

Report for: Cabinet – 8 November 2022

Title: Proposed Compulsory Purchase of Four Empty Homes

Report authorised by: Eubert Malcolm – Acting Director Environment & Resident Experience

Lead Officer: Glayne Russell, Team Leader – Private Sector Housing Team

Ward(s) affected: Hornsey, Bruce Grove, Stroud Green & Fortis Green

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

1. Describe the issue under consideration

1.1 This report is seeking authority to use enforcement powers through the use of Compulsory Purchase Orders to acquire four empty homes situated at;

- 27 Elsdon Road N17
- 118 Stapleton Hall Road N4
- 2 Woodberry Crescent N10
- First Floor Flat 33 Priory Road N8

1.2 These privately owned homes have been long term empty and are subject to complaints by neighbours and the local community and have been targeted in accordance with the Council's Empty Homes Policy 2020.

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 collaborate with the owners of the empty homes listed within this report but have failed to obtain a satisfactory response.

2.3 The authority is determined to restore these properties 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 Cabinet is recommended:

- (1) To consider each of the four empty properties set out in paragraph [1.1] of this report on a case-by-case basis for an individual decision for the use of compulsory purchase powers under section 17 of the Housing Act 1985 to acquire each of the properties and agree to the making of a compulsory purchase order (CPO) for each of the properties.
- (2) To authorise the submission of each those orders to the Secretary State for the Department for Levelling Up, Housing and Communities for each of the orders to be confirmed, under Compulsory Purchase powers.
- (3) To authorise the Head of Legal and Governance to:
 - (a) Agree the statements of reasons and make and seal each of the Orders 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.
 - (b) Confirm each of the Compulsory Purchase Order in the event of the Secretary of State returning the Order authorising the Council to do so.
 - (c) Prepare for, and represent the Council at, any public inquiry held following submission of the Order to the Secretary of State.
 - (d) Upon confirmation of each of the Compulsory Purchase Orders proceed with acquisition of the relevant property.
 - (e) 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 Head of Legal Services in consultation with the Director of Adult and Housing Services to enter in to and enforce such an undertaking at any time during the CPO process for the property in question; and
 - (f) Act in relation to any other procedural matters that may arise in the normal course of the CPO process.
- (4) To approve (following vesting of any of the properties) the disposal of such property to a Registered Provider where possible, or to an individual or private developer for a sum equivalent to the open market value of the property, with covenants to bring the property back into use as soon as practicable; and to give delegated authority to the Director of Environment and Resident Experience to agree the final terms and conditions. All sale fees incurred by the Council are paid by the

purchaser. Stamp Duty is not payable by the Council as CPOs are given Stamp Duty Land Tax relief so the Council is not penalised by using this enforcement tool. Properties are sold on in the same condition as the day of possession and the Council carries out no works prior to sale.

- (5) To authorise the costs of each of the CPO to be met from the allocated capital programme; and
- (6) To approve the recycling of the receipt from each of the disposal back to the capital programme budget for the continued private sector housing CPO programme; and
- (7) To give delegated authority to the Director of Environment and Resident Experience to agree any compensation to be paid (in accordance with the CPO Compensation Code) to each of the owners of and anyone with a legal interest (and entitled to compensation) in each of the properties as result of the CPO.

4. Reasons for decision

4.1 In accordance with guidelines all owners have received a series of five letters which advise of the Council's empty homes policy and the need for them to take steps to bring their property back into use. The letters follow a robust warning procedure and enforce the Council's ability to use Compulsory Purchase Orders on their property should they not act themselves to return the property back into use.

4.2 Due to the lack of action and or co-operation following these warning letters from property owners, there is little confidence that these owners will ever take action to bring the properties back into use themselves. Following the use and consideration of alternative options, the use of CPO is being sought as a last resort.

4.3 The reason for these properties being targeted and to aid in the decision making a brief outline on why each property should be considered for the use of CPO powers is outlined below. Full details can be found in appendix 1. All four properties have been through the council's empty homes enforcement procedures and alternative options considered. Please see paragraph 6.5 which outlines enforcement process in summary for full details please see appendix.

4.4 Brief description and reasons for recommendation to CPO.

➤ **27 Elsdon Road N17**

This property first came to attention of the Council in May 2018 when neighbours complained about the house being empty and in a very poor state of repair. Investigations identified that the original tenant of the property had been a hoarder and was moved into social care leaving the property empty. The house is owned by a company called Phillips (Family Properties) Ltd who had assured the Council that they would renovate it with a view to re-letting without delay. In spite of intervention by the Council and taking account of the

impact of Covid 19 restrictions the house remains empty. The Company who owns the property have been forced to undertake work to mitigate further damage caused by squatters and anti-social behaviour. Despite the house now being clear of hoarded items the property remains in severe disrepair and is being allowed to continue to deteriorate which is now affecting the neighbouring property. Full Details are available in Appendix 1.

