

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 7 <sup>th</sup> April 2010	<b>Classification:</b> Unrestricted	<b>Report No:</b> CAB 136/090
<b>Report of:</b> Corporate Director Development & Renewal  <b>Originating officer(s)</b> Charlotte Ward Empty Property & Compulsory Purchase Officer		<b>Title:</b> Compulsory Purchase Action for 2 long-term vacant properties  <b>Wards Affected:</b> Bow East Ward	

<b>Lead Member</b>	Councillor Marc Francis
<b>Community Plan Theme</b>	A Great Place to Live
<b>Strategic Priority</b>	To deliver and manage decent homes

## 1. **SUMMARY**

- 1.1 This report seeks Cabinet approval to initiate formal compulsory purchase action on 2 privately owned vacant properties as part of Tower Hamlets Private Sector Housing Renewal and Empty Properties Policy Framework 2004 –2007. These 2 properties have been vacant for several years and are derelict.
- 1.2 Consent is also sought to subsequently dispose of the properties on the open market.
- 1.3 The aim of the Private Sector Housing Renewal and Empty Properties Policy Framework is to ensure that private sector residents have a safe, decent and affordable home suitable to their needs. One of the objectives is to reduce the number of private sector empty properties, and where possible bring them up to the decent homes standard and make them available for occupation.
- 1.4 Tower Hamlets records show that there are about 200 long-term empty privately-owned properties in the Borough. These dwellings could provide homes for families, key workers and other local residents. In addition to being a wasted housing resource, many are also local eyesores adversely affecting the local environment. Long term empty properties often attract vandalism, fly tipping and squatting. Empty properties must therefore be regarded as a major factor in regeneration and economic stability.

## **2. DECISIONS REQUIRED**

Cabinet is recommended to:-

- 2.1 Agree that the land and buildings as identified on the plan attached at Appendix 1, be made the subject of a Compulsory Purchase Order (CPO) under the provisions of Section 17 of the Housing Act 1985 for the purpose of providing housing accommodation;
- 2.2 Authorise the Assistant Chief Executive (Legal) to take all necessary steps to:
  - (a) make and obtain confirmation of the Compulsory Purchase Order
  - (b) obtain possession of the properties and land following confirmation
  - (c) complete the acquisition of the properties and land and effect immediate disposal in line with the Council's strategic regeneration objectives;
- 2.3 Adopt a capital estimate within the Housing Investment Programme for 2011-12 to allow the purchase by the Authority of the Freehold interests in the properties. The amount of capital inclusive of legal costs and possible interest payments is shown in the restricted appendix 3;
- 2.4 Authorise the Corporate Director of Development & Renewal to enter into negotiations to acquire the two properties by agreement failing which a CPO will be made. The properties will then be sold on the open market with prospective purchasers entering into a binding legal agreement to renovate the properties and bring them back into residential use;
- 2.5 Agree that the resources generated from the sale of the properties will then be used to regenerate the local area by bringing empty properties back into circulation. They will therefore be 100% usable. The receipts will then be earmarked from the Local Priorities Programme to retrospectively fund the purchase of the properties cited in Paragraph 2.1 above.

## **3. REASONS FOR THE DECISIONS**

- 3.1 The Council's community plan is 'to improve the quality of life for everyone living and working in Tower Hamlets'. One of the 4 themes to support this vision is for Tower Hamlets to be 'a great place to live'. The need to reduce the number of vacant properties and the number of properties which are derelict is integral to that objective.
- 3.2 Tower Hamlets' 2009/12 housing strategy sets out how the council intends to help deliver more and better housing for Tower Hamlets' residents. One of the key strategic priorities is to 'deliver and manage decent homes.' To reduce the number of empty private sector properties, and where possible bring them up to the Decent Homes Standard supports this key strategic priority.
- 3.3 The justification and basis for intervention relating to empty properties are set out in the Council's Private Sector Housing Renewal and Empty Properties

Policy Framework. This framework sets out 3 stages to achieve the aim to re-use empty dwellings. The first is to identify and establish ownership and prioritise the properties for action. The second is to enable the owners to bring the property back into use by providing advice and offering grants. The third is to enforce the refurbishment and reoccupation of the property by using CPOs. This third stage is a last resort and is only triggered after exhaustive attempts by the officer to encourage the owner to bring the property back into use have failed. The framework states that empty properties 'are a major wasted housing resource, losing potential income for both the owner and the community at large. Many are local eyesores adversely affecting the local environment. Long term empty properties often attract vandalism, fly tipping and squatting.'

