

Report for: Cabinet 14th July 2020
Title: **Update on Empty Homes**
Report
Authorised by: **Stephen McDonnell, Director of Environment & Neighbourhoods**
Lead Officer: **Lynn Sellar, Housing Improvement Team Leader**
Ward(s) affected: **All**
Report for Key/
Non-Key Decision: **Key Decision**

1. Describe the issue under consideration

- 1.1. In Haringey, the number of officially recorded empty homes has begun to rise. The number of long-term empty homes in Haringey rose from 732 in October 2018 to 996 in October 2019 and currently sits at 1,188. This represents around 1.09% of dwellings in the borough.
- 1.2. Having long-term empty homes in our borough when housing demand and need is high is a wasted commodity. It is not in the public interest to allow homes to remain vacant. Long-term empty homes often blight neighbourhoods due to disrepair, attract crime and vandalism and can create nuisance for neighbouring properties.
- 1.3. In response to this a refreshed version of the Council's existing empty homes policy has been developed which sets out the Council's approach to bringing empty homes back into use.
- 1.4. The Policy's overarching aim is to bring all empty homes back into use. Our enforcement approach has been based on an assessment of impact, risk, and the public interest test, and focuses on homes that have been left empty for the longest periods and or which are causing significant blight to the community or that have been abandoned by their owners. Where enforcement measures are not appropriate, we will work with the owner to offer advice, guidance and support to encourage all owners to bring their property back into use.
- 1.5. This report provides an update on the complex nature of dealing with empty homes, the scale of empty homes in Haringey and seeks approval for a revised empty homes policy, which strengthens our approach in the following areas:
 - **Proactive Approach** – we will identify all empty homes in the borough and the reason why they are empty. Regular monitoring will take place to ensure that homes do not stay empty for longer than necessary.
 - **Increased Enforcement** – Where appropriate and in line with the legal framework we will look to introduce the use of Empty Dwelling Management Orders together with our other potential enforcement powers.

- **Capital Provision** – an increase capital funding will enable greater consideration for the use of both EDMOs and or Compulsory Purchase Orders.
- **Use for Temp Accommodation/Social Housing** – every home secured through the CPO or EDMO route will be considered for use by the Council before other avenues are explored.

2. Cabinet Member Introduction

- 2.1. It is a scandal that homes stand empty during a housing crisis. As a Council, we believe we can help build strong, settled communities by addressing the housing needs of all of Haringey's people, because our aspiration is for all of our residents to have a safe, stable and genuinely affordable home. Bringing empty homes back into use helps us to increase the number of homes in Haringey and to provide a diverse range of housing choices to meet local need.
- 2.2. Empty homes also blight neighbourhoods and attract antisocial behaviour and crime. Developing an environment that is safe, clean, and green is a priority for the Council and our residents. Bringing empty properties back into residential use helps to create a safe and pleasant environment for all.
- 2.3. Haringey Council will take a risk-based approach to tackling empty homes. We will do everything we can to help and encourage owners of empty homes to bring them back into use. Advice and assistance will always be offered first, and in the vast majority of cases this will be sufficient.
- 2.4. Where owners of empty homes cannot be traced, or they are unwilling to work with us in a meaningful way towards bringing their property back into use, we will not hesitate to use the range of enforcement powers available to us. These include Empty Dwelling Management Orders, enforced sale, and compulsory purchase.

3. Recommendations

- 3.1 It is recommended that Cabinet:
 - I. Approves the Empty Homes Policy as attached in Appendix 3.
 - II. Notes that any costs incurred in expanding the service within 2020/21 will need to be met from existing Environment & Neighbourhood revenue budgets.
 - III. Notes that a capital bid of £5m will be made to increase the CPO budget to £6m as part of the 2021/22 budget setting process.