➤ **First Floor Flat 33 Priory Road N8:**

This upstairs flat has been empty since the beginning of 2020 when the registered owner went to live with her mother in Coventry. She has not returned since and has not responded to any letters or emails that have been sent to her. The flat is in a poor state of repair and is affecting the ground floor flat as well as neighbouring property who have complained repeatedly to the council. Until recently there was no access to the flat as the side entrance (leading to an external staircase) was completely covered in overgrown ivy. This was cut back by the Council as it was also blocking the pavement. Full Details are available in Appendix 1

➤ **118 Stapleton Hall Road N4:**

This house was severely damaged by a fire in 2015 in which the previous owner sadly died. The house was so damaged that it was subject to a dangerous structure notice from Building Control which was complied with eventually by the nephew of the owner who is the beneficiary. The house is an eyesore in the road and is complained about regularly by neighbours.

There is now a new registered owner for the property who has stated that he wants to convert the house into four flats (there is planning precedent for this as next door is also converted into four flats) and has an investor on board. However there has been no activity at the site and due to the sheer dilapidation of the property the level of money needed to rebuild this house is likely to be vast. There is no evidence to suggest that the owner is in a financial position to do the renovation works required at this property in either a timely manner or at all. During which time the site continues to blight the local environment and cause issues for neighbours. This property has been taken out of Council Tax ratings, so no debt is owed. Full Details are available in Appendix 1

➤ **2 Woodberry Crescent N10:**

This large end of terrace property was purchased 6 years ago by a developer who has taken down the garages and gutted the property but then stopped work. There has been no communication with the Council, The house has hoarding around it which came down at the start of 2022 in high winds revealing that the house no longer has a front door which allowed anyone who wanted to gain access. This was reinstated but no work has started and there is no commitment as to when works will commence. This has been taken out of Council Tax ratings, so no debt is owed. Full Details are available in Appendix 1

5. Alternative options considered

5.1 **Advice and 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. 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 due to financial constraints necessary skills or having other concerns which make dealing with the property difficult and or too complex. Council Officers have therefore played a vital role at the start of initial engagement with all of these property owners offering advice, guidance and or support where possible. We have sought to advice and support in all the properties outlined but no action has been taken.

5.2 **Enforced Sale** – The Council has considered enforced sale for each of the properties. The reasons and route for using enforced sale are often complex, but broadly it 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.

5.3 Enforced Sale was not considered an appropriate route for these particular properties as there is no debt owed on any which is a pre-requisite for the enforced sale procedure.

5.4 All four properties have been discussed at an empty property panel meeting which includes representatives from the following services: Legal, Council Tax, Planning Enforcement, ASB and any other service area that may have been involved with the property. The purpose of this panel is to look at all options and to agree and help inform decision making in terms of best and most appropriate courses of action for empty homes requiring enforcement and or possession.

6. Background information

6.1 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.

6.2 In response to this a refreshed version of the Council's existing empty homes policy was developed and agreed by Cabinet on 14th July 2020. This sets out the Council's approach to bringing empty homes back into use.

6.3 The Policy's overarching aim is to bring all empty homes back into use. The enforcement approach has been based on an assessment of impact, risk, and the public interest test. The policy 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.

- 6.4 The Council has used all its tools to try and bring these empty homes back into use (as per paragraph 5) from informal measures to escalating over time the use of enforcement powers, which includes Enforced Sales, Empty Dwelling Management Orders and Compulsory Purchase Orders.
- 6.5 The enforcement procedures within the Empty Homes Policy have been followed in all four cases. Including the owners receiving a series of five letters outlining the council's proposal to use CPO powers should the properties not be returned to use.
- 6.6 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 on compulsory purchase process. Any CPO must be in the public interest and must be confirmed by the Secretary of State.
- 6.7 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.
- 6.8 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. Within the approved General Fund capital programme there is a budget of £8.673m for CPO's.
- 6.9 The disposal of property purchased via CPO will be considered first for retention and accounted for within the HRA to a Registered Provider where possible, or to an individual or private developer at open market value, with covenants included that will ensure that each of the property is brought back into use as soon as practicable.