#### **4. ALTERNATIVE OPTIONS**

- 4.1 No Action - It is believed that without the Council's intervention the properties will remain derelict and unused.
- 4.2 Enabling and Encouragement – Council officers have been in contact with the owners since 2004. There have been exhaustive attempts to enable and encourage the owners but unfortunately the properties remain unoccupied and derelict.

#### **5. BACKGROUND**

- 5.1 Cabinet approval was given for CPOs of three privately owned vacant properties in 2005. Following Cabinet approval an application was made to the Secretary of State and the Order was confirmed for all three properties on 6<sup>th</sup> March 2007. All three properties are now renovated and occupied. These CPOs were successful in bringing back into use these difficult to deal with long term derelict properties and the environment in these otherwise popular residential areas has been greatly improved. The Council is also in the process of making a compulsory purchase order for 3 other empty properties in the borough, which was endorsed by Cabinet on 30<sup>th</sup> July 2008.
- 5.2 The properties that are to be the subject of the proposed CPO have been vacant for over 8 years. They are in the Fairfield Road Conservation Area and are both Locally Listed Buildings. They have been squatted and are in a derelict condition. Council officers have received many complaints about the condition of these properties.
- 5.3 There is graffiti on the walls and windows, some windows have been blocked up with breeze blocks and there is glazing missing on other windows. The woodwork and masonry are in disrepair and the paint is peeling off.

- 5.4 The properties are jointly owned and there has been some dispute between the parties. As a result these properties have been vacant and left to deteriorate over recent years. There have been many letters and telephone calls made to the family and their solicitors. Unfortunately while these properties remain in joint ownership there does not appear to be any reasonable prospect that they will be brought back into use by the current owners. Unless the Council intervenes, these properties are likely to deteriorate further and remain vacant.

## **6. BODY OF REPORT**

### **6.1 The Main Issues for Consideration**

The main issues to consider are whether this action would improve the quality of life for people living near these properties, and whether it would contribute to making Tower Hamlets a great place to live. Also consideration must be given to whether this action would result in a reduction in the number of empty homes and provide decent housing in the Borough, which is a strategic priority of the 2009/12 Housing Strategy. Finally consideration must be given to whether the Council is justified in taking this action which depends on whether the owners have been given advice and encouragement, and if the Council can justify moving to the last resort of compulsory purchase action.

### **6.2 Description of Properties**

These properties each have two stories plus a mansard and a basement. Both properties have an identical layout and have 2 rooms on each floor. An external photograph is shown in restricted appendix 2 and a location map is in appendix 1.

### **6.3 Correspondence with the Owners**

The details about the Council's dealings with the owners of these properties are contained in restricted appendix 2. If the owners decide to renovate the properties while the Council is making the compulsory purchase order they will be offered an undertaking agreement, which will enable them time to renovate the properties and bring them back into use without losing their property. The condition of the undertaking agreement will be that the works are completed within an agreed timescale.

### **6.4 Conclusion to the Case**

These properties have been vacant for at least 8 years and they are both derelict. The Council has received several complaints from members of the public about the state of the properties. Unless the Council intervenes, they are likely to remain unimproved and vacant. The neighbourhood is likely to suffer the blight associated with vacant properties. The Council's website states it will consider the compulsory purchase of long-term derelict and

vacant properties. Empty properties are often an eyesore and a potential hazard, with the risks of fire, flood, vandalism and squatting. The policy also states it is keen to ensure that all empty properties are repaired, as necessary, so that they can be used again and re-inhabited. This action will assist in reducing housing needs and property blight in the borough.

