

Leicester
City Council

**WARDS AFFECTED:
Knighton**

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

CABINET

24 April 2006

THE EMPTY HOMES STRATEGY COMPULSORY PURCHASE OF 37 HOLYWELL ROAD LEICESTER, 2006 (No17)

Report of the Corporate Director of Housing

1. Purpose and Summary

This report proposes that a Compulsory Purchase Order is sought under the City Council's Empty Homes Strategy on one privately owned long term vacant property.

Financial and confidential information relating to the property is contained in the supplementary report on the 'B' agenda.

The Empty Homes Strategy aims to bring vacant residential properties back into use, where the house is a problem to the street.

2. Recommendations

Cabinet are recommended to approve: -

2.1 Making the subject of a Compulsory Purchase Order (CPO) the following land and dwelling, as outlined in Appendix D, in order to secure its improvement, proper management and occupation as a residential dwelling:

- **COMPULSORY PURCHASE ORDER on 37 Holywell Road**, Leicester made under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981.

2.2 Authorizing the necessary capital expenditure from the Empty Homes Strategy line in the Housing Department's agreed Capital Programme.

3. Policy Background

The 'Empty Homes Strategy' has been developed since 1995 and was updated in the Annual Progress Report – The Empty Homes Strategy 2004/05 (Private Sector) 23 June 2005. It forms part of Leicester's Housing Strategy (2005-2010)

On 19th January 2004 Cabinet approved additional resources to increase the impact of the Empty Homes Strategy and to target all properties vacant for more than 18 months. A dedicated Empty Homes Team began work in April 2004.

Please see appendix A for brief details of how the Empty Homes Strategy works, and appendix B which briefly sets out the CPO process.

The action to be taken has links with a number of key corporate and departmental strategies as shown below:

- The Performance Plan 2004
- Leicester City Council Corporate Plan 2003/2006 – Item G2
- The Community Plan – Diversity Action plan
- Leicester's Housing Strategy 2001 – 2006 and 2005 - 2010
- Housing Department Aims and Objectives – particularly the following objectives: -
 - ❖ to improve the condition of Leicester's housing stock and resolve unfitness in all sectors
 - ❖ to reduce the number of empty and under occupied homes in Leicester
- Annual Review of Leicester's Renewal Strategy reported to Housing Scrutiny on 21st August 2003
- The Empty Homes Strategy is in line with Government Guidance on empty property 'Unlocking the Potential' published May 2003
- Crime & Disorder Strategy

4. Progress to date with Empty Homes Strategy

- 4.1** The Empty Homes Team has a caseload of 1,100 properties. At 1 April 2005 contact had been made with 1,019 owners.
- 4.2** 67 Compulsory Purchase Orders have been made by Cabinet, of which 22 have been confirmed by the ODPM.
- 4.3** As a result of the work of the Empty Homes Team between 1st April 2004 and 28 February 2006, 256 properties have become occupied.
- 4.4** Public Inquiries into 10 properties have been held, and the outcome of one is still awaited. Written representations were submitted on 10 further properties. Of these, ODPM has confirmed CPOs on 5 properties, and these are included in the 22 mentioned in 4.2.

5. Financial Information (information checked by Danny McGrath ext 6822)

- 5.1 Acquisitions of properties under CPO powers are charged against the Capital Programme, and the capital receipt from sales are credited back in to the account (i.e. to maintain a rolling programme of funds available for CPO activities). The cost of acquiring the property included in this report is £109,150. After selling on, the net impact is expected to be £19,150. A sum of £500,000 has been allocated within the 2006/07 Housing Capital Programme to assist in meeting costs incurred in CPO actions. Also included in this is provision for affordable rent grants (ARG).

Following acquisition the properties will either be sold to HomeCome, or to an RSL or on the open market (auction) with conditions attached, requiring the new owner to refurbish and return the house to occupation.

6. Legal Implications (information provided by John McIvor, ext 7035)

- 6.1 Different powers are to be used dependent on the status of the area in which the property is situated, as contained in the guidance for the making of CPO's in ODPM Circular 06/2004. A note on the legal and policy basis for making a CPO is contained for the information of members at appendix C.

- Residential properties situated in a statutory Renewal Area are subject to Compulsory Purchase Orders made under Section 93 of the Local Government and Housing Act 1989, and the Acquisition of Land Act 1981.
- All other properties are subject to Compulsory Purchase Orders made under Section 17 of the Housing Act 1985, and the Acquisition of Land Act 1981.
- Plans of the CPO property are attached to this report
- Following Cabinet approval the Empty Homes Team prepares the cases for CPOs and forwards them to Legal Services to ensure formalization of the CPOs. The Council is required to advertise the making of the Orders and to provide for a minimum period of 21 days in which objections can be made to the Office of the Deputy Prime Minister (ODPM).
- The Orders are then sent to the Government Office for the East Midlands (GOEM) for confirmation. GOEM is the local Office of the Deputy Prime Minister.
- Following the expiry of the objection period, the ODPM will consider objections and, if necessary, will order a public local inquiry to be held prior to the confirmation of the Orders. The question of whether or not an inquiry is to be held is a matter for the discretion of the ODPM.
- Since November 2004, owners have been able to opt for written representation.