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 (Director of Finance (including procurement), Head of Legal and Governance (Monitoring Officer), Equalities)

8.1 Finance

- 8.1.1 The use of CPOs has both capital and revenue implications for the Council. 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. Within the approved General Fund capital programme there is provision of £8.673m for effecting CPO's. There has been no expenditure against this budget.

8.2 Contained in the exempt report

8.3 Legal

8.3.1 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 which are specifically designed for acquisition in these circumstances. 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.

8.3.2 The Council can under section 17 of the Housing Act 1985

(a) acquire land as a site for the erection of houses,

(b) acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings,

(c) acquire land proposed to be used for the purpose of providing facilities in connection with housing accommodation, and

(d) acquire land in order to carry out on it works for the purpose of, or connected with, the alteration, enlarging, repair or improvement of an adjoining house. Land may be acquired by the Council as a local housing authority for these purposes either by agreement, or they may be authorised to be acquired compulsorily by the Secretary of State.

8.3.3 The Council may, with the consent of, and subject to any conditions imposed by, the Secretary of State, acquire land for these purposes notwithstanding that the land is not immediately required for those purposes but the Council must demonstrate to the Secretary of State that the land is likely to be required for those purposes within ten years from the date on which he confirms the compulsory purchase order.

8.3.4 The Acquisition of Land Act 1981 (the 1981 Act) governs the procedures which apply to such an acquisition, the Compulsory Purchase Act 1965 governs post-confirmation procedures and the Land Compensation Acts 1961 and 1973 govern the amount and assessment of compensation. The procedure for confirmation is specified in the 1981 Act and may require the conduct of a public inquiry if there are objections. In the event that the CPO is confirmed the Council can then take steps to acquire land either by serving a notice to treat and notice of entry in accordance with the 1981 Act or by serving a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981. Consideration would need to be given to the most appropriate route and the procedure set out by legislation must be followed.

8.3.5 Members should note that compensation will be payable to the owners and anyone with a legal interest in the properties where they are entitled.

8.3.6 The Council will need to take care that it does not contravene the rights of individuals under the Human Rights Act 1988. The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights European Convention on Human Rights (the ECHR). In making decisions Members therefore need to have regard to the Convention. The rights that are of particular significance to Cabinet's decision are:

- First Protocol Article 1: Peaceful enjoyment of possessions. This right includes the right to peaceful enjoyment of property and is subject to the State's right to enforce such laws as it deems necessary to control the use of Property in accordance with the general interest.
- Article 6: Entitlement to a fair and public hearing in the determination of a Person's civil and political rights. This includes property rights and can include Opportunities to be heard in the consultation process.
- Article 8: Protects the right of the individual to respect for private and family life.

8.3.7 The court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Any interference with a Convention right must be necessary and proportionate.

8.3.8 The Council must consider whether its actions would infringe the human right of anyone affected by the making of the CPO. So, it must carefully consider the balance to be struck between individual rights and the wider public interest.

8.3.9 In this case it is considered that there is a compelling case in the public interest for the CPOs. The public interest is served by the Council acquiring these unsafe properties and having them refurbished so they can be brought back into use and this future qualitative housing gain outweighs the necessary interference with the private rights and interests.

8.3.10 In addition, the individuals affected by the order have the right to object and have their objection heard at a public inquiry and, additionally, appropriate compensation will be available to those entitled to claim it under the relevant provisions of the CPO Compensation Code.

8.3.11 Therefore, it is considered that in making these CPOs the Council has struck a fair and proportionate balance between the interests of those whose Convention rights will be affected and the wider public interest.

8.3.12 The report also contemplates disposal of each of these properties. The Council's 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 Legal Services should be consulted once the properties are ready to be disposed of as to whether or not specific consents will be required.

8.4 Equality

8.4.1 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.

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

8.4.3 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

8.4.4 The decision refers to the council's compulsory purchase of four properties in the borough. The properties will then most likely be returned to the private market.

8.4.5 Due to the small number of properties, the fact they are vacant and that the properties' value means they will most likely be returned to the private market, it is not anticipated that this decision will have a positive or negative effect on those with protected characteristics and the equalities impact will therefore be neutral.

8.5 Procurement

There are no procurement comments arising from the report

9. Use of Appendices

Appendix 1 Detailed description of property.

Appendix 2 Site plan.
Appendix 3 Exempt Valuations of Properties.
Appendix 4 Empty Homes Enforcement Policy.

10. Local Government (Access to Information) Act 1985

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

10.2 Detailed plan identifying the property has been made available to scale through Property Services and is attached as Appendix 2 to this report.