

MAYOR AND CABINET		
Report Title	Response to matters referred by the Sustainable Development Select Committee on the Review of Empty Properties – outstanding recommendations.	
Key Decision	Yes	Item No. 11
Ward	All	
Contributors	Executive Director for Customer Services	
Class	Open	Date: 2 nd December 2009

1. Summary

- 1.1 On the 15th April 2009 Mayor and Cabinet received a report from the Sustainable Development Select Committee “A Review of empty properties in Lewisham”. Para 4.2 of that report reported that officers were investigating the resource implications of various options for dealing with empty properties.
- 1.2 This report analyses the costs involved in progressing the use of selective compulsory purchase (CPO) and taking forward Empty Dwelling Management Orders (EDMOs) to final management stage. Both these processes are intended to tackle the problem of long term derelict and empty properties which are (in some cases) blighting the borough.
- 1.3 The Report indicates the sums of money which need to be made available (both in terms of capital and revenue expenditure) to achieve the various objectives. Projects that are self-financing can be taken forward without great difficulty. Projects that involve additional capital expenditure need to be considered as part of future years’ budget proposals.

2. Policy Context

- 2.1 The Private Sector Housing Strategy reflects the Council’s corporate priorities and the Local Area Agreement targets to provide decent homes for all. The bringing of empty property back into use is a major element of the strategy and reinforces the Council’s commitment to explore all options to increase the supply of housing.
- 2.2 Lewisham’s Sustainable Community strategy contains the shared priorities for the borough. Two of the main priorities are
 - Safer –Where people feel safe and live free from crime, anti-social behaviour and abuse.

- Dynamic and prosperous –Where people are part of vibrant communities and town centres, well connected to London and beyond.
- 2.3 Empty properties frequently act as a catalyst for crime and anti –social behaviour. In addition they create an atmosphere of neglect which has a detrimental impact on the local economy. As such, measures that bring empty properties back into use will significantly aid the objectives of reducing crime and increasing prosperity.
- 2.4 Nationally, it is estimated there may be as many as one million empty properties, 100,000 in London. It is Government policy to achieve a significant reduction in these numbers.

3 Purpose

- 3.1 The previous report (15.4.2009) outlined various actions that officers could take to improve our empty Homes service. These were generally measures that did not have significant financial implications. There were two issues which required further work to assess the resource implications. The purpose of this report is to address these issues.
- 3.2 The two procedures principally involved are compulsory purchase of a property and the invoking of a ‘full’ Empty Dwelling Management Order (EDMO). Both are options which effectively remove control of a property from the existing owner. Compulsory purchase does this on a permanent basis and an EDMO does this for a period of seven years. Both actions would only be taken when all other options have been exhausted.

4 Recommendations

The Mayor is recommended to:

- 4.1 Note the contents of this report and agree that officers should proceed with proposals that are completely affordable and immediately self-financing, subject to the normal decision making process.
- 4.2 Note the possibility that additional resources may be available from the South East London Housing Partnership and instructs officers to pursue this option.
- 4.3 Note the excellent results achieved so far on current resources and agree that specific proposals that require additional Capital expenditure should be considered as part of the normal budget process.

5 Background

- 5.1 The report of the 15th April put forward a number of proposals for dealing with empty properties within Lewisham. Most of these did not have significant financial implications but there are some instances

where more serious and protracted action (namely CPO's and EDMOs) could be taken to resolve problems. In these cases the costs can be large and the issue needs to be considered very carefully before such action is embarked on.

- 5.2 The use of Empty Dwelling Management Orders nationally has up to now been limited. So far there have been some twenty interim orders nationally. Only one 'full' order has been obtained. The legislation is relatively new and many authorities are not confident of using these measures. However, many Councils are planning to 'step-up' their activities. Bromley Council has recently approved a full EDMO on a problematic long term empty property that has been blighting their Borough.

