

DECISION TAKER: Deputy Leader and Cabinet Member for Community and Housing – Councillor Paula Ferguson

REPORT TITLE: EMPTY HOMES STRATEGY 2022 - 2027

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WARD(S): ALL

PURPOSE

To seek approval of the draft Empty Homes Strategy 2022 – 2027 in order to bring back into occupation, in particular, problematic homes vacant for longer than 2 years which have been blighting and impacting on local communities by contributing to anti-social behaviour. The current proposed strategy is a refresh of the previous 2016 – 2021 Empty Property Strategy.

RECOMMENDATIONS:

That the Cabinet Member for Community and Housing:

1. Approves the draft Empty Homes Strategy 2022 – 27 which addresses empty homes in the Winchester district.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 Homes for all
- 1.2 By bringing empty homes back into occupation the strategy assists in increasing the availability of homes for residents in the Winchester district.
- 1.3 Living Well
- 1.4 Bringing empty homes back into occupation can help to improve the mental health and wellbeing of the local community by removing the fear of social and environmental problems empty homes can cause due to crime, which can include vandalism, anti-social behaviour and alcohol / drug abuse. In turn this can bring about visible improvements in the physical appearance of an area and the restoration of confidence in an area.
- 1.5 Vibrant local economy
- 1.6 Provision of additional housing increases household spend within a community and contributes to greater economic activity within the local and wider town area.

2 FINANCIAL IMPLICATIONS

- 2.1 The strategy does not directly present any financial implications. However, a possible need for financial expenditure may be required should a final Empty Dwelling Management Order (EDMO) be served on a property which requires refurbishment works. Before it is decided to formally apply to the First Tier Tribunal (Property Chamber) for an interim EDMO, a full analysis of potential costs will be undertaken to establish if the EDMO route is viable should the council need to recover costs following refurbishment works to a property.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 4 There is no legal requirement for a local authority to produce a dedicated empty homes strategy, but it is good practice to have one and supports the council to take enforcement action via in particular the interim and final EDMO route.
- 5 Refurbishment works required to a property following the service of a final Empty Dwelling Management Order may, depending on the cost of the works be subject to procurement rules (Contract Procedure Rule and the Public Contract Regulations 2015). Advice will be sought from the Procurement and Legal teams as necessary.
- 6 The strategy includes a summary of the legal powers the Council has to address problems associated with empty homes.

7 CONSULTATION AND COMMUNICATION

- 7.1 The strategy has been subject to consultation with TACT (Tenants and Council Together) group / SHOG (Strategic Housing Officers Group) / HAG (Housing Advice Group) and scrutinised by the Business and Housing Policy Committee at its meeting on 21 June 2022, plus at a Private Sector Housing team meeting.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 The owners of empty homes brought back into occupation will be strongly encouraged to ensure their property achieves at least an Energy Performance Certificate (EPC) Band E rating, or preferably higher, if it is their intention to refurbish the property and put it on the market for sale. Similarly, a property any landlord intends to let must in law achieve a minimum EPC Band E.

9 PUBLIC SECTOR EQUALITY DUTY

- 9.1 Under s149 (1) of the Equality Act the council must have due regard, in exercise of its functions, to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
 - b) Advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them.
 - c) Foster good relations between persons who share relevant protected characteristics and persons who do not share them.

10 EQUALITY IMPACT ASSESSMENT

- 10.1 An Equality Impact Assessment has been completed and has identified that the Empty Homes Strategy in itself doesn't affect individuals or communities differently; but consideration is required in the way it is applied to take account of the different needs to inform the approach taken to engagement. Therefore the approach taken is to ensure that the strategy is delivered in accordance with the council's equality policy especially in respect of the format of communication.