4. Reasons for decisions

- 4.1. During a housing crisis, it is unacceptable that there are within the borough a number of homes that stand needlessly empty. Currently, Haringey has 1,188 homes that have stood empty and unused for six months or more.
- 4.2. In the Council's t Borough Plan Priority 1- Housing, the vision is for a safe, stable and affordable home for everyone, whatever their circumstances. The Council is committed to working together to provide housing for all our residents needs and to creating environments that are safe, clean, and green (Priority 3). Empty homes are a housing resource that could be utilised when demand for housing is high. Homes which are allowed to remain empty long-term blight neighbourhoods and attract antisocial behaviour and crime.
- 4.3. Haringey Council has a good track record of bringing empty homes back into use. Our existing empty homes policy however is outdated and in recent years, due to reduced resources, empty homes work has been targeted only at those homes causing the most nuisance or those which have been empty for longer than 5 years or which have been abandoned. Although the number of empty homes in Haringey is at a relatively low level, in part due to the Council's work to date, there is a case to expand the scope of that work. This can be achieved through revising the empty homes policy and reallocating resources within the Environment & Neighbourhoods revenue budget

5. Alternative options considered

- 5.1. Not to consider expanding any of the resources required for empty homes work. The number of empty homes in the borough has been rising for five years, and so this option was rejected.

6. Background information

6.1. The Current Approach

- 6.1.1 Haringey Council has always undertaken empty homes work, the function sits within the Housing Improvement Team. The Council has a strong track record of effective empty property intervention, good joint working, and a successful history of using enforcement powers including the use of Compulsory Purchase Orders (CPO), as a last resort to bring empty homes back into use.

- 6.1.2 The current approach is to target those empty homes which are not being brought back into use voluntarily and or which are blighting the local community, causing a nuisance to local residents, linked to criminal activity or which pose a risk to the public in general.

6.2 Revised Approach

- 6.2.1 The refreshed Empty Homes Policy (attached at Appendix 3) builds on the work already carried out to manage empty homes which is based on impact, risk, and the public interest test but strengthens the current approach. Below sets out, in summary, aspects of the strengthened policy, which includes initially how

we define an empty property, then a breakdown of the number of empty properties and finally details the Council's approach to providing informal advice and guidance before proceeding to formal enforcement.

6.2.2 What constitutes an empty home?

6.2.2.1 There are two main types of empty home: -

- **Transactional empty homes** which are usually empty for up to six months as part of the normal cycle of letting, renovating, buying and selling of properties
- **Long term empty homes** which are dwellings that have been empty for more than six months. It is these homes that the policy is aimed at and which will be targeted by the Council.

6.2.3 Number of empty homes

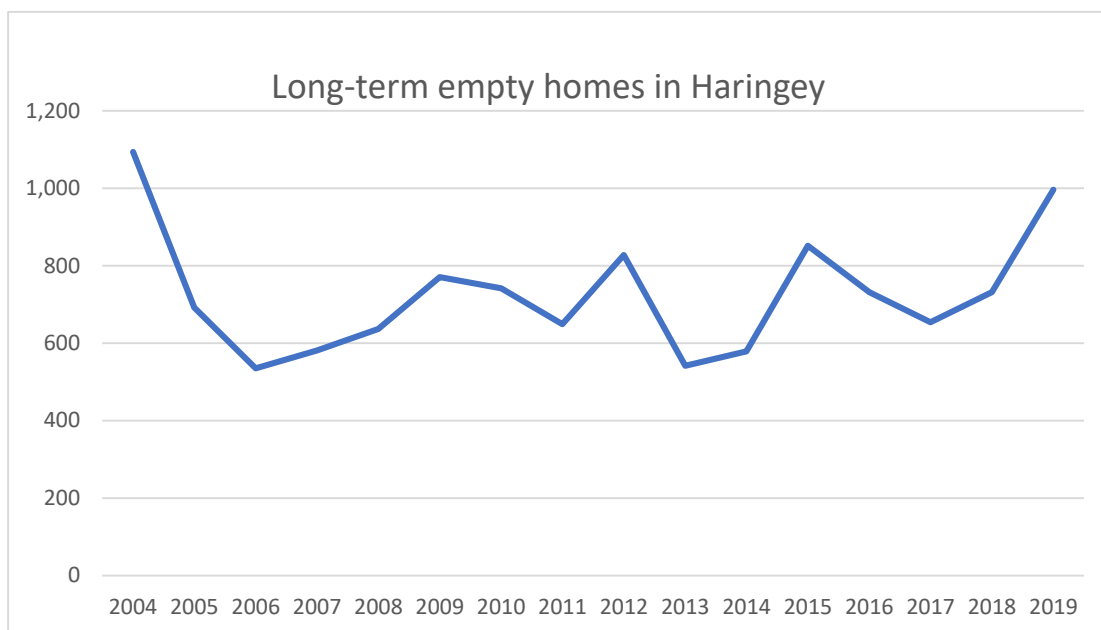
6.2.3.1 There are approximately 108,915 dwellings in Haringey and Council tax records inform us that:

- 1,188 (1.09%) dwellings in the borough have been empty and substantially unfurnished for six months or more.
- Of these 284 (0.26%) –have been unoccupied and unfurnished for two years or more.
- Of these 88 (0.08%) of all homes have been empty and unfurnished for five years or more.
- 22 (0.02%) - have been empty for longer than 10 years.

