

14 March 2023

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor AS Khan
Cabinet Member for Housing and Communities – Councillor D Welsh

Director Approving Submission of the report:

Director of Streetscene and Regulatory Services

Ward(s) affected:

Foleshill, Lower Stoke, St Michaels, Westwood.

Title:

Compulsory Purchase Orders – Planning Enforcement Action: Empty Properties

Is this a key decision?

No - although the proposals affect more than two electoral Wards, the impact on residents or businesses is not expected to be significant.

Executive summary:

The report provides an update on planning enforcement action undertaken to date under s.215 & s.219 of the Town and Country Planning Act 1990 (as amended) in relation to long term empty properties listed below:

4 Astley Avenue, CV6 6EY.
37 Howcotte Green, CV4 8BP.
96 Humber Road, CV3 1BA.
216 Humber Road, CV3 1BH.
155-155B St Georges Road, CV1 2DH.

This report also outlines the further actions to be taken to make Compulsory Purchase Orders (hereafter CPO), and, subject to the confirmation of the Orders by the Secretary of State for Levelling Up, Housing and Communities; to secure the improvement, proper management, and occupation of the properties as residential dwellings. This will be achieved either through the subsequent retention of the properties by the Council for use as temporary accommodation (if considered financially viable to do so and subject to the consideration of an appropriate business case); the transfer of the properties to a Registered Social Landlord (if considered financially viable to do so); or through sale at auction with conditions requiring the new owner to refurbish the property and return it back to occupation within a specified period.

Recommendations:

The Cabinet is requested to:

- 1) Endorse the actions taken to date.
- 2) Authorise the proposed actions to be taken under delegated powers set out at paragraph 2.5 of the report by the Director of Streetscene and Regulatory Services and the Chief Legal Officer.

List of Appendices included:

Appendix 1 – s.215 Notices

Background papers:

None.

Other useful documents

Coventry Local Plan 2011-2031
Coventry Empty Dwellings Strategy 2021-2026

Has it or will it be considered by scrutiny?

No

Has it or will it be considered by any other council committee, advisory panel or other body?

No

Will this report go to Council?

No

Report title: Compulsory Purchase Orders – Planning Enforcement Action: Empty Properties

1. Context (or background)

- 1.1. The properties listed above were initially brought to the attention of the Council as they were overgrown and in very poor condition. Site inspections revealed that all the properties were empty and had not been occupied for a considerable period. Officers undertook extensive enquiries to identify and engage with the owners, however in each case the registered owners are either deceased or untraceable.
- 1.2. Section 215 of the Town and Country Planning Act 1990 (as amended) permits a local planning authority to act against the owner of any land or building where it appears to the local planning authority that the amenity of the area is adversely affected by the condition of the land or building. Given the condition of the properties and the serious adverse impact that was resulting to the amenity of the area, s.215 Notices were served directly on the properties, and to all other known addresses and interested parties. No response to these Notices was received.
- 1.3. Section 219 of the Act provides powers for the local planning authority to take ‘direction action’ or ‘works in default’ to ensure compliance with an extant s.215 Notice. The cost of carrying out works in default is registered as a charge against the property on the Local Land Charges Register. Given the continuing deterioration of the properties and the failure of any owners or interested parties to come forward, works in default were undertaken by the local planning authority to secure the properties, improve amenity and achieve compliance with the Notices.
- 1.4. To date no owners or other parties who can demonstrate they have a legal interest in the properties have come forward, and currently the local planning authority are managing the properties and undertaking annual maintenance works to ensure that amenity is not adversely affected. Several of the properties have been subject to anti-social behaviour and criminal gang activity which has placed further financial and resource burdens on the local planning authority as indicated below:
 - 4 Astley Avenue – property unoccupied since 2004 - Notice served 8th November 2017 – charge to date £10375.09
 - 37 Howcotte Green – property unoccupied since 2017 - Notice served 11th February 2021 – charge to date £9614.60
 - 96 Humber Road – property unoccupied since 1990 - Notice served 8th November 2017 – charge to date £19550.81
 - 216 Humber Road – property unoccupied since 2020 - Notice served 18th February 2014 – charge to date £16949.76
 - 155-155B St Georges Road – property unoccupied since 2014 - Notice served 20th September 2021 – charge to date £9387.58

2. Options considered and recommended proposal

- 2.1. Given the time that has elapsed since officers first sought to identify and engage with owners, and the continuing costs involved; it is obvious that continuing to maintain these properties as ‘empty’ is unsustainable, and they will continue to have considerable adverse impact on the amenity of the locality and the occupiers of adjacent properties unless they are refurbished and reoccupied.
- 2.2. The Council has recently adopted an Empty Dwellings Strategy which seek to improve neighbourhoods and create better environments for local communities; reduce vandalism and anti-social behaviour; and help meet housing need by providing additional housing options for

the local community, by reducing the number of long-term vacant dwellings in Coventry to a practical minimum.

