

<b>Committee:</b> Cabinet	<b>Date:</b> 30 <sup>th</sup> July 2008	<b>Classification:</b> Unrestricted	<b>Report No:</b>	<b>Agenda Item No:</b>
<b>Report of :</b> Interim Corporate Director Development and Renewal:  <b>Originating Officer(s):</b> Charlotte Ward & Jill Embleton Empty Property & Compulsory Purchase Officers			<b>Title:</b> Compulsory Purchase Action for 4 long-term vacant properties.  <b>Ward(s) affected:</b> 1) Spitalfields and Banglatown, 2) Limehouse, and 3) Weavers	

## **SUMMARY**

- 1.1 This report seeks Cabinet approval to initiate formal compulsory purchase action on 4 privately owned vacant properties as part of Tower Hamlets Private Sector Housing Renewal and Empty Properties Policy Framework 2004 –2007. These 4 properties have all 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 400 long-term empty 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.

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

Brief description of "back ground papers" and address where open to inspection.

Name and telephone number of holder

None

none

## **RECOMMENDATIONS**

Cabinet is recommended to: -

- 2.1 Agree that the land and buildings at 47 Brick Lane, 805 Commercial Road, 122 Bethnal Green Road, and 109 Wellington Row, as identified on the plan attached at Appendix 5 (Exempt/ confidential appendix – part two of the agenda), 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 of £1,590,000 within the Housing Investment Programme 2008/09 and 2009/10 to allow the purchase by the Authority of the Freehold interests in the properties referred to in 2.1 above, inclusive of legal costs and possible interest payments on fees;
- 2.4 Authorise the Interim Corporate Director of Development & Renewal to enter into negotiations to acquire the four 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.

## **BACKGROUND**

- 3.1 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 after a Public Inquiry the Order was confirmed for all three properties on 6<sup>th</sup> March 2007. Once possession was obtained of one of the properties it was sold through an estate agent to the highest bidder. The property has now been fully renovated and it is on the market again. The owner of the other two properties decided not to object to the CPO and he made an agreement with the Council that if the Order was not enforced, he would repair the properties and get them occupied within 9 months. The renovations have been completed and the properties are both occupied. These CPOs were successful in bringing back into use difficult to deal with long term derelict properties and the environment in these otherwise popular residential areas has been greatly improved.
- 3.2 The Empty Property Policy 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.

- 3.3 47 Brick Lane has been vacant for many years. The shop on the ground floor has been vacant for about 10 years and the residential floors on the first and second floors have been vacant for at least 15 years. The shutters to the shop are covered in graffiti, and throughout the property the interior is in a very poor condition. Some of the windows on the upper floors have been smashed. The owner died in 1985 and the executors of his estate were his wife and one of his 5 children. Since then his wife has died and the 5 children have been in dispute over the handling of the estate. As a result this property has been vacant and left to deteriorate over many years. There have been meetings, letters and telephone calls with the family and with their solicitors. Unfortunately there have been no proposals made by any of the beneficiaries and therefore there does not appear to be any reasonable prospect that this property will be brought back into use by the owners.
- 3.4 805 Commercial Road is a Grade II listed building and it has been vacant for at least 15 years. It was at one time a café on the ground floor with residential space above. There is no kitchen for the upper floors and there is not an adequate means of escape from the premises. The property is in a bad state of disrepair and there is evidence of rain penetration through the roof. Environmental Health has served a Prohibition Order under section 20 of the Housing Act 2004. Since 2003 the empty property officer has written to the owner and met with him on numerous occasions to encourage him to bring the property back into use. The property remains unimproved and vacant. Unless the Council intervenes, the property is likely to deteriorate further and remain vacant.
- 3.5 122 Bethnal Green Road is a three storey mid-terraced property, situated in the Fournier Street Conservation Area. The premises comprises of a basement, a disused fast food shop to the ground floor, and three floors above the shop. The shutters to the shop are covered in graffiti and the interior is in a very poor condition. The basement and floors above the shop have been vacant for at least 15 years and the shop has been vacant for over 8 years. Various Council Officers have met with the owner at the property; there have been many telephone calls and letters offering the owner advice, guidance and grant assistance, but the property remains derelict and unused.
- 3.6 109 Wellington Row is a terraced property that has been empty and left to deteriorate for over 14 years. The previous occupant died in 1995 and probate was granted to her son in 2000. He removed the kitchen and bathroom and all the amenities, and as a result that property is uninhabitable so it has been defined as exempt from Council Tax. There has been much correspondence between Council officers and the owner; he has been offered advice on grants and schemes that could assist him in bringing the property back into use. The Council's Empty Property Officers have received 2 offers from members of the public that wanted to purchase the property, which were forwarded to the owner, but not acted upon. The owner has

spoken of his intentions to renovate the property on many occasions, but no works have been carried out. It is believed that without the Council's intervention the property will remain derelict and unused.