6.2.3.2 The number of empty homes in Haringey, is at a relatively low level. However, the number has recently begun rising again, see graph one below:

6.2.3.3 Council tax records identified that 88 properties have been left empty for 5 years, of these 22 have been empty for longer than 10 years. These properties will be subject to immediate scrutiny and engagement with those owners will be undertaken and formal action considered for all on a case by case basis.

Graph 1 Empty Homes 2004 to 2019



6.2.4 Engagement, Advice and Enforcement

6.2.4.1 The policy sets out how the Council will use all its tools to bring empty homes back into use from informal measures to escalating over time the use of enforcement powers, which includes Enforced Sales, Empty Dwelling Management Orders and Compulsory Purchase Orders. A summary of these actions is set out below. Appendix 4 within this document also details a project and communication plan that outlines the actions that will be taken to support the Policy.

6.2.5 Informal Approach – Advice and Support

6.2.5.1 Very few property owners require the incentive of public enforcement to seek a productive use of their asset. While some owners do leave their homes empty through deliberate choice many owners do so due to limited knowledge, skills or having other concerns which make dealing with the property difficult and or too complex. The Council therefore has a vital role to play in this, acting as a positive source of advice, guidance and or support. Advice and guidance is the first stage and an important part of the process and takes place at the start of any empty home engagement.

6.2.5.2 The Council's approach of offering advice, guidance and support to owners has proven to be a good use of Council resources so far – 128 properties have been brought back into use using these measures over the last 3 years. Appendix 1 attached provides a good case study of this approach.

6.2.6 Formal Approach – Enforcement Action

6.2.6.1 Where advice and engagement are not appropriate or not working, the following enforcement tools are considered.

6.2.6.2 **Environmental Health Legislation** - Enforcement action can be taken swiftly under environmental health legislation in the event of public nuisance such as infestation. In many cases the Council will board and secure the property to make it secure from intruders to prevent vandalism, fire risk or criminal activities e.g. drug taking and squatting.

6.2.6.3 **Enforced Sale** – On occasions the Council can consider enforced sale. The reasons and route available are often complex, but broadly can be used if the property has any of the following:

- **Council tax debt.**
Owners who have failed to pay their Council tax or Council tax premiums creating a debt to the Council.
- **Land charge debt.**
If the Council has undertaken works in default of an owner a charge is put on the property in order to recover the monies spent including an enforcement of that charge.
- **The property represents a substantial public nuisance.**
The property is affecting neighbouring property with regards to pest, ASB and or crime.

6.2.7 Empty Dwelling Management Orders - The Council is proposing within the new policy to introduce EDMOs as an extra enforcement tool that can be used as an alternative to considering CPOs.

6.2.7.1 Empty Dwelling Management Orders (EDMOs) were introduced by the Housing Act 2004. They enable Councils to take possession of an empty property and then place tenants in it through an Empty Dwelling Management Order (EDMO).

6.2.7.2 The intention of EDMOs is to bridge the gap between voluntary measures and compulsory purchase powers. The threat of an EDMO is intended to put pressure on the owner to enter into constructive dialogue with the local authority with the object of agreeing the best course of action to secure occupation of the dwelling, thereby avoiding the need for an interim EDMO or, as the case may be, a final EDMO, to be made.

6.2.7.3 However, the Residential Property Tribunal must be satisfied that the property has been empty for at least two years, as well as being vandalised or actively used for "antisocial" purposes or "causing a nuisance for the community" and that there is local support for the use of an EDMO.

6.2.7.4 An EDMO cannot be granted if the owner proves the properties are in the process of being sold.

6.2.7.5 Once an interim EDMO has been granted, it lasts for up to twelve months. During this period, the local authority works with the owner to try and agree a way to put the property back into use. If no agreement is reached during this time, and the building remains unoccupied, the authority may make a final EDMO, which lasts for up to seven years. It is possible to move to a

final EDMO relatively quickly if it is clear that the owner will not engage meaningfully.

