

	<p style="text-align: center;">Executive Committee 20 May 2013</p> <p style="text-align: center;">Report from the Director of Regeneration and Major Projects</p>
<p style="text-align: right;">Wards affected: Stonebridge</p>	
<p>Compulsory Purchase of a property in Woodheyes Road</p>	

***Not for publication ('below the line')**

Appendices 1, 2, 3 and 4 are not for publication.

1.0 Summary

- 1.1 This report seeks Members' approval to make a Compulsory Purchase Order at a property in Woodheyes Road
- 1.2 Despite numerous efforts, the potential legal owner of this property, who is believed to be an Australian citizen and living in Australia, cannot be traced. It is recommended, therefore, that the council proceed towards compulsory purchase of this property that has been sitting empty for more than 20 years.

2.0 Recommendations

- 2.1 That Members agree to use its compulsory purchase powers to acquire the property in Woodheyes Road (See appendix 2) compulsorily under section 17 of the Housing Act 1985.
- 2.2 Authorise the Director of Legal Procurement Services to make and seal the Order for submission to the Secretary of State for Communities and Local Government for confirmation. In the absence of a relevant objection to the Order to authorise the Director of Legal Procurement Services to confirm the said Compulsory Purchase Order in the event of the Secretary of State returning the Order.
- 2.3 Upon confirmation of the Compulsory Purchase Order to proceed with the acquisition of the property.

- 2.4 Subject to confirmation of the Compulsory Purchase Order the Executive is also asked to approve the disposal of the property at open market value to a Registered Social Landlord in the first instance, or by way of auction with covenants applied to bring the property back into use as soon as possible.
- 2.5 In the event that the proceeds of sale are unclaimed in accordance with the compensation code within the statutory limitation period to approve the recycling of any residual receipt from the disposal back to the capital programme budget to secure funding for future private sector housing improvement.
- 2.6 Approve to indemnify the financial costs of the compulsory purchase order through the capital programme.

3.0 Detail

- 3.1 The empty property in Woodheyes Road, is a two storey 2 bedroom terraced 1890's built (railway houses) house located in a residential area in the south of the Borough. It has been lying empty for at least 20 years. The property was reported to environmental services by neighbours as being subject to vermin infestation, with its very poor condition and being blight to the area. It was owned by an English gentleman who emigrated to Australia and, it is believed, married an Australian woman. Sadly the owner died in Australia – it is not known whether he made a will and his wife cannot be traced.
- 3.4 The Empty Property Officer has made numerous enquiries through legal representatives and professional tracing agents as well as to the father of the deceased owner (now also deceased) and the wife's relatives in Australia (See appendix 2).
- 3.5 As at the date of writing, despite numerous efforts by all parties including: communication with relatives in Australia; use of tracing agents; efforts through legal representatives and advertisements placed in Adelaide Australian newspapers, the wife of the deceased owner has not come forward.
- 3.6 The father of the deceased registered owner has now died. As the wife of the former owner has not been traced, legal representatives dealing with the estate of the father of the owner may take steps to transfer the property to other members of the deceased person(s) family. However, as no discernible progress has been made by the families solicitor in this action since first mention of it in 2005, officers recommend that the best way forward is towards compulsory purchase
- 3.6 It is not known whether there is electric or water supply to the property. Consideration may be given to undertake an assessment under the Housing Health and Safety Rating System and it may warrant service of section 11 and section 12 improvement notices for defects throughout the property.

The category 1 hazards could include:-

- Excess Cold,
- Crowding and Space,
- Food Safety,
- Personal Hygiene, Sanitation, and Drainage,
- Falling on Level Surfaces etc
- Falling on Stairs etc
- Structural Collapse and Falling Elements

3.6.1. A general outline of the works to be done to bring this property up to a lettable standard suggests that refurbishment/building costs could be in the region of £60,000 and this may have a bearing on the sale price.

3.7 Empty homes are critical in Brent, primarily because all homes are important. We are responding to complex needs for housing now and as anticipated in the near future, particularly in the light of changes to the welfare benefit system and the possible resultant complications and affordability issues.

3.8 Brent has acute housing pressure, including over 19000 on the housing register.

3.9 Brent has an ethnically diverse population and needs a variety of types of homes – for rent and sale, for single people and for families with children.

3.10 Current and future need for homes prompts us to make better use of all our existing housing resources, which includes this long term empty property. It is in an ideal location and of a size suitable for a family in housing need.

3.11 The total number of vacant residential properties is a dynamic figure and is heavily affected by market conditions including property owners' confidence. Our latest figures, on council tax records as at January 2013 shows that 1200 are long term empty.

3.12 Officers believe that empty properties have a significant contribution to make to Brent's development of a sustainable community and in meeting housing needs. This property is in an ideal location and of a size suitable for a family in housing need. As a two bedroom property it would come within an affordable rental range even in consideration of the proposed universal credit system.