6 Implications and costs of implementing outstanding recommendations from the Sustainable Development Select Committee Review of Empty Properties

- 6.1 Recommendation 5.1 of the Select Committee report concerned the use of Empty Dwelling Management Orders (EDMO) and the specific option of progressing Full EDMO.
- 6.2 Section 133 of the 2004 Housing Act which came into effect in 2006 allows Local Authorities to make enquiries about empty properties. In certain circumstances an application for an interim EDMO can be made by the Council to the Residential Property Tribunal (RPT). These circumstances are :
- 1) If after due diligence and extensive enquiries the Council is unable to trace an owner
 - 2) If an owner fails to provide information on why they are absent from the property and none of the 13 grounds permitted applies.
- 6.3 If an initial interim EDMO is gained and an owner does not respond to offers of assistance and support to bring the property back into use, the authority can invoke its option of a full EDMO – taking control of the property for initially 7 years. Owners can challenge whether such an order is justified at both stages of the process.
- 6.4 Interim EDMOs are therefore a useful tool to tackle empty property. However taking an EDMO through to its final stage and gaining control of the property for initially 7 years is required if an owner fails to bring forward plans to develop the property or work in partnership with the authority.
- 6.5 Many long term empty properties are in poor repair and therefore need investment to bring them up to a decent homes standard. Income from the rent charged on the properties can be used to fund the cost of

repairs, storage of any furniture, insurance and management costs. Any surplus rental income has to be returned to the owner.

- 6.6 The conditions attached to the use of EDMOs require that the rent set must be a market rent. Therefore the use of the repaired dwelling for social housing may be limited as any shortfall in housing benefit will have to be met by the authority. The use of the property for key worker housing may however be suitable.
- 6.7 The owner of a property subject to a full EDMO has the right of appeal and can challenge the way the property is being managed to the Residential Property Tribunal throughout the course of any full EDMO invoked by the authority.
- 6.8 The implementation of a Full EDMO requires the outlay of a Capital sum to make a property fit for occupation. This is liable to be in the order of £30-40K. This could be recoverable from rental income but there will be circumstances when a shortfall may occur. Each case needs to be considered on its merits.
- 6.9 Recommendation 5.3 of the Select Committee Report concerns the Council responding to the consequences of the economic downturn. Specifically it is considered that as a result there will be an increase in the number of empty properties. The Council will need to reassess the resources allocated to dealing with the resulting problems.
- 6.10 The issues around EDMOs and CPOs are dealt with elsewhere. However officers have been exploring the possibilities of attracting extra resources to fund a part time post to enable the Council to provide more help and support to building owners or support enforcement action in more troublesome cases. There is the possibility of securing funding from the South East London Housing Partnership to fund this post and officers will continue to explore this option..
- 6.11 Recommendation 5.12 of the Select Committee Report concerns the Council using the option of Compulsory Purchase to bring a property back into use.
- 6.12 Pursuant to section 17 of the Housing Act 1985, local authorities are empowered to apply to compulsorily purchase properties. The compulsory purchase of empty property is generally treated as the last resort of a local authority in their efforts to bring the houses back into use. It is important to note, the acquiring local authority does not have the powers to compulsorily acquire land until the appropriate government minister confirms the CPO. Once a CPO is confirmed and vested in the local authority, then anyone holding legal title to any of the CPO land will have their interest converted into an interest in compensation.

- 6.13 Compensation and market value have to be paid to the owner or paid into the high court if the owner cannot be traced. If an owner is not forthcoming this money can generally be re-claimed after 6 years. In reality most owners will strive to retain ownership of their property. A public enquiry is likely which the authority has to pay for, along with the cost of the planning inspector and presenting QC. These costs are likely to be in the region of £5,000. If the application for a CPO is not successful costs of the appellant's case also have to be found. (It is possible that the South East London Housing Partnership will fund these costs)
- 6.14 The intention would be to place the property acquired by Compulsory Purchase into auction and seek to sell it either with conditions or to a preferred accredited developer. Other Councils adopt similar policies in their CPO strategies.
- 6.15 In addition to officer costs, in cases where a CPO proceeds there will be additional associated costs. These will vary but are likely to be in the order of £5,000 plus the purchase price and compensation costs of 7.5%. Compensation costs for the CPO are likely to be borne by SELHP.
- 6.16 Additional compensation may be payable where an owner can demonstrate (to a Planning Inspector or the Secretary of State) that he/she has suffered severance disturbance, injurious affection or other losses. The cost compensation can however be reduced where a Repair Notice has been served on a long term empty property and not been complied with. This would also include a Dangerous Structure Notice, an Environmental Protection Act Notice or a Section 215 Planning Notice.

