

CABINET (HOUSING) COMMITTEE

3 FEBRUARY 2016

OPTIONS FOR BRINGING EMPTY PROPERTIES BACK INTO USE

REPORT OF ASSISTANT DIRECTOR (CHIEF HOUSING OFFICER)

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REFERENCES:

None

EXECUTIVE SUMMARY:

This report sets out issues in relation to empty properties in the District and discusses some of the options the Council could consider to reduce the number of properties empty for long periods. Numbers of empty homes in the District are relatively low compared to many other areas and reasons for empty properties can be many and varied. A wide range of actions are likely to be required to have a positive impact.

The report recommends that the Council adopts a more pro-active and supportive approach to work with homeowners and to identify a clearer understanding of what measures may have an impact on reducing numbers. It is also recommended that homeowners be encouraged to work with the Council through its City Lets programme as a means of increasing the supply of much needed rental accommodation in the District.

RECOMMENDATIONS:

1. That the Council adopts a more pro-active approach to identifying reasons for properties being empty, working with and supporting owners with the range of actions highlighted in options a) to g) in paragraph 10 in the report with effect from April 2016..
2. That an Empty Property Strategy/Action Plan be prepared for consideration by the Cabinet (Housing) Committee in March 2016, taking account of recommendation 1 above.
3. That a further report reviewing outcomes from the Empty Property Actions adopted in the above strategy be considered by Cabinet (Housing) Committee in March 2017.

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### OPTIONS FOR BRINGING EMPTY PROPERTIES BACK INTO USE

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##### DETAIL:

#### 1 Introduction

- 1.1 Winchester City Council does not have a current and up to date Empty Property Strategy and until recent times, the general consensus has been that there has not been a need for one. However, in the past 12 – 18 months this important topic has gained political interest and a decision on the stance the Council should take in addressing empty properties through an empty property strategy requires to be determined.
- 1.2 This report sets out to inform Councillors of the options available to Officers for addressing and bringing empty properties back into use. The report has been prepared to enable Members to give consideration to and inform the primary direction of the proposed new Empty Property Strategy.

#### 2 Background

- 2.1 Section 3 of the Housing Act 2004 (the Act) requires local authorities to consider housing conditions within their District, with a view to determining what action to take under their duties and powers to deal with housing conditions including empty dwellings.
- 2.2 The definition of an empty dwelling under the Act is “a dwelling that has remained vacant for more than six months” (the definition) although there are exemptions detailed in section 134 (6) of the Act.
- 2.3 The Autumn 2015 report ‘Empty Homes in England’ by the Empty Homes national campaigning charity details that official Government statistics for “vacant dwellings” record that there are over 600,000 total empty homes nationally, of which 200,000 are long term vacant having been empty for over 6 months.
- 2.4 Long term empty properties are a wasted resource, particularly in areas of high housing demand such as Winchester. Homes that are left unoccupied can quickly fall into disrepair and neglect, becoming a blight on the neighbourhood by attracting anti-social behaviour, accumulating refuse, encouraging vandalism and reducing property values in the local area. Bringing empty properties back into use can benefit the individual owners, potential occupiers and the wider community.

### 3 Impact of Empty Properties

- 3.1 An empty property is not just the concern of the owner because a property left unoccupied and not maintained will over time impact on its surroundings. This can include neighbouring properties whose condition and value may also be severely affected. Empty properties also run the risk of attracting unwanted attention from vandals and squatters and in extreme cases become a target for arson.
- 3.2 Some of the above problems will require the Council, the Police or the Fire Service to take action utilising valuable resources and causing costs that may not be recoverable from the owner of an empty property. Bringing an empty property back into use may assist in improving the general streetscape of an area and reduce anti-social behaviour as well as providing a valuable source of urgently needed accommodation.

### 4 General reasons for properties becoming empty or being left empty

- 4.1 There can be a complex range of interrelated factors behind why a property is empty. These could relate to the people and individuals concerned, to the particular property or to wider economic, social or environmental effects.

a) Individual factors

- Unresolved ownership (usually following death of owner)
- Bankruptcy of owner
- Owner might be institutionalised e.g. in hospital or prison
- Owner might lack required experience in property letting and tenancy Management
- Owner may have elected to evict tenants as a result of council intervention to improve housing conditions.

b) Property factors

- Property acquired for investment – purchased to profit from the tendency for property to increase in value without any intention of either improving or letting
- Owner might not appreciate the financial benefit of bringing property back to use
- Poor property condition where costs of refurbishment to current standards are prohibitive, relative to the income which the property might realise.
- Repossession of the property

- The property might be blighted by environmental or commercial factors e.g. a major road has been built nearby or businesses/ factories which previously sustained households in those properties have closed/ moved away
- c) Wider economic and other factors
- Low housing market demand (environmental or economic factors, as above)
  - Housing market collapse – the impact of repossession; negative equity
  - Area regeneration – the long gestation periods for area regeneration schemes can result in some properties being left empty for longer than desirable pending clearance or renovation

