Human Rights; Other Legal Considerations.

11.2 The Human Rights Act 1998 gives a person or organisation a right to the peaceful enjoyment of their property. No one should be deprived of their property except in the public interest and in accordance with the law.

11.3 Therefore the decision maker needs to be sure that firstly the Council has legal authority for what it is proposing to do and is following the Council's procedures and secondly the decision maker needs to balance the competing interest of the public and individual interests and that the proposed compulsory purchase is a proportionate means of achieving a legitimate aim.

12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

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Sponsoring Cabinet Member	Councillor Tim Ball
Background papers	None
Please contact the report author if you need to access this report in an alternative format	