11 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	Core duties met from the General Fund budget. Any proposed Interim EDMO would be costed	Enabling more homes to become available within the Winchester district

	before	
Exposure to challenge	No legal requirement for the council to address empty properties	
Innovation		Opportunity to positively enhance the council's reputation through bringing empty homes back into occupation
Reputation		As above
Achievement of outcome	Demonstrating best practice service delivery	Opportunity to positively enhance the council's reputation through increased housing supply

12 OTHER KEY ISSUES

12.1 None

13 SUPPORTING INFORMATION:

13.1 Background

13.2 CAB2790 (HSG) was brought to Cabinet (Housing) Committee on 22 March 2016 and introduced the 2016 - 2021 Empty Property Strategy which has been in place since then.

13.3 This paper introduces a refresh of the strategy and sets out a pragmatic framework that underpins the way Winchester City Council will continue to approach its work to tackle empty homes and supersedes the previous strategy.

13.4 The strategy has been developed with the council's current corporate aims and values in mind, and to underpin a response that is proportionate and in context; in that Winchester is fortunate and has for its 250 square mile size relatively low levels of very long term vacant properties (vacant for 2 years or more) the numbers of which have remained relatively stable over the duration of the previous strategy.

13.5 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.

13.6 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.

- 13.7 There is no legal requirement for a local authority to have or implement an Empty Homes (Property) Strategy, but it is good practice and helps to give clarity, direction and focus to the issue of dealing with empty homes.
- 13.8 Long term empty homes are a wasted resource and if left unoccupied and unattended can fall into disrepair and neglect, blighting a neighbourhood by attracting various forms of anti-social behaviour including fly tipping, vandalism and alcohol / drug abuse reducing property values in the local area.
- 13.9 Bringing an empty property back into use is of benefit to the to the owner as it provides them with a tenant who becomes housed and / or a new owner with a home for them and their family, plus has advantages to the wider community by improving the visual appearance of a property and encourages economic activity.
- 13.10 An examination of Council Tax records at the end of March 2015 listed 307 private homes as being vacant with the lengths of vacancy being:
- | | | | |
|----|------------------|-----|------------|
| a) | 6 – 12 months – | 102 | properties |
| b) | 12 – 24 months – | 90 | “ |
| c) | 24 – 36 months – | 37 | “ |
| d) | 36+ months - | 78 | “ |
| | Total | 307 | |
- 13.11 At the end of March 2022 Council Tax records listed 409 privately owned properties as being empty, with the lengths of vacancy being:
- | | | | | |
|----|----------------|-----|-----|------------|
| a) | 6 – 12 months | - | 175 | properties |
| b) | 12 – 24 months | - | 147 | “ |
| c) | 24 – 36 months | - | 45 | “ |
| d) | 36+ months | - | 43 | “ |
| | Total | 410 | | |
- 13.12 Although the total number of empty homes vacant for between 6 to 36 months has increased as highlighted above since 2015 from 307 to 410, so has the total Council Tax base by over 5,400 properties. The number of homes vacant for in excess of 36 months however has fallen by in excess of 40%. This is likely to be because of the higher council tax premium payable at 100% for homes vacant over 2 years and the impact of the council's current strategy. The very long-term empty properties can cause the most concern, as if not maintained they will deteriorate and become an eyesore and may contribute to the decline of a neighbourhood.

13.13 Statistics for vacant homes across Hampshire in 2021 detail that in total excluding the unitary authorities of Portsmouth and Southampton there were 3438 homes vacant for in excess of 6 months.

13.14 Figures obtained from the charity Action on Empty Homes detail the following statistics for private empty homes vacant for in excess of 6 months across Hampshire in 2021:

Basingstoke & Deane Borough Council	- 488
East Hampshire District Council	- 311
Eastleigh Borough Council	- 261
Fareham Borough Council	- 400
Gosport Borough Council	- 262
Hart District Council	- 235
Havant Borough Council	- 197
New Forest District Council	- 513
Portsmouth City Council	- 1,208
Rushmoor Borough Council	- 288
Southampton City Council	- 826
Test Valley Borough Council	- 172
Winchester City Council	- 311

13.15 Excluding the large unitary authorities of Portsmouth and Southampton the average number of empty homes per local authority area across Hampshire in 2021 was 312. Winchester had a figure of 311.