## 5 Winchester Private Sector Housing Stock Data

- 5.1 A Private Sector House Condition Survey undertaken in 2014 on behalf of the Council by David Adamson and Partners established that the private sector housing stock comprised of 41,458 dwellings containing 40,800 households and a household population of 90,479 persons. Within the private sector housing stock 38,424 dwellings (92.7%) were occupied at time of survey; the remaining 3,034 dwellings (7.3%) were vacant.
- 5.2 As at 31<sup>st</sup> December 2015, Council Tax records listed 307 private properties as being empty, with the lengths of vacancy being:
- a) 6 – 24 months - 192 properties
  - b) 24 – 36 months - 37
  - c) 36 months plus - 78
- 5.3 With no Council Tax incentives regarding the classification of a property, it is possible that properties are not empty. The Council's Revenues Team works with consultants who review the list to identify those which have in fact become occupied. Reducing the number has a positive impact on "New Homes Bonus" received. This approach does not however act as an incentive to property owners to bring homes back into use; it only helps to ensure that statistics are accurate.

## 6 Empty Property Intervention

- 6.1 In Winchester, the vast majority of the 300 plus empty properties do not cause on-going concerns or problems within their neighbourhoods. Although a few do, all are an extremely valuable but wasted housing resource.
- 6.2 There is no single solution for all empty property problems, but there are a wide range of tools available to the Council. These range from light

intervention, such as advice and support to owners, through to higher level interventions and enforcement. The ability to offer a broad flexible range of options to the owners of empty properties achieves a greater level of success than attempting to use the same solution for every property and every property owner.

- 6.3 Since January 2014, the Council's Private Sector Housing team has received nine complaints regarding various empty properties in the Winchester District, four enquiries of which were from Councillors.
- 6.4 The basis of the complaints was primarily that the properties were vacant and in some instances their neglected states were having a detrimental impact on the street scene and neighbourhood, due to overgrown gardens and sometimes the dumping of rubbish. Councillors were also additionally concerned that such valuable housing assets were not occupied.
- 6.5 Although the Council has not had a definitive strategy on addressing the issue of empty properties, it has been the policy within the Private Sector Housing team to respond to complaints and try and engage where possible with the owners of empty properties in order to explore how they might bring their property back into use. It is generally acknowledged by Empty Property Officers that the guiding principle should always be to try and work in partnership with the owner, as it is their asset and they need to be involved in any decision as to what to do with it. However, in some cases where owners refuse to engage or meet their responsibilities, enforcement intervention might be necessary by the wider Council.

## 7 PSH Enforcement and wider Local Authority Powers to address Empty Properties

### 7.1 Enforced sales procedures

- a) Under the Enforced Sale procedure, the Council is exercising a power of sale of a property over which it has a charge (in the same way as a bank can force the sale of the property on which it has a mortgage, where the borrower fails to repay the loan). In the case of Council Tax, a liability order can be converted into a county court judgment and enforced by the use of a charging order. In order cases, such as works in default, the costs of carrying out such works will be a charge on the land in the Council's favour. These charges carry a power of sale which can be exercised by the Council, thereby recovering the outstanding amounts (usually after service of a notice on the property owner and the amounts remain outstanding after three months).
- b) The criteria for using an Enforced Sale would be:
- (i) The total debt on the property should exceed £500;
  - (ii) The property is vacant.

- c) The Enforced Sale procedure may be halted prior to its sale by the owner of the property by paying any outstanding debt owed to the Council. It is not guaranteed that any long term empty property will be returned to use as a result of Enforced Sale procedure. However, it is likely that anyone purchasing such a property would intend to return it to use.
- d) The Council is currently pursuing such action against one property owner in the city.

## 7.2 Empty Dwelling Management Orders (EDMO)

- a) The Act makes provision, by way of interim and final Empty Dwelling Management Orders, for the Council to secure the occupation and proper Management of empty private sector dwellings. A property must be vacant for at least 2 years before the EDMO procedure can be used.
- b) Councils are required to give 3 months' notice to owners of their intention to apply to a Residential Property Tribunal (RPT) for an interim EDMO and must supply the RPT with evidence that the property is causing a "nuisance for the community" – which is not further defined – and secondly in respect of community support for the making of the EDMO.
- c) Interim EDMOs give the owner a last chance to reach an agreed solution with Officers and they last for up to 12 months. These orders will only be granted where the RPT is satisfied that the Council has taken all reasonable steps to secure occupation of the dwelling. Where an agreement can not be reached between the owner and the Officers a Final Management Order can be made by the Council to replace an interim EDMO. A final EDMO can be made for up to 7 years.
- d) EDMOs give Councils the right to manage a dwelling in the most appropriate manner. This could include:
  - (i) Direct management by the Council
  - (ii) Transferring the management to a residential social landlord
  - (iii) Transferring the management to a private lettings agent
- e) All initial costs relating to EDMOs are payable by the local authority. The costs will depend upon the nature of the works necessary to bring the property up to the decent homes standard.
- f) Before even embarking on the service of an EDMO, The Empty Homes Agency May 2009 'Guide to Empty Management Orders' stipulates that local authorities should ensure the following prerequisites are in place:

- (i) An Empty Property Strategy in place
  - (ii) A full set of incentives and sanctions are available
  - (iii) Managing agents/ contractors have been selected and signed up
  - (iv) Evidence of Political support and good intelligence
- g) The report further goes on to advise: “Just deciding to slap an EDMO on any old empty property is not a good idea. Like any tool in place to tackle empty homes, it needs to be viewed within the context of all the powers local authorities have to address the problem – and that includes ‘soft’ powers of influence and encouragement as well as grants, loans and enforcement powers available.
- h) The work involved in actioning an EDMO is very long and protracted as detailed in The Empty Homes Agency May 2009 report available at: <http://emptyhomes.com/wp-content/uploads/2011/05/edmoguide1.pdf>

### 7.3 Compulsory purchase orders (CPOs)

- a) These can be enforced under either S17 of the Housing Act 1985 (acquisition of houses, usually used if the property is in good condition) or S226(1)(a) Town and Country Planning Act 1990 (acquisition to facilitate carrying out of development, redevelopment, or improvement in relation to the land, e.g. if property is in poor condition). Under these powers, the Council can compulsorily purchase the property from the owner and then sell the property. A condition on the sale contract can be added to ensure that the property is brought back into use within an agreed timescale. A compulsory purchase order (CPO) is made by the local authority, but can only be implemented once it has been confirmed by the Secretary of State. In order to secure confirmation, the local authority will have to show that they have taken steps to encourage the owner to bring the property into acceptable use. They will also need to show that their reasons for making a CPO justify interfering with human rights of anyone with an interest in the property. CPOs are a lengthy process and are an action of last resort when all other options have been exhausted and have failed to convince the owner to bring a property back into use, or where an owner can not be traced or where a property has been vacant for a long time and is causing a nuisance or is danger to the public.

### 7.4 Powers to take over land

- a) The powers under Section 17 of the Housing Act 1985 (referred to in 7.3 above) can be used if the owner co-operates with the Council and agrees to either selling or leasing the property to the Council. Once acquired, the property can be improved if necessary, and then brought



back into use as a home, either retained in the Council's housing stock or transferred to another owner.

#### 7.5 Unsecured properties

- a) Under Section 29 of the Local Government (Miscellaneous Provisions) Act 1982, local authorities have powers to serve notices on the owners and any occupiers of an unsecured or unsafe building, stating their intention to undertake works on the building to make it safe/secure. The costs can be recovered from anyone on whom the notice was served, and the Court has power to apportion the expenses as the Court considers just.

#### 7.6 Neglected properties

- a) Where a property has become neglected and the garden has become overgrown and building type waste and / or materials etc. dumped causing an adverse effect on the amenity of the area, action can be taken under Section 215 of the Town and Country Planning Act requiring the owner to clear the site.

7.7 Local authorities also have a range of additional powers that could, subject to the specific circumstances, assist with addressing issues effecting empty properties, including:

- a) Building Act 1984 s.77,78,79 – dangerous structures
- b) Prevention of Damage by Pests Act 1949 – pests
- c) Environmental Protection Act 1990 s.80 – refuse / nuisance
- d) Housing Act 2004 – housing disrepair or dilapidation
- e) Public Health Act 1936 – removal of noxious materials

#### 8 Hampshire local authority action in respect of empty properties

8.1 A recent 'straw poll' questionnaire of empty property activity and enforcement action sent out to 12 other Hampshire local authorities found that from the 6 respondents, between 2013/15:

- a) Only 2 councils had brought a long term empty property back into use through direct action.
- b) 3 out of the 6 responding councils offer financial support to landlords of empty properties in the form of a loan to undertake works.
- c) No council had taken any enforcement action in respect of EDMO / CPO or enforced sales procedure (apart from the City Council's own current action as detailed in 7.1 d) above).

- d) Only 1 council had a formal in date Empty Property Strategy
- e) Only 1 council had a full time Empty Property Officer post (although it is currently vacant and under review).

## 9 Options for a more “pro-active” approach to tackling empty properties

9.1 The Council could consider a number of options to address empty homes with a view to reducing numbers overall and supporting owners to bring homes back into use. It could be possible to achieve more through increased staff resources (such as a dedicated empty property officer or team), and/or offers of grants or loans to fund works.