- 6.2.7.6 A final EDMO differs from an interim EDMO in that the local authority is not required to obtain the owner's consent before finding a tenant for the property.
- 6.2.7.7 When a tenant has been found under the EDMO, the rent is paid to the local authority, which is able to recover any costs they may have incurred by taking possession of the property and making it habitable. Any money over and above these costs is to be paid to the owner of the property.
- 6.2.7.8 A full valuation, a financial appraisal, (including the level of rent to be charged) and a risk assessment would be required wherever an EDMO is considered, and Cabinet approval is needed to apply to a Residential Property Tribunal for an EDMO.
- 6.2.7.9 Whilst applications to Residential Property Tribunal for a final EDMO are unlikely in all but a handful of cases, the use of the power acts as a credible threat and is a potentially useful tool that could be integrated into the casework process. Between 2007 and 2009 Manchester City Council threatened to use EDMOs on forty separate occasions. The threat alone of serving an EDMO was on each occasion sufficient enough to galvanise the owners to bring the home back into use, therefore removing the need to follow through with a formal EDMO.
- 6.2.7.10 Barking & Dagenham, Croydon, and Hertsmere Councils have all effectively enforced EDMOs in recent years.

6.2.8 Compulsory Purchase Orders (CPO) - Where it can be proven that no other means is available to the Council which will result in the property being returned to use the Council can seek to use Compulsory Purchase Orders (CPO). The Council's CPO powers are used as a final option and are governed by legislation and must be in accordance with Government guidance. Any CPO must be in the public interest and must be confirmed by the Secretary of State.

- 6.2.8.1 Establishing the evidence needed to justify the use of CPO as a last resort can mean that the process leading up to their use is protracted and often involves substantial costs for the Council. (See Appendix 2 Case study as an example).
- 6.2.8.2 If the Council cannot show that all necessary funding is likely to be available to bring this property back into use as housing accommodation, it will be difficult to demonstrate that the compulsory acquisition of a home is justified in the public interest and so the CPO is unlikely to be confirmed by the Secretary of State. Capital funding is currently available for the purchase of empty homes however the current market value of homes in the borough often allows for only one or two purchases to be made at any one time.

- 6.2.8.3 Empty homes acquired using CPO are currently funded by existing general fund capital budget and immediately sold on the open market to make the process broadly cost neutral to the Council.

6.3 Acquiring Empty Homes for use by the Council

- 6.3.1 Empty Dwelling Management Orders and/or CPO could provide a small but important number of homes for homeless households through leasing arrangements with either the Haringey Community Benefit Society or Homes for Haringey. Each home would need a case by case assessment to judge its suitability and financial viability.

6.4 Additional Resources

- 6.4.1 In order to meet the new requirements within the proposed policy a dedicated Empty Homes Officer post will need to be established. This will allow the Council to expand the scope of our interventions, provide a better profile on our empty homes in the borough. There will also be a need to account for increased costs associated with supporting enforcement measures, such as legal and property advice as well as other costs such as land searches.
- 6.4.2 At present the Environment & Neighbourhood service will look to contain these additional costs within its existing budgets, but this position will need to be reviewed once the service fully understands all incurred costs. It should be noted that where a process, either EDMO or CPO, does not result in the acquisition of an asset, the costs incurred will need to be met from existing service revenue budgets.
- 6.4.3 The average cost of pursuing a property through the CPO route is estimated at £15,000 – £20,000, if no acquisition was to go ahead these are the cost that would need to be supported through revenue budgets. This shouldn't detract from the non-cashable benefits of bringing that empty home back into use, as any return of a vacant property back into use is seen by the Council as a success.
- 6.4.4 One Full Time Equivalent Empty Homes Officer post on P01/PO2 subject to evaluation will be required to undertake this role.

6.5 Expanding the use of Capital funding

- 6.5.1 The current Capital Funding Allocation of £1 million per year is used to fund the acquisition of properties through CPO. This amount would limit the acquisition of properties in the West of the borough and possibly provide funding for one or maybe two smaller properties in the East of the borough.
- 6.5.2 Local Authorities can only seek a CPO if they can demonstrate that funds are likely to be available for the purchase. CPOs cannot work without agreed sustained funding. Given that the process can be lengthy – in some cases five years or more - it is important that there is a long-term commitment to this.
- 6.5.3 The increase in capital funding from the current £1m to £6m, if agreed as part of the Council's 2021/22 budget setting process, would allow the local authority

to consider a greater number of properties to be subject to CPO and/ or the application of EDMO.