- The Council will also be required to pay compensation to the owner in the event that possession of the property is taken, together with a basic loss payment of 7.5% of the valuation of the property (maximum £75,000).
- HUMAN RIGHTS CONSIDERATIONS

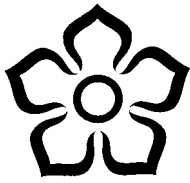
The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual. ODPM Circular 06/2004 states that an acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected, having regard to the provisions of Article 1 of the First Protocol to the Convention and Article 8 of the Convention. Paragraph 16 of the Circular states that "Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss. The coming into force of the Human Rights Act has simply served to reinforce that basic requirement." In resolving to make the Order the Council has duly considered the rights of property owners under the Convention, notably under the Articles 1, 8 and 14 of the Convention and Article 14 of the First Protocol to the Convention

Author of this report -

Dot Barnard Empty Homes Team ext 5386

DECISION STATUS

Key Decision	Yes
Reason	Significant effect on one or more wards
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)



Leicester
City Council

**WARDS AFFECTED:
Knighton**

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

CABINET

24 April 2006

**THE EMPTY HOMES STRATEGY
COMPULSORY PURCHASE OF 37 HOLYWELL ROAD LEICESTER, 2006 (No17)**

Report of the Corporate Director of Housing

SUPPORTING INFORMATION

7. Report

The property, to be found in Appendix D, has been vacant for more than 18 months and therefore meets the criteria for CPO action, which are set out in Appendix B. It has been empty for at least 13 years.

Promoting Affordable Housing – the Empty Homes Strategy is a key element in encouraging the use of vacant properties for reoccupation and should be supported by resources available within the Council and, it is hoped, through associated policies governing available resources for HomeCome and Registered Social Landlords (RSL's).

The details of the property and grounds for action are set out in Appendix D attached to this report.

The Annual Progress Report – The Empty Homes Strategy 2004/05 (Private Sector) presented to the Housing Scrutiny Committee on 23rd June 2005 provided a summary of actions taken, over the previous 12 months, under the Empty Homes Strategy.

8. OTHER IMPLICATIONS

Other Implications	Yes/No	Paragraph References, Supporting Info
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	Yes	Throughout report
Crime and Disorder	Yes	Throughout report
Human Rights Act	Yes	Throughout report
Elderly/People on Low Incomes	No	

9. HOUSING DEPARTMENT AIMS AND OBJECTIVES

The Housing Department's aim is 'A decent home within the reach of every citizen'.

A key objective is:

'To reduce the number of empty and under-occupied homes in Leicester by:'

- Assessing the number of empty and under-occupied homes and, in the private sector and identifying the owners.
- Encouraging and enabling owners to bring private sector empty and under-occupied homes back into full use, through a variety of schemes.

Another key objective is:

'To improve the condition of Leicester's housing stock and resolve unfitness in all sectors by:'

- Improving the condition of private sector housing in the City by enabling owners to take action.
- Encouraging and enabling owners to continue to maintain private sector housing stock.

10. DETAILS OF CONSULTATION FOR THIS REPORT

- ❖ Legal Services and Property Management from the Department of Resources, Access and Diversity
- ❖ Financial Planning & Control from the Housing Department
- ❖ Environmental Health and Development Control from the Regeneration & Culture Department

11. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

Property files held in the Empty Homes Team

Annual Progress Report – The Empty Homes Strategy 2004/05 (Private Sector)

Author of this report -

Dot Barnard, Empty Homes Team ext 5386

APPENDIX A

A What happens to referrals made to Leicester City Council's Empty Property Team?

A.1 Any dwelling in the city that has been empty for at least 18 months and is not held by the Housing Revenue Account can be registered with the Empty Homes Team.

A.2 Standard questions are asked to enable officers to determine how long the property has been vacant and whether the dwelling is:

- located within a Renewal or Home Improvement Area (if not, it is classed as 'City-wide');
- of a type that requires either a significant, or a minimum investment in order to bring it back into use, and has been vacant for 18 months or more;
- of a type currently not required to meet housing needs, i.e. a property with a commercial element without a separate entrance to the living accommodation and/or has only one bedroom;
- of a type that is in very poor condition, requires significant investment to bring it back into use and has been vacant for less than 18 months;

A.3 Depending on the assessment of the referred property, the following actions may be taken in order to bring them back into use. Usually these actions are targeted at dwellings which have been vacant for more than 18 months, but action can also be directed at very run-down houses which have been empty for a shorter period.