7. Options for progress

- 7.1 At present we have one dedicated officer who works full time on empty property related issues. He achieves much success by use of the provision of advice and information & techniques of discussion, persuasion and the occasional use of enforcement action. He frequently assists other service groups (Environmental Health, Grants Team, Planning Enforcement and Building Control) in taking direct action on neglected and derelict property. He has obtained a number of interim EDMOs.
- 7.2 What he does not have is sufficient time to progress the complex implementation of compulsory purchase and full EDMOs. Thus with the resources we have we are limited in our scope of actions. It is likely that additional staff resources can be financed through the South East London Housing Partnership as set out in paragraph 6.10 above. This will enable us to increase activity in all areas.

8. Financial Implications

8.1 The compulsory purchase options set out above would result in the outlay of a significant amount of capital expenditure, possibly as much as £300,000 per property. For a full EDMO this would be a smaller sum probably in the order of £30-40k. The majority of these costs are likely to be recovered over a period of time. So, the ultimate call on the Council's capital resources is likely to be significantly less. However, given the current pressures on the Capital Programme it is recommended that any specific proposals that require additional capital expenditure should be considered as part of the normal budget process.

8.2 It is likely that the costs of a part time officer (approximately £22000 per annum) and legal costs of some £5000 per case could be met by South East London Housing Partnership. It should be noted, however, that resources obtained from the Partnership are subject to yearly review and support could not be guaranteed indefinitely. It is recommended that officers pursue this external funding bid to SELHP.

9. Crime & disorder Implications.

9.1 Long term empty property can be the source of anti social behaviour and crime. Identity theft has also been linked to empty property.

9.2 Some research suggests that the presence of a long term void property in a neighbourhood can lower the threshold for those intent on committing anti social behaviour.

10. Equalities Implications

10.1 Those in housing need in the borough and unable to access the private rented sector are disproportionately represented in BME groups and are likely to be the principal beneficiaries of any action to reduce the numbers of empty properties.

11. Environmental Implications

11.1 Neglected and derelict properties are often eyesores and can act as an obstacle to those wanting to improve their homes and on those seeking to invest in the borough.

11.2 Re-cycling and bringing back into use empty property will help reduce the costs of re-building and the associated CO₂ emissions

12. Legal Implications

12.1 Paragraphs 6 and 7 herein (concerning EDMOs and CPOs respectively) largely set out the legal implications save for the following additional implications.

- 12.2 In accordance with the provisions of Section 134 Housing Act 2004, EDMOs are Orders for which a local authority can apply to a Residential Property Tribunal to impose upon the owner of an empty home in order to achieve occupancy of the house. The Order gives a local authority management of the house, but not legal ownership, for a maximum period of seven years. Following that time, if necessary, a further EDMO can be applied for. The local authority generally recovers their costs through the rental. Any excess rental is paid to the owner.
- 12.3 In accordance with Section 17 Housing Act 1985, Local Authorities are empowered to compulsorily purchase empty homes, following communication by the appropriate Government Office with the property owner and after hearing any relevant representations. Such representations can take the form of written submissions or public enquiry. In both cases the circumstances will be judged by an independent Government appointed inspector.
- 12.4 The European Convention on Hyman Rights states in Article 8 that “The Human Rights Act 1998 incorporates the Convention on Human Rights. Article 8 states that “everyone has the right to respect for his private and family life, his home and correspondence.”

13. Conclusion

- 13.1 Additional financial support from the South East London Housing Partnership may be available to fund a part time member of staff and this will enable us to increase our activity in many areas.
- 13.2 Capital resources are currently scarce and any proposals for additional amounts of capital expenditure would need to be considered as part of the normal budget process.

14. Background documents and report originator

Document	Location
Response from Mayor and Cabinet to matters referred by the Select Committee – Review of Empty Properties 10 th June 2009	Laurence House
Response to matters referred by the Sustainable Development Select Committee on the Review of Empty Properties 15 th April 2009	Laurence House

- 14.1 If you would like more information about this report please contact Tony Mottram Head of Business Regulatory Services on 0208 314 8063.