- 3.7 Further detail on these cases and the property photographs can be found in Part B of this agenda.

#### **4 BUDGETARY IMPLICATIONS**

##### **4.1 Costs of Land Assembly:**

The Borough's Corporate Property Services Department has estimated the costs of acquiring the land interests would be approximately £1,525,000. A further provision of £65,000 has been made for legal fees, surveyors fees (ours and the dispossessed owners'), and stamp duty.

The proposals are within the Council's legal powers and they can be funded from within the capital programme. The intention is to sell on any property as soon as possible after it is acquired. They will be sold on the open market via an estate agent. Any prospective purchasers will be required to enter into a legal agreement to renovate the properties and return them to residential use.

Specific budgetary provision has not been made for the refurbishment of the properties acquired under CPO powers, and it is therefore essential that the properties involved be disposed of as soon after acquisition as possible in order to minimise costs.

#### **5. COMMENTS OF INTERIM HEAD OF ASSET STRATEGY, CAPITAL DELIVERY AND PROPERTY SERVICES**

- 5.1 Given the circumstances the costs indicated can only be best estimates at this stage. If there is an objection to the CPO this could result in a public enquiry and delay its confirmation by around 18 months. Clearly values would have changed by that time. Once the CPO has been confirmed the District Valuer will be instructed to undertake a full inspection of the premises and provide a comprehensive report. If agreement cannot be reached the final arbitrator of value will be the Lands Tribunal. Often the Tribunal makes its decision some time after possession has been acquired.

#### **6. CONCURRENT REPORT OF THE CHIEF FINANCE OFFICER**

- 6.1 Capital resources of £1,590,000 will need to be found to fund the purchase of these four properties.
- 6.2 Paragraph 2.3 of the report requests that a capital estimate be adopted in the amount of £1,590,000, this amount to be inclusive of any costs of sale involved in marketing the properties again on the open market.
- 6.3 The purchase value of the properties (estimated at £1,525,000) should be recovered upon resale although this will be subject to market conditions. 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.

6.4 Paragraph 2.5 of the report requests that the subsequent receipts be earmarked retrospectively from the Local Priorities Programme to fund the purchase of the properties. Any balance of expenditure not recovered through the sale of the property will need to be funded by additional capital resources to be found from other Housing capital resources.

6.5 There are no ongoing revenue costs associated with this report.

## **7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (Legal)**

7.1 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 needed. 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.

7.2 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.

7.3 The Planning and Compensation Act 2004 has added a supplemental payment of 7.5% "basic loss payment" in addition to the market value (subject to a maximum of £75,000) payable to persons who have a qualifying interest. Whether such a person has a qualifying interest would be determined on an individual basis. Legal and surveyors professional fees of the owner are also paid.

7.4 If the CPOs are 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.

7.5 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.

7.6 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.

## **8. EQUAL OPPORTUNITY IMPLICATIONS**

- 8.1 The proposed acquisition of the properties and onward disposal will allow 4 properties to be available for occupation. It would also contribute to the regeneration of the local area. The renovated housing units will provide good quality housing for residents.

## **9. ANTI-POVERTY IMPLICATIONS**

- 9.1 This is direct action to tackle poor privately owned housing. Any prospective purchaser will have to give a detailed undertaking of their intentions before any sale is agreed so that the Council can ensure the properties acquired under confirmed CPOs will be refurbished and returned to residential use as quickly as possible.
- 9.2 When the properties are renovated they will include energy efficiency measures to reduce heating and lighting bills. Measures such as double glazing and central heating are standard. The energy efficiency measures are seen as active anti-poverty measures.

## **10. SUSTAINABLE ACTION FOR 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. All four properties are mid-terrace so the neighbouring properties will benefit from windows being fitted (or repaired) and other repairs carried out to the roofs and structure of the properties which will improve thermal insulation.

## **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.

## **Appendices**

There are 6 Exempt/ Confidential appendices to the report circulated in part two of the agenda. These appendices are considered exempt from publication under the provisions of Paragraphs 1 & 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).