- i. Mail-shots are sent to empty property owners to maintain contact and provide advice and encouragement to enable them to make an informed decision about the future improvement and occupation of the property i.e. whether to sell or let. If the owner's response is unsatisfactory then statutory action will be considered.
- ii. Face to face and/or phone conversations are offered to assist with their decisions.
- iii. Where appropriate owners are put in touch with HomeCome or Registered Social Landlords.
- iv. As a last resort statutory action in the form of Compulsory Purchase Orders and Enforced Sales is taken.

- v. Later this year Empty Dwelling Management Orders (EDMOs) may become an option.

APPENDIX B

A brief outline of the Compulsory Purchase Order Procedure

<u>Criteria for CPO action</u>
Identify property falling within the CPO policy: - <ul style="list-style-type: none"> • Property vacant and unimproved for over 18 months located in area of priority housing need and where no attempt has been made by the owner to improve the property. • CPO action may also be considered on properties that have been vacant for less than 18 months if they are blighting the neighbourhood.
<u>CPO Procedure over a period of approximately 20 months</u>
Stage 1: 1 st letter advising the owner of Leicester City Council's Empty Homes Strategy and setting out options available for returning the house to occupation. Includes a 'statement of intentions form' for the property for owner completion.
Stage 2: 2 nd letter if no reply to the first.
Stage 3: Site visits to all, and monitoring of properties where work is in progress.
Stage 4: If no progress from letters 1 and 2 a letter saying that CPO is being considered is sent
Stage 5: Try to negotiate purchase, obviating need for CPO, and draw up schedule of works for improvement.
Stage 6: Cabinet CPO report prepared if no progress.
Stage 7: CPO approved by Cabinet
Stage 8: Statement of Reasons sent to Legal Services
Stage 9: CPO advertisement placed – objection period minimum 21 days
Stage 10: Order submitted for ODPM confirmation
Stage 11: Written representation invited or public inquiry date set if owner objects and ODPM deems it necessary.
Stage 12: Public Inquiry held/written representation submitted- outcome awaited.
Stage 13. Secretary of State decision received, action agreed with Service Director.

There are a further 7 stages leading to disposal of the property and occupation.

APPENDIX C - CPO Advice from Legal Services

1. In considering proposals to bring forward a CPO, the Council is required to comply with and have regard to Government guidance, and in particular the guidance contained in ODPM Circular 06/2004. The Council is required to justify how the CPO of any land and/or dwelling thereon demonstrates a compelling case in the public interest, sufficient to defend its proposals at public inquiry (or written representations), or in the courts.
2. To demonstrate a compelling case, the authority will need to be sure that the purposes for which it is making the CPO sufficiently justify interference with the human rights of those with an interest in the property. The Council will need to consider the rights of owners to the free and undisturbed use of their property, provided by Article 1 of the First Protocol to the European Convention on Human Rights. This means that the Council will fail to show a compelling case if it cannot justify that the public benefit which would result in a lawful interference with an owner's human rights. Indeed, the Council has recently failed to have a housing CPO confirmed on these grounds.
3. The Circular goes on to state that the Council must demonstrate that there are no planning problems or other impediments to the scheme proceeding following confirmation of the CPO. The Council will need to show that it also has sufficient resources to bring forward a scheme, or an indication of how potential shortfalls will be met, for example, the degree to which other bodies have agreed to make financial contributions or have agreed to underwrite the scheme.
4. To meet this test the Council would need to have in place firm, viable proposals for bringing the property back into use as housing accommodation in accordance with the purpose that underlines the CPO. (It will be difficult to show justification for a CPO in the public interest if there is no clear idea as to how the land and/or dwelling thereon will be used, or that the necessary resources will be available in a reasonable time-scale). It would only be in exceptional (and fully justified) circumstances where it might be reasonable to acquire land and/or a dwelling thereon where there was little prospect of implementation within a reasonable timescale.

The Council should also be able to demonstrate that the public benefit will outweigh the private loss and that the human rights of those affected are fully considered (see above).

6. CPO is a **last resort** – Government guidance suggests that acquisition should always be attempted by negotiation in the first instance. If CPO is used, the Council is required to show that negotiations with the landowner to buy the site and/or dwelling have been pursued and that an ongoing dialogue has been

maintained, but that the use of the property as housing accommodation cannot be achieved unless a CPO is made and confirmed.

7. Any perceived abuse of CPO powers could lead to the CPO being refused, or a claim against the Council for abuse of statutory powers. The Council would need to demonstrate a significant need to interfere with the owner's human rights in these circumstances. Such action is likely to be considered to be an unlawful interference with the owner's human rights and could potentially lead to the Order being made void, with the consequences referred to above.