3.13 One of the Councils housing association partners may be in a position to purchase this property, at reasonable market price. And at least two private developers have also expressed interest in acquiring it.

4.0 Financial Implications

4.1 The basis of the CPO transaction is that the purchase price of the CPO will be met from the subsequent sale of the property, with the initial purchase being forward funded from the Private Sector Housing (PSH) Capital Programme. It

is intended that any net shortfall or excess from this back to back transaction will be met from/credited to the existing PSH Capital Programme..

- 4.2 If the Compulsory Purchase Order is confirmed by the Secretary of State for the Department of Communities & Local Government, the Council will proceed with the acquisition of the property, unless a direct purchase with an approved RSL will be affected. Compensation will be payable to the owner based on the valuation on the date of possession, which could be higher or lower than the council's outline valuation. In the current condition, the property is estimated to be worth in the range of £230,000 to £250,000.
- 4.3 The Council will be liable for the owner's reasonable surveyors' costs and legal fees associated with the conveyance. The council will also be liable for Stamp duty and costs to secure the property.
- 4.4 The Council could be liable for an additional 7.5% compensation, up to a maximum of £75,000 unless these can be avoided by any specific notices outstanding under Planning and Housing legislation.
- 4.5 Officers will aim to identify a Registered Social Landlord to purchase the property on a back-to-back sale to provide social housing. If a Registered Social Landlord cannot be identified an approved financially viable private sector developer will be identified, likely through auction, who can purchase the property from the Council as quickly as possible after the Council has acquired ownership. The property will be sold subject to covenants requiring the purchaser to carry out comprehensive refurbishment within a defined timescale. In many cases it may also be possible for a partner housing association to purchase the property without the express acquisition by the council, subject to the legal provisions. But, as this property has an absent owner this option will not be available.
- 4.6 As can be seen at appendix 3 the estimated costs of taking CPO could be in the region of £14,220 for an uncontested application and £25,690 should the case go to public hearing. It is important to note that within the CPO process there can be many complexities, uncertainties and unknowns, even in relatively straightforward applications. It is impossible to predict all costs but the list shown at Appendix 3 gives a very good indication of possible expenditure that could be incurred.-Costs incurred by the Council that are incremental to the acquisition of the asset (such as surveyors costs, legal fees and basic loss payment) in relation to the CPO transaction can be funded from any capital receipt remaining from the CPO process. In the event that there is no remaining capital receipt, then these transaction costs, as well as any costs that are not incremental to the acquisition of the asset (such as costs to secure the property) will need to be funded for the Housing Needs and Private Sector Units existing revenue and/or capital budgets. When submitting the application to the Secretary of State we must confirm that resources are available to acquire the property, even if eventually there is a neutral financial effect.

- 4.7 In the event that the CPO is not successful or the property is returned to use by the owner before the completion of the CPO then any net cost incurred would need to be revenue funded, from existing Housing Needs and Private Sector Housing Units budgets.
- 4.8 As the potential legal owner of this property has not come forward, the proceeds of sale if unclaimed under the compulsory purchase compensation code will be paid/deposited in court in accordance with the code and generally, if there is no claim within the six year statutory limitation period the monies are returned to the Council.

5.0 Legal Implications

- 5.1 The Council has the power to purchase land and housing in order to provide housing or in order to sell to someone else to provide housing. The Council can exercise this power either by purchasing the property by agreement or compulsorily with the consent of the Secretary of State. Compensation will be payable to the owner of the property.
- 5.2 If the Council wishes to dispose of the property immediately then the transfer must contain an obligation for the purchaser to carry out the necessary repairs and improvements so that the property is brought back into use for housing within a specified time table. Depending on the timing of any disposal the Council may have to forward fund any compensation payable to the owner if the sale proceeds are not received in time to pay the compensation.
- 5.3 Once acquired the property can be disposed of in any manner the Council wishes but must first obtain the consent of the Secretary of State. Depending on who the buyer is and the agreement reached specific consents may not be required if the General Consents issued by the Secretary of State can be relied on.
- 5.4 Officers have considered this proposed Compulsory Purchase Order in the light of the relevant provisions of the Human Rights Act 1998, Article 1 (no one should be deprived of his possessions except in the public interest), Article 6 (right to a fair trial – the owners have the right to appeal to the secretary of state and then also to the high court) and Article 8 (right to respect for private and family life, home and correspondence – the right to full and proper compensation) of the Human Rights Act 1998.
- 5.5 In view of the factors set out in this report officers consider that the exercise of compulsory purchase powers is justified by reason that it is in the public interest, authorised by law and necessary and proportionate towards meeting the objectives of the Council's Housing Strategy. Every effort to trace the potential owner with a view to encourage her to bring the property back into use has been exhausted and compulsory purchase is the last resort available to the council

6.0 Equality Implications

6.1 The most recent census data shows that Brent has the second highest ethnic minority population in London. However, there are no equalities implications for this report.

7.0 Staffing/Accommodation Implications (if appropriate)

No specific implications

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