13.16 Implementing the Strategy

13.17 Not all empty homes need action, for example there is little point in targeting transactional empty properties which are empty for good reason such as due to selling or probate issues, or those that are not causing a nuisance, are in good repair and would not be suitable for enforcement action. Consideration will be given to the way in which action should be approached i.e. advice, encouragement, negotiation and persuasion before enforcement. It is also important for the council to keep in mind the human rights issues associated with forcing owners to release empty homes and the statutory provisions that must be met when contemplating enforcement measures like EDMOs and CPOs.

13.18 The Strategy straddles the years 2022 to 2027. The Private Sector Housing (PSH) team will be primarily responsible for its implementation and will follow the core objectives in delivering the Strategy in an attempt to increase the number of empty homes brought back into use.

13.19 The strategy objectives are:

- Objective 1 – Identify and monitor
- Objective 2 - Engagement
- Objective 3 - Signposting
- Objective 4 – Enforcement

13.20 More detail around each objective is detailed in the strategy.

14 Enforcement and Wider Local Authority Powers to Address Empty Homes

14.1 The council will continue to adopt a corporate approach to bringing empty homes back into occupation with Private Sector Housing providing advice and encouragement to owners, in conjunction with Revenues (who are responsible for council tax) imposing where appropriate a council tax premium and uplift of 100% on homes vacant for between 2 and 5 years and 200% for homes vacant for in excess of 5 years. For homes left empty for more than 10 years the premium uplift can be up to 300%. Although council tax premiums are a useful and effective tool in encouraging owners to return their property to occupation they may not always be enough, as there will be some instances in which an empty property is having such a detrimental and negative impact on a neighbourhood, direct enforcement action will have to be considered, the main options to return a property to occupation being:

14.2 Empty Dwelling Management Orders (EDMOs)

14.3 Empty Dwelling Management Orders (EDMOs) enable a local authority to take management control of a dwelling so that it can secure occupation of it. Part 4 of the Housing Act 2004 outlines powers for Local Authorities to introduce Empty Dwelling Management Orders.

14.4 The procedure for seeking initially an interim EDMO is from the First-tier Tribunal Property Chamber (Residential Property) and is well defined, in that a property must have been vacant for at least 2 years before the EDMO procedure can be used. It is also essential that it can be demonstrated and evidenced to the Tribunal that the property has been contributing to and causing anti-social behaviour. The tribunal will decide whether the order should be allowed and in doing so will make sure that the council has followed the correct procedures. The tribunal does not have to approve an order if it considers that there are good reasons for not doing so. The tribunal has to be satisfied that:

- the property has been unoccupied for at least six months and is unlikely to be occupied in the near future;
 - the council would be able to find someone to occupy it;
 - the property is not covered by one of the exceptions; and
 - that the council has made every effort to contact the owner to come to some form of agreement.
- 14.5 The tribunal will also consider the effect an order might have on the rights of the owner. Ultimately it is up to the tribunal to decide whether the order should be made. It will not be under any obligation to make an order and will have regard to all the relevant facts in making a decision.
- 14.6 Should an interim EDMO be granted it lasts for an initial period of 12 months, during which time the council must work with the owner to agree a way of getting the property back into use. For example, the council might seek the owner's agreement to let the property out. If no agreement is reached the council may seek to make a final EDMO, which can last for up to a maximum of seven years. The owner has fewer rights over how a property is brought back into use under a final EDMO. If an authority fails to reach agreement with the owner and decides not to make a final EDMO then the property reverts to the owner.
- 14.7 The council may incur costs as it may be that the property needs some work done to it due to the existence of Category 1 or 2 hazards under the Housing Health and Safety Rating System (HHSRS) before it can be rented out. The owner would not be expected to pay the additional costs but the council could recover its expenditure out of the rental income received whilst the order is in force. The council must pay the owner any surplus income that is left over after it has recovered its expenses.
- 14.8 If the council decides to pursue the EDMO route in respect of a particular property it must be certain that it meets the requirements relating to the orders contained in the Housing Act 2004 and the accompanying regulations. This includes ensuring that it has made every effort to contact the owner or that the property is not exempted, as the rejection of an application to the tribunal should be avoided at all costs.
- 14.9 An EDMO is an option of last resort and required to meet the public interest test through private rights such as right to uninterrupted property and quiet enjoyment of family life, under the Human Rights Act 1998.
- 14.10 Compulsory purchase order (CPO)
- 14.11 A compulsory purchase order is also an option of last resort and obtained through the powers set out in 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). Providing a number of pre-conditions are met, 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 request is made by the council to the secretary of state to confirm such an Order and a public inquiry may be held should there be any objections. The Council must show that the public interest has been met and the use of the powers is as a last resort. Therefore, the local authority will have to show that they have taken steps to encourage the owner to bring the property into acceptable use within a reasonable time period, and how the public interest test is met such as the reasons for making a CPO justify interfering with human rights of anyone with an interest in the property.