6.6 Progress and Monitoring

6.6.1 The progress and monitoring of empty homes work will be done through quarterly reports to the Cabinet Member for Housing and Estate Renewal.

6.6.2 A annual report will be published on the Council Website

6.7 Risk and Issues

6.7.1 Dealing with empty homes can be problematic and time consuming the following are risks that can arise within the process of pursuing empty homes owners.

- Owners cannot be found – locating owners can be notoriously difficult and adds to the timescale and costs of the process.
- The reasons that homes are left empty can sometimes be complex and personal. In these cases, any investigation would have to be done sensitively and often without any short-term resolution.
- The Council will have to incur upfront costs of any enforcement work. These costs will be listed as a charge on the property and only recouped once sold.
- With an EDMO or CPO there is a risk that neither will result in the possession or acquisition of the property. These costs will not be funded by the capital funding programme and will have to be absorbed by the Council's revenue budget.
- Many homes will not be suitable for acquisition by the Local Authority and will have to be offered on the open market.
- Owners have the right to appeal or judicial review which will elongate any enforcement process or CPO.

7 Contribution to strategic outcomes

7.1 Empty Homes work contributes to the Borough Plan's priorities (1 – Housing and 3 – Place) for a safe, stable, and affordable home for everyone, and to developing an environment that is safe, clean, and green.

8 Statutory officer comments

8.1 Finance

8.1.1 The 2019/20 approved capital programme there is an unspent budget allocation of £1.050m. Within the currently approved capital programme there is a budget allocation of £1.0m for 2020/21. At its meeting in July 2020, Cabinet will consider the provisional outturn report and should it agree to the slippage from 2019/20, there will be a budget allocation of £2.050m.

- 8.1.2 The capital budget is to cover the cost of the purchase price, legal and other fees, renovation costs and sale/marketing fees for the property's disposal. Once the property is resold, the proceeds are recycled back into the capital programme.
- 8.1.3 Expenditure on expanding the service in this current year will be met from within existing Environment & Neighbourhood revenue budgets. The report also identifies the fact that where an EDMO or a CPO does not result in the acquisition of an asset, that the costs incurred, which could be substantial, would need to be met from existing Environment & Neighbourhood revenue budgets.
- 8.1.4 In the case of the EDMO process, the level or rent to be charged to the tenant will form part of the business case that will be prepared prior to the start of the process.
- 8.1.5 The proposed increase in the CPO budget from £1m to £6m will be considered as part of the council's budget setting process for 2021/22.

8.2 Legal

- 8.2.1 The Empty Homes Policy is a non-statutory document that sets out the Council's approach to bringing empty homes back into use in the Borough.
- 8.2.2 The use of EDMOs and the exercise of compulsory purchase powers are contained in various legislations and legal advice will be required should the Council decides to make use of these powers.
- 8.2.3 The Empty Homes Policy is not a Policy Framework document and so the approval of the Policy is a decision to be taken by the Cabinet in accordance with the Council's Constitution.

8.3 Procurement

N/A

8.4 Equalities

The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

The proposed decision is to approve the Empty Homes Policy. The groups of people affected by the decision will be owners of empty homes in Haringey, to the extent that they may be engaged or their empty homes affected by EDMOs, and people in need of temporary accommodation and/or Council housing to the extent that they may be able to access accommodation in previously empty homes.

We have no reason to believe that owners of empty homes in Haringey share the protected characteristics to a greater extent than the general population. It is therefore not reasonable to anticipate any direct or indirect discrimination arising from the application of the policy. If monitoring of the application of the policy indicates any such discrimination appropriate steps will be taken to address this.

People in need of temporary accommodation tend to share the protected characteristics to a greater extent than the population of Haringey as a whole. For instance, lone parents, BAME communities, and people with disabilities tend to be overrepresented. Increasing supply of properties can be expected to have a positive impact on these groups by helping to meet their needs for housing, thereby advancing equality of opportunity.

8.5 Use of appendices

Appendix 1 – Case study 1 Example of Empty Homes informal process

Appendix 2 – Case study 2 Example of Empty homes formal Process

Appendix 3 – Empty homes Policy

Appendix 4 – Empty Homes Communication/Project Plan