## **7. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 7.1 This report seeks approval to commence compulsory purchase order proceedings in respect of two derelict properties in Fairfield Road and to adopt a capital estimate to include the purchase costs and the associated acquisition and subsequent open market disposal charges. The amount of the capital estimate is shown in the restricted appendix 3.
- 7.2 The compulsory purchase order will be implemented should the Council be unsuccessful in its efforts to seek renovation of the properties under their existing ownership. Arranging for these procedures to be put in place now will reduce any subsequent delays that will arise if agreements cannot be reached with the current owners.
- 7.3 It is intended that the purchase costs of the properties (see the estimated value in the restricted appendix 3) will be recovered upon resale although this will be subject to market conditions. Resale is deemed to be the most cost-effective way forward for these particular properties. The resources generated from the sale of the properties will effectively be being used to regenerate the local area by acting as a trigger to bring these empty houses back into use. The receipts will therefore be 100% usable.
- 7.4 In order for the Compulsory Purchase Order to progress, it must be incorporated into the Housing Capital Programme, and an appropriate capital estimate adopted. The purchase will be funded through the resources generated from the eventual sale of the properties. Due to the significant statutory notice period, it is not anticipated that the proposed purchase of these properties will take place before 2011-12, but provision must be incorporated into that and subsequent year's capital programmes, with an on-going first call on resources until the receipt is realised.
- 7.5 Paragraph 2.5 of the report requests that Members approve that the subsequent receipts are earmarked and applied retrospectively within the Local Priorities Programme to fund the purchase of the properties.
- 7.6 It is anticipated that the acquisition and subsequent disposal will take place within the same financial year. If these dates straddle different financial years arrangements will be put in place to ensure that the repurchase is 'forward funded'. There is a risk, in the current market, that sale receipts will not meet purchase costs, and it must be noted that any balance of expenditure not recovered through the sale of the properties will need to be funded from the realignment of existing capital resources within the Housing Capital Programme. If a shortfall in the funding recovered does arise, it is

possible that the Authority will be eligible for grant funding from the East London Renewal Partnership to finance the net cost. Officers are investigating this possibility.

- 7.7 Although the cost of all officer time involved in the CPO process will be contained within existing budgets, there are likely to be additional revenue costs pending disposal, e.g. ensuring that the properties are secure. Officers will investigate the possibility of offsetting any additional costs against the receipt once it is realised.
- 7.8 If agreed, this scheme, and its financing, will be incorporated within the five year Housing Investment Programme report that will be submitted to Cabinet in the summer of 2010.

## **8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 8.1 Statutory powers exist to acquire land in which the Council has no legal title for Housing purposes under section 17 Housing Act 1985. If contested the case might take 18 months and a Public Inquiry may be held. It will always be possible for the Council and an owner to enter into a negotiated agreement to bring a property back into use at any stage of the compulsory purchase procedure prior to notice to treat or vesting under a general vesting order.
- 8.2 There is a risk that the price of the properties could fluctuate during the acquisition process. The statutory date of valuation is the date of entry onto the land after having served a notice of entry or on vesting at the end of the acquisition process.
- 8.3 If the CPO is authorised by the Council, the Council through its Officers are authorised to enter into a written agreement, if appropriate, whereby if the land owner does not object to the CPO and they undertake to get the property repaired and occupied within an agreed time, the Council will agree not to take action to take steps to obtain the property by compulsory purchase order within the period specified in such agreement.
- 8.4 A compulsory purchase order of a dwelling interferes with the Human Rights of the property owner under Article 8 of the European Convention (right to a home) (if they live there) and also breaches the right to property under Article 1 of the First Protocol to the Convention. It is necessary to judge if these breaches are justifiable.
- 8.5 The Human Rights Act and the Convention makes clear that such breaches can be justified if the gain for the public interest is sufficient; the public gain must be proportionate to, or exceed the individual loss. European case law establishes that the English system of proper regard to objection and fair compensation is proportionate and lawful, provided there is a good case for the CPO in the public interest. In general if the public interest case is well founded the human rights test will be met in English cases. Exceptional

circumstances may need individual consideration. However at present none are known