9.2 However, experience from previous enforcement action and from other authorities with dedicated staff and funding does not provide any clear indication of the most appropriate approach for Winchester. As previously stated, each case will have unique circumstances and may require a different approach. What is clearly needed is a better understanding of why specific properties are empty and what measures would be most influential and supportive to property owners.

9.3 Specific actions could include:

- a) A more proactive approach in coordination with the Council Tax team, approaching owners with properties empty for in excess of 1 year to discuss options for bringing it back into use. This could be achieved within existing resources, (although would be more effective if supported by additional staff time and capital grant).
- b) Helping owners to rent their property by providing information on becoming a landlord, working with (or without) letting agents and possible financial assistance, and in particular engaging potential landlords with the Council's own City Lets scheme.
- c) Helping owners to sell their property by giving advice on selling privately, estate agents or auctions
- d) Adopting a more casework-orientated approach with owners of empty properties to encourage, advise and support them to bring their homes back into use
- e) Increasing advice and assistance including quick response to Cllrs, Landlords and potential tenants, which could be through a dedicated member of staff and direct phone line (hotline) and/or email account
- f) Attempting to engage and explore partnership working with other organisations to bring empty properties back into use

- g) Investigating linking to Wessex Loans (or similar approach) – external agency funding loans for homeowners to improve the condition of properties and reduce empty homes
- h) Linking empty property work to Council Tax costs – authorities may charge a premium of up to 50% of the Council Tax on properties that are unoccupied and unfurnished for 2 years or more. The premium cannot be applied to members of the armed forces who are absent as a result of their service or Annexes used in conjunction with the main dwelling

The Government has also issued guidance on empty properties which are for sale or let. Whilst the Government acknowledges that billing authorities are free to make their own decisions when administering the premium, it expects authorities to reflect the health of the housing market in its decision making process and exclude properties which are genuinely on the market for sale or let from its determination.

- i) Employing (possibly on a temporary contract) a dedicated empty property officer, as such a person would be a good way of ensuring that the Council can act on information about empty homes and build up expertise in working with the owners, including in taking enforcement action where necessary.
- j) Taking a more pro-active approach to enforcement actions (possibly to follow on if the assistance approach above was not successful) – including empty property management orders, compulsory purchase orders and link back to grants/loans and lettings contracts. This would however be likely to incur significant additional resources, particularly staff time.
- k) Establishing a funding programme either through grants or loans. Research and experience from other authorities indicates an initial fund of £100,000 would be required to launch such a scheme, although take up of such schemes operated by other authorities is generally very low.

## 10 Conclusions and Recommendations

- 10.1 With over 100 properties in the District listed as empty for more than 2 years, there is clear scope for bringing at least a small number of properties back into use.
- 10.2 However, there is no clear evidence of which specific actions would be most appropriate, or whether investing additional resources into dedicated staff or additional grant/loan funding would have any significant impact and provide value for money.
- 10.3 It is therefore recommended that any Empty Property Strategy or Action Plan should focus on adopting a more pro-active approach to identifying reasons for properties being empty, working with and supporting owners with the

range of actions highlighted in options a) to g) above, at least for the 2016/17 financial year. It is also proposed that a further report on the outcomes from this approach and the learning from the more pro-active action is reported back to Cabinet (Housing) Committee in 12 months. Existing resources for addressing empty properties will be increased in the short term from existing Housing teams.

- 10.4 The use of enforcement powers included within this report will continue to be used where appropriate, although this recommended approach would suggest that EDMOs and compulsory purchase orders are unlikely to be pursued within the next 12 months.
- 10.5 Whilst adopting the increased Council Tax charge could act as a further incentive, the challenges and additional costs with the collection process should not be ignored. It is recommended that the adoption of such an approach be deferred for a year to allow the review described in 10.3 above to be completed and to assess the willingness or otherwise for owners to engage with Council officers.

#### OTHER CONSIDERATIONS:

##### 11 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 11.1 The Community Strategy Active Communities outcome contains a commitment to 'support local people in accessing high quality and affordable housing which meets their needs'. The Empty Property Strategy will contribute to the Council achieving this aim.

##### 12 RESOURCE IMPLICATIONS:

- 12.1 The intention is to prioritise existing staff time and resources to produce the new strategy for adoption ahead of April 2016.
- 12.2 Adopting the recommendations above will require additional staff resources within the Private Sector Housing team. However, this can be achieved by directing temporary project/support resources from other Housing teams, rather than seeking additional salary growth at this stage.

##### 13 RISK MANAGEMENT ISSUES

- 13.1 Risks associated with empty properties is relatively low. The problems that can result from homes being left empty are highlighted in the report, as are some of the challenges in attempting to use enforcement powers to pursue owners who have no desire to take action themselves.

#### BACKGROUND DOCUMENTS:

Private Sector House Condition Report July 2015

Appendices: None