- 2.3. The Council does have powers to recover outstanding debts / land charges, and bring problematic properties back into use through the Enforced Sale Procedure; however given the owners of the properties are either deceased or untraceable, and the outstanding s.215 Notices, it is considered that the local planning authority should utilise its CPO powers under s.226(1)(a) of the Town and Country Planning Act 1990 (as amended by s.99 of the Planning and Compulsory Purchase Act 2004).
- 2.4. The Government Guidance on compulsory purchase process and the Crichel Down Rules (July 2019) (hereafter the CPO Guidance) makes it clear that it is the Secretary of States policy to only authorise the use of this power in circumstances where a compelling case can be demonstrated. Officers consider that given the history to these properties substantial public benefits will result from refurbishment and bringing the properties back into use as dwelling houses, and the Councils powers of compulsory acquisition can therefore be justified in accordance with the terms set out in the CPO Guidance.
- 2.5. Cabinet Members are therefore recommended to authorise the following action to be taken under delegated powers by the Director of Streetscene and Regulatory Services and the Chief Legal Officer (where necessary) to make a compulsory purchase order pursuant to the Councils powers under section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by s.99 of the Planning and Compulsory Purchase Act 2004) in order to deliver and facilitate the refurbishment of 4 Astley Avenue, CV6 6EY; 37 Howcotte Green, CV4 8BP; 96 Humber Road, CV3 1BA; 216 Humber Road, CV3 1BH and 155-155B St Georges Road, CV1 2DH, bringing those properties back into use as dwellinghouses which in turn will contribute to the promotion and improvement of the economic, social and environmental well-being of the Councils area:
 - To take all steps to secure the making, confirmation and improvement of the CPO including the publication and service of all notices and all preparation and promotion of the Council case at any public inquiry;
 - To identify and acquire all third-party interest required to facilitate delivery either by agreement or compulsorily pursuant to the CPO (including pursuant to any blight notices as appropriate) including the conduct of negotiations and making provision for the payment of compensation;
 - To negotiate, agree terms and enter into agreements with interested parties including agreements for the withdrawal of blight notices and / or the withdrawal of objections to the CPO and / or undertaking not to enforce the CPO on specified terms, including where appropriate removing land or rights from the CPO and making provision for the payment of compensation;
 - In the event the CPO is confirmed by the Secretary of State, to advertise and give notice of confirmation and thereafter to take all, steps to implement the CPO including the making of a General Vesting Declaration(s) and / or service of notices to treat and Notices of Entry in respect of the acquisition of interest in the Order Land;
 - To take all steps in relation to any legal proceedings relating to the CPO including defending or settling claims for compensation which are referred to the Upper Tribunal (Lands Chamber) and / or applications to the courts and any appeals;
 - To retain and / or appoint external professional advisers and consultants to assist in facilitating the promotion, confirmation and implementation of the CPO, the settlement of compensation and any other claims or disputes; and
 - Following implementation of the Councils powers of compulsory acquisition, to authorise and take all legal and procedural steps, in consultation with Cabinet Members; to either retain and refurbish the properties for use as temporary accommodation (if considered financially viable to do so and subject to the consideration of an appropriate business

case; secure the transfer of the properties to a Registered Social Landlord (if considered financially viable to do so); or through sale at auction with conditions requiring the new owner to refurbish the property and return it back to occupation within a specified period.

3. Results of consultation undertaken

None

4. Timetable for implementing this decision

It is envisaged that the CPO's will be 'unchallenged' and therefore the process of compulsory acquisition should take no longer than 12 months. If any challenges are received the CPO would be considered at Inquiry which could extend the process to 24 months or more.

5. Comments from Interim Chief Executive (Section 151 Officer) and Chief Legal Officer

5.1. Financial Implications

The estimated cost for a simple CPO is £3,000 per property. these costs will be met from existing planning and legal budgets; however additional funding may become necessary should the individual CPO process become more complex. Additional funding could be provided through s.106 Affordable Housing contributions where appropriate, subject to compliance with Community Infrastructure Levy (CIL) regulations.

5.2. Legal Implications

The compulsory purchase is to be pursued in accordance with section 226(1)(a) of the Town and Country Planning Act 1990 (as amended by section 99 of the Planning and Compulsory Purchase Act 2004) and the procedural requirements prescribed by the Acquisition of Land Act 1981 will be required to be observed.

6. Other implications

The compulsory acquisition of the properties and the refurbishment and reuse as family dwellinghouses will contribute to the Council's core aims through expanding the range of housing available, making places safe and attractive and combating crime and anti-social behaviour and working towards developing a more equal city with cohesive communities and neighbourhoods, improving the environment, and tackling climate change.

6.1. How is risk being managed?

Given that the registered owners of the properties are either deceased or untraceable it is considered that the financial risk associated with the CPO of the properties is minimal. However, the CPO can be objected to by affected parties who may come to light during the process, in which case the Secretary of State can convene a public local inquiry into the making of the CPO which could result in significant additional cost. If any such affected parties come to light who can demonstrate they have a substantive claim on the property, the Council would be expected to review its position and potentially withdraw from CPO proceedings, thus avoiding unnecessary costs.

6.2. What is the impact on the organisation?

None

6.3. Equalities / EIA?

Paragraph 6 of the CPO Guidance states that 'All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers (e.g. powers of entry) these acquiring authorities must have regard to the effect of any differential impact on groups with protected interests'. Therefore, in making the Order, the Council has a statutory duty under section 149 of the Equality Act 2010. The CPO Guidance also directs acquiring authorities to give particular consideration to the rights protected under the European Convention on Human Rights in order that they can be sure that the purposes for which a compulsory purchase order is made justifies interfering with the human rights of those with an interest in the land affected. As the owners of the properties are deceased or untraceable and no parties with any substantive claim on the properties have been identified the Council is under no requirement to consider these matters further at this time, however this will be kept under continued assessment and review throughout the CPO process for each property.

6.4. Implications for (or impact on) climate change and the environment?

Whilst the acquisition of the properties itself has limited implications for climate change, the refurbishment of the buildings will be undertaken in accordance with current Building Regulations which will include measures to improve the energy efficiency of the buildings, potential generation of renewable energy on a domestic scale, and planting / landscaping which can assist carbon capture and protecting against extreme temperature or rainfall events.

6.5. Implications for partner organisations?

None

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