

Public Protection Committee - March 31st 2014 then Council - 16th April 2014

HEADING **Dealing with Empty Homes through Enforced Sale**

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Portfolio: **Economic Development, Regeneration, & Town Centres**

Ward(s) affected: **All**

Purpose of the Report

To put appropriate delegations in place for the use of Enforced Sale powers under the Law of property Act 1925 to help achieve the aims of the Empty Homes Strategy 2012 – 17.

Recommendation

That it be recommended to full Council that the power to commence Enforced Sale under the Law of Property Act 1925 be delegated to the Public Protection Committee.

Reasons

Enforced Sale is a tool to help change the ownership of an empty home, currently its use is not in the scheme of delegations. The reason for this report is to ensure appropriate delegations are in place to use the powers in line with the principles contained in the Council's Empty Homes Strategy 2012 – 17 and the Council's vision "To create a borough that is prosperous, clean, healthy and safe".

1. Background

- 1.1. The Empty Homes Strategy 2012 – 17 identifies Newcastle-under-Lyme's approach for returning empty homes to use. This is a two stage approach starting with encouragement, support and persuasion, moving on to considering enforcement options. The enforcement options are detailed in the Empty Homes Strategy and range from requiring works to ensure the property is not a detriment or a danger to the neighbourhood moving on to more serious measures such as enforced sale.
- 1.2. This can be used where despite the best efforts on the part of the Council properties remain empty for long periods of time. These are the properties that are most likely to cause problems in the immediate neighbourhood, such as encouraging anti-social behaviour, affecting the fabric of neighbouring properties, negatively affecting property prices and generally becoming a blight on the community.
- 1.3. The Council's Scheme of Delegation does not currently include provisions for Enforced sale which are set out in the Law of Property Act 1925 and so an amendment to the Scheme of Delegation is required in order to facilitate the use of this to implement the strategy.

2. Issues

- 2.1. Enforced Sale is used to bring about a change in ownership. There are two key prerequisites:

- that bringing the property back into use has sufficient priority within the context of the Empty Homes Strategy, and
 - that there is an outstanding debt against the property owed to the Council; this debt may be through work in default charges or Council Tax arrears that are the subject of a County Court Final Charging Order.
- 2.2. Work in default charges may arise from the Council having to carry out works to the property to prevent its condition affecting adjoining properties or the neighbourhood. If the debt can not be recovered from the owner the usual debt recovery procedures will be followed with a charge being registered against the property.
 - 2.3. Where an outstanding debt is registered as a charge against the property the Council can enforce that charge and has all the powers and remedies available to a mortgagee under the Law of Property Act 1925. This means that the Council can obtain a court order allowing the property to be sold with all secured debts, being paid out of the sale proceeds.
 - 2.4. Many of the Council's charges have priority over any others registered. Thus, the Council's ability to recover costs will not be affected by the amount of equity the owner has in the property.
 - 2.5. Figures for 2012/13 demonstrate that the number of properties left vacant for over two years is increasing. This represents a wasted resource and blights local communities. Enforced sale demonstrates to our residents, who are affected by such properties, that the Council will act to improve their neighbourhood and demonstrates to owners that it will not tolerate properties simply being left to deteriorate.
 - 2.6. The council tax return for 2013 identified 1, 275 empty properties in the Borough of which 757 had been empty for longer than six months. This is an increase from the 2012 figure of 679 and the 2011 figure of 655, although there have been changes to the categorisation of empty homes which may have contributed to this increase. There are about 15 long term empty properties that are seriously dilapidated and affecting the local neighbourhood. It is expected that enforced sale will be used infrequently but officers consider that it is essential to have it available as part of the full range of enforcement powers.

3. Option considered and preferred solution

- 3.1. The Council could consider whether to leave the responsibility for the use of enforced sale and compulsory purchase as a Council decision. It is recommended that the responsibility for enforced sale is delegated to the Public Protection Committee as this would align to their current remit. Due to the financial commitment required for Compulsory Purchase it is recommended that this is not delegated.
- 3.2. The proposed action is consistent with the Empty Homes strategy 2012 – 17 and the Housing Standards and Public Health Enforcement Policy.

4. Outcomes Linked to Corporate Priorities

- 4.1. Returning Empty Homes back in to use contributes to the delivery of the Corporate Priority of a clean safe and sustainable borough.

5. Legal and Statutory Implications

- 5.1. Enforced sale is a legal process under the Law of Property Act 1925, requiring strict adherence to the correct steps and notifications. The owner, if they can be identified, is kept fully informed of the process and their rights. The owner can if they wish stop the process by paying the debts owed or voluntarily selling the property.

6. Equality Impact Assessment

- 6.1. Enforced sale recommendations will be solely based on the physical condition of the property and past history of compliance by the owner. There are therefore no differential equality impacts identified within this report.

7. Financial and Resource Implications

- 7.1. Enforced Sale is essentially a debt recovery process which recoups debts owed to the Council; costs incurred in the process are also recoverable. At no time will the Council take ownership or responsibility for the property.
- 7.2. The owner may pay the debt before the process is completed, this will ensure the debt is repaid but the Council will not be able to recover staff costs incurred.
- 7.3. Empty properties brought back into use form part of the new homes bonus so such action can additionally attract government payments.

8. Major Risks

- 8.1. There is a risk that the owner pays the debt and stops the process at a late stage. This does still achieve the aim of recouping debts and highlights to the owner that the Council is serious in endeavours to prevent homes standing empty. Sensitive handling of media will be necessary to prevent a risk of adverse comments from an owner affected by enforced sale. There is a risk the property is still not brought back into use in a timely fashion depending on the actions of a new owner. However the risk of this is significantly reduced than had no action been taken.
- 8.2. There is also a risk in not taking appropriate action, or at least considering it, arising from neighbour and police complaints.

9. Background papers

Empty Homes Strategy 2012 - 2017
Team Procedures for Enforced Sale and Compulsory Purchase – Jan 14