

Report for: Cabinet 11th April 2017

Title: Approval to Compulsory Purchase an empty property - 48 Falmer Road N15

Report authorised by : Stephen McDonnell (Assistant Director for Commercial & Operations)

Lead Officer: Glayne Russell (Senior Environmental Health Officer) Housing Improvement Team

Ward(s) affected: St. Anns

**Report for Key/
Non Key Decision:** Key decision

1. Describe the issue under consideration

- 1.1 48 Falmer Road N15 is a house which has been empty for 4 years and is in a very bad state of disrepair and has been squatted. All efforts to persuade the owner to bring the house back into use have failed, leaving no alternative but to take possession of the house by way of Compulsory Purchase (CPO)
- 1.2 The purpose of this report is to seek authorisation to make a CPO for the above property and to submit to the Secretary of State for confirmation (if the owner fails to repair and bring the property back into use). The proposal will be for the Council to then sell the property on to ensure it is brought back into use.

2. Cabinet Member Introduction

- 2.1 The need for housing accommodation in London is reaching crisis point. Competing demands for a reducing supply is creating escalating rents which is making it difficult for tenants / housing providers to obtain suitable accommodation.
- 2.2 It is therefore unacceptable within this market to allow private sector homes to remain empty with no plan for improvement and timescales for occupation. The authority has made every effort to work with the owner of the empty home set out within this report but have failed to obtain a satisfactory response.
- 2.3 The authority is determined to restore this property back into use and to undertake this action to achieve that aim. Taking this action will also prevent damage to adjoining properties and nuisance to the local community that could be caused if they remain empty with no maintenance.

3. Recommendations

3.1 It is recommended that the Cabinet:

1. Authorises the submission of 48 Falmer Road N15 to the Secretary of State for Communities and Local Government for a confirmed Order, under Compulsory Purchase powers;
2. Authorises the Assistant Director of Corporate Governance to:

Make and seal the Order for submission to the Secretary of State for consideration and approval (including the service of any requisition notices necessary to establish interests in the property) and to carry out the statutory notification required;

 - Confirm the Compulsory Purchase Order in the event of the Secretary of State returning the Order authorising the Council to do so;
 - Prepare for, and represent the Council at, any public inquiry held following submission of the Order to the Secretary of State;
 - Upon confirmation of the Compulsory Purchase Order proceed with acquisition of the property;
 - In the event that any of the owner(s) undertakes in the form of a legally enforceable cross undertaking to bring the relevant property back into residential occupation and use within a reasonable timescale, to authorise the Assistant Director of Corporate Governance in consultation with the Chief Operating Officer to enter in to and enforce such an undertaking instead of proceeding with the CPO for the property in question; and
 - Act in relation to any other procedural matters that may arise in the normal course of the CPO process.
3. Approves (subject to the confirmation of the CPO by the Secretary of State) the disposal of the property to a Registered Provider where possible, or to an individual or private developer, with covenants to bring the property back into use as soon as practicable.
4. Authorises the costs of the CPO to be met from the capital programme; and
5. Approves the recycling of the receipt from the disposal back to the capital programme budget for the continued private sector housing CPO programme.

4. Reasons for decision

- 4.1 There is no alternative left but to CPO this property as all attempts to persuade the owner to bring the house back into use himself have failed.

5. Alternative options considered

- 5.1 The owner has been sent 5 letters in total including two letters offering help and advice on how to sell or renovate the house including the offer of a Council grant to help pay for renovations works, as well as an introduction to a company who could loan the owners their contribution towards the empty property grant. Three additional letters were also sent specifically mentioning the Council's powers to pursue a compulsory purchase order for this property due to the lack of engagement and failure by the owner, to undertake the necessary repairs to bring property back into use.
- 5.2 Proceeding with the CPO is the last resort as all efforts have failed and the owner has ceased his communication with the Council.

6. Background information

- 6.1 To date, the Council has confirmed approval for 40 properties to proceed with a CPO.

Of these:

- 7 have been confirmed by the Secretary of State with the Council taking possession. These have been sold on, renovated and occupied.
- 19 have been renovated by the owners and thereafter occupied.
- 3 have been renovated with the aid of empty property grant money and have been occupied by Council tenants from the waiting list.
- 3 were taken possession of using the Enforced Sale route (Council Tax debt) and have been sold on, renovated and occupied.
- 4 are on site with the owners renovating them.
- 1 is with the Secretary of State awaiting a decision.
- 1 is with the Council's legal department to submit to the Secretary of State for confirmation.
- 1 has not been pursued as the Council obtained a Barristers opinion and were advised not to continue due to the financial risks.
- 1 CPO was not confirmed by the Secretary of State as the owner renovated the property before the Planning Inspectors site visit.