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

- 9.1 If these buildings can be renovated it will deliver significant improvements to the neighbouring area. It will improve the physical environment and increase the communities' pride in their local environment.
- 9.2 One Tower Hamlets is about reducing the inequalities and poverty that we see around us, strengthening cohesion and making sure our communities continue to live well together. A key theme in the Tower Hamlets Community Plan is that of A Great Place to Live. The Community Plan states that: "A Great Place to Live reflects our aspiration that Tower Hamlets should be a place where people enjoy living, working and studying and take pride in belonging". Pride in the local environment may serve to bring communities together across ages and backgrounds. Also the preservation and enhancement of buildings of historic interest may make a significant contribution to the local environment and how people feel about Tower Hamlets.

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 10.1 All renovation works undertaken by the new owners will have to be carried out in accordance with Building Regulations, which promote energy efficiency in buildings and ensure the quality of the built environment. Both properties will benefit from windows being fitted (or repaired) and other repairs carried out to the roofs and structure which will improve thermal insulation.
- 10.2 Carrying out repairs to the structure and fabric of these historic buildings will extend their lives and facilitate their ongoing use; such use/reuse of existing resources is an inherently sustainable outcome. Moreover the scheme brings substantial benefits to the local environment in terms of the appearance of the streetscape.

## **11. RISK MANAGEMENT IMPLICATIONS**

- 11.1 Members are advised that the risks of taking CPO action are far less than the considerable disadvantage to the community by not taking action. There are three main risks to the Borough: -
- (A) That acquisition of the properties may prove more expensive than budgeted.
  - (B) There is a potential financial risk to the Council if disposal is not effected in terms of capital resources being tied up.

- (C) That the Compulsory Purchase Order process may take longer than anticipated especially if there is a lengthy appeal. This may lead to a further deterioration of the properties.

	<b>Probability</b>	<b>Impact</b>	<b>Mitigating Action</b>	<b>Risk Owner</b>
<b>A</b>	Medium	Medium	It is essential that the properties involved be disposed of as soon after acquisition as possible so that the value of them has not changed due to a change in their condition or to a change in the property market.	LBTH, Housing Development Team.
<b>B</b>	Medium	High	It is our intention to identify the estate agent that we will use before we acquire the properties. This enables the Council to make the properties available for sale as soon as possible after acquisition.	LBTH, Housing Development Team.
<b>C</b>	Medium	Medium	It will be necessary for the Assistant Chief Executive (Legal) to ensure that all the legal processes are carried out in accordance with the Council's procedure and the requirements of the Housing Act 1985. All necessary documents must be provided to support the Council's application to the Secretary of State to avoid delays.	LBTH, Housing Development Team.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 12.1 These properties have been illegally occupied by squatters in the past and there is a risk that illegal occupation could occur again. Illegal occupation can often lead to anti-social behaviour, drug taking, criminal damage, arson, flytipping etc
- 12.2 If these properties were to become renovated and brought back into use the probability of illegal occupation, anti-social behaviour, and other criminal activity would be substantially reduced.

## **13. EFFICIENCY STATEMENT**

- 13.1 The Council will instruct the District Valuer to carry out a valuation on the date of acquisition and the owners will be invited to have their own valuer



carry out a valuation. The two parties will attempt to agree on a value between them which accurately reflects the market price of the properties.

- 13.2 The aim will be to dispose of the properties as soon as possible after acquisition to reduce the possibility of any change in value. This would mean that the expenditure used to purchase the properties would be recycled as it would be returned to the Council when the properties are sold.
- 13.3 Any contractors used to carry out works to the property after acquisition, such as changing the locks, securing the property and any necessary tidying up to facilitate viewings, would be procured according to the Councils guidance to ensure that the costs are competitive.

**14. APPENDICES**

**In the restricted part there are the following appendices:**

**Appendix 1- Map showing location of the properties**

**Appendix 2- Description and history of the properties including photographs**

**Appendix 3- Value of Site**

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**Local Government Act, 1972 Section 100D (As amended)  
List of "Background Papers" used in the preparation of this report**

None

Not applicable