14.12 CPOs are a lengthy and expensive 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 cannot be traced or where a property has been vacant for a long time and is causing a nuisance or is danger to the public. Implementation is via a General Vesting Declaration and may end up in the First-tier Tribunal Property Chamber (Residential Property).

14.13 Enforced sale procedure

14.14 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). The public interest test must be met, and the purpose is to enforce the charge.

15 A successful case

15.1 The Government does not collect data on the number of EDMOs issued, but in February 2015 an investigation by the Guardian newspaper reported that only 108 EDMOs had been issued since their inception in 2006. This number was added to by Winchester City Council in March 2020 by one.

15.2 During the life of the previous strategy PSH were successful in obtaining an Interim Empty Dwelling Management Order (EDMO) from the First-tier Tribunal Property Chamber (Residential Property). A number of months later this was followed by the issuing of a Final EDMO in respect of a home in the Badger Farm neighbourhood of the city. This property had been vacant for in excess of 10 years and during that time suffered a flood causing extensive internal damage, and had been subject to ongoing and frequent ASB. The house was blighting an otherwise pleasant community. After securing control of the property for 7 years and completion of renovation works costing in excess of £50k, the house was let to a family previously facing homelessness. The rental income during the 7 years the council has control over and responsibility for the property will enable the council to recoup its

refurbishment costs in full. At the end of the 7 years the house will be returned to the owner.

- 15.3 There is no allocated budget set aside for improving a property via the EDMO process and any funding required would have to be sourced from alternative council revenue. This can be recouped through rental income. In respect of the previous final EDMO in 2020, the council were successful in obtaining control of the property and a family who were facing homelessness were placed into this accommodation and are charged a rent by the council for up to 7 years.
- 15.4 The instigation of enforcement action through the EDMO process is only appropriate in extreme cases, as demonstrated by the relatively few issued nationally by local authorities. The council last issued one in 2020.
- 15.5 The Empty Homes Strategy 2022 - 2027 takes into consideration the absence of any direct financial incentives available from the council but does advise on the ability of homeowners to seek a VAT reduction where they intend to refurbish a property that has been vacant for at least 2 years.
- 15.6 At the end of March 2022, there were 88 properties in the district listed as empty for more than 2 years. The strategy focuses on bringing long-term empty properties back into use, especially if there is evidence of ASB.

16 OTHER OPTIONS CONSIDERED AND REJECTED

- 16.1 There is no legal requirement for a local authority to produce a dedicated empty homes strategy, but it is good practice to have one and supports the council to take enforcement action via in particular the interim and final EDMO route. It also helps to demonstrate that the council is not complacent in its attitude and takes the issue of empty homes seriously thus reducing the likelihood of adverse media attention. An effective empty homes strategy also demonstrates that the council is adopting a credible approach and where possible is adding to the amount of accommodation that is available. Not to have a strategy is therefore rejected.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

BHP30, EMPTY HOMES STRATEGY 2022-27, 21 JUNE 2022

Other Background Documents:-

Action on Empty Homes Statistics for 2021:

<http://www.actiononemptyhomes.org/facts-and-figures>

APPENDICES:

Appendix 1 – Draft Empty Property Strategy 2022- 27