6.2 Falmer Road N15:

- First came to the attention of the Council in July 2013 when a neighbour complained about the overgrown garden. A further complaint was received in July 2014 from another neighbour about water leaking from the property.
- The owner has received all 5 CPO letters as detailed in section 5.1 above. He responded after letter 2 and met Council officer at the house in January 2015. The owner has been living in Surrey with his mother since December 2012. He is not able to drive so never visits the house and has stated that he has no money. The Council has introduced him to a company who could give him a loan to cover his contribution to go alongside an empty property grant to renovate the property and let this to Council. The loan would then be repaid out of the rent.
- The owner has since ceased all communication with the Council.
- The house has been deteriorating due to the lack of necessary repairs. There is a hole in the front roof which has resulted in a partial collapse of the front bedroom ceiling and water entering the property every time it rains. Squatters have moved in several times. The police have been called by the neighbours to remove the

squatters. The Council has served Statutory Notice and carried out works in default to secure the front windows against break ins (by installing bars). The water leak from the bathroom (noted via a complaint from a neighbour) has resulted in the kitchen ceiling collapsing (see photos in appendix 1).

7. Contribution to strategic outcomes

- 7.1 It is part of the Councils Housing Strategy to bring long term empty properties in disrepair back into use.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

- 8.1 This report seeks approval to submit a Compulsory Purchase Order to the Secretary of State for this property, following the failure of the owner to repair and bring the property back into use.

Chief Finance Officer

- 8.2 The use of Compulsory Purchase Orders (CPO) has both capital and revenue implications for the Council. There is a revenue budget for the cost associated with CPO, any Legal and valuation costs is kept to a minimum by disposing of the property as quickly as possible. A capital provision is required to acquire a property and this takes the form of a payment to the displaced owner based on an independent valuation of the property in its existing state on the day of possession. This payment is initially funded from capital receipts and repaid once the sale of the property is executed.
- 8.3 Disposal is ideally to a Registered Provider. Sale to a developer through an estate agent using sealed bids has also been used. To ensure the new owner renovates the property immediately following sale, the property is exchanged with the new owner but completion only occurs once the work has been finished and inspected. Corporate Property and Major Project oversee this part of the process.
- 8.4 The capital budget for Compulsory Purchase Action is £700,000. This amount is recycled to keep the the risk to the Council at a minimum. To that end each property following confirmation of the Compulsory Purchase Order is acquired and sold before the next. As a result, to date the purchase of 5 properties have gone through the whole CPO proces. 4 properties were sold on at a profit which offset the loss on the 5th property which was sold at loss to a Registered Provider.

Assistant Director of Corporate Governance

- 8.5 The powers to acquire properties either by agreement or compulsorily with the consent of the Secretary of State are contained in section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 (as amended by the Planning and Compulsory Purchase Act 2004) which are specifically designed for acquisition in these circumstances. In exercising this power, the Council would need to demonstrate that the acquisition of this property achieves a quantitative or qualitative housing gain. It would also have to confirm its proposals for the future

disposal of the property to prove that such proposals will secure the return of the property to a habitable standard and back into use.

- 8.6 Where a building is purchased for housing the Council has a duty to forthwith make it suitable either by carrying out the work itself or selling it to another subject to conditions for it to be made suitable and recommendation 3 (3) will comply with this duty.
- 8.7 The report also contemplates disposal. Power of disposal is contained in section 32 of the Housing Act 1985 but the Council cannot dispose without Secretary of State consent. The Secretary of State has issued the General Housing Consent 2013. Whether or not the Council can rely on the general consent or need specific consent will be dependent on the purchaser(s), and the Council's legal departments should be consulted once the properties are ready to be disposed of.
- 8.8 In addition, the relevant provisions of the Housing and Planning Act 2016 will need to be considered in relation to the amended timescales for confirmation, vesting and taking possession of land as set out in Part 7 of that Act (once in force).
- 8.8 Members should also note that compensation will be payable to the owner subject to the statutory prescribed amounts and the statutory time within which dispossessed owners need to make a claim. The statutory limit is 12 years for dispossessed owners to claim compensation.
- 8.9 In deciding to take Compulsory Purchase action regard has to be had to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights: Protection of Property, Article 6: Right to a Fair Trial and Article 8: Right to Respect Private Life and Family in the case of dwellings. The Council has to weigh the human rights interest of public need as against private property rights and to consider that sufficient justification exists for the making of the Compulsory Purchase Order. By authorising this Order the Council is therefore of the opinion that a compelling case exists in the public interest.

9. Equalities

The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to the need to:

- a) Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- b) Advance equality of opportunity between people who share those protected characteristics and people who do not;
- c) Foster good relations between people who share those characteristics and people who do not.

There is a severe shortage of housing in Haringey and BAME and lone female parent households are overrepresented among homeless households who have been unable to find a home. The Compulsory Purchase of this property will increase the supply of housing. It will therefore contribute towards relieving this pressure on housing in the borough, which will benefit residents with protected characteristics.

10. Use of Appendices

Appendix 1 Detailed plan of the property

11. Local Government (Access to Information) Act 1985

11.1 CPO enforcement action is endorsed within the Council's Housing Strategy.

11.2 A detailed plan identifying the property has been made available to scale through Property Services and is attached as Appendix 1 to this report.