



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Reducing the Number of Empty Homes
Meeting of:	Cabinet
Date:	17 July 2017
Is this an Executive Decision:	Yes
Is this a Key Decision:	Yes
Is the Report Confidential:	No
If so, please state relevant paragraph from Schedule 12A LGA 1972:	

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **Angela Wakefield**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 17th July 2017

REPORT TITLE: Reducing the Number of Empty Homes

PORTFOLIO: Enterprise and Environment

HEAD OF SERVICE: Sal Khan

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WARD(S) AFFECTED: None-specific

1. Purpose of the Report

1.1 To set out a detailed business case for targeted action against the owners of dilapidated properties utilising Section 106 (S106) commuted sums that have been collected to alleviate housing need. Subsidising targeted enforcement activity will return long term empty properties into use and increase the housing stock of the borough.

2. Executive Summary

2.1 The Council currently holds £1,406,296 (£64,583 currently committed) in S106 commuted sums which have been paid in lieu of affordable housing (see Appendix 1). At the Cabinet Meeting on 14 March 2016 it was agreed that the proposal to facilitate the renovation of empty or dilapidated properties is one of three programmes to be taken forward for consideration as a source of S106 expenditure.

2.2 A reduction in empty homes will provide the following benefits:

2.2.1 Renovate dilapidated properties which can blight local communities.

2.2.2 Make use of housing resources which are currently wasted.

2.2.3 Reduce the need for ongoing enforcement activity and improve Council Tax collection.

- 2.3 Within those empty homes eligible to contribute to meeting the baseline for New Homes Bonus¹, there are estimated to be 385 properties suitable for Council intervention. Not every property can be tackled simultaneously so a scoring matrix was developed to target those empty homes with the highest visual impact based on a reasonable person's assessment, and where there is likely to be the greatest need for such a property to return to general use. This process resulted in a short list of 6 properties (Appendix 2 through 7). Whilst this is a modest number, this is a new area of work being undertaken within existing resources so there is a room for expansion dependent on outcomes.
- 2.4 The owners will be personally contacted in each case to establish their intentions. The Council will offer tailored advice and assistance alongside the real prospect of formal action should the property not be reoccupied. The Council will reassure owners that so long as they produce and stick to a reasonable schedule of work then enforcement action will not proceed.
- 2.5 If the owner is unresponsive or there is insufficient progress the Council can apply for a warrant to enter and survey² the property should force be required to gain entry. Such a warrant can be utilised where there is a proposal to acquire an interest in or a right over land. The word 'proposal' is not defined in the act. Acquiring such a warrant will provide a powerful incentive to the owner to take action to prevent further enforcement, and also provides the opportunity to gather the necessary information for a formal Cabinet report to assess options for bringing a specific property into use.

3. **Background**

- 3.1 High levels of empty homes are recognised as having a detrimental impact to the viability of communities; consequently restoring empty homes can have social, regenerative, financial and strategic benefits³.
- 3.2 Many homes which have been empty in excess of 2 years will be in a poor state of repair. The most recent dwelling level private sector housing stock modelling⁴ for the Council found that the stock is below average on several key indicators. The overall level of HHSRS⁵ Category 1 Hazards in East Staffordshire (25%) is higher than the national average (22%), and in particular excess cold is an issue (13% compared to a national average of 9%).

¹ <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05724>

² Sec 172 – 179 of the Housing and Planning Act 2016

http://www.legislation.gov.uk/ukpga/2016/22/pdfs/ukpga_20160022_en.pdf

³ <http://researchbriefings.files.parliament.uk/documents/SN03012/SN03012.pdf>

⁴ BRE Dwelling Level Stock Modelling April 2014

⁵ Housing Health and Safety Ratings System

- 3.3 Empty homes are identified by liability for Council Tax⁶. All empty properties are visited each year to ensure the Council Tax records show the correct liabilities and state whether the properties are occupied or not.
- 3.4 Not all properties that are registered as empty would benefit from Council intervention, entries in bold are highlighted as they may be more suitable for Council intervention.
- 3.5 Figure 1: Numbers of Empty Homes

<u>Categories</u>	<u>Oct 16</u>
Empty for 6 months or less (normal operation of the market)	471
Empty for 6 to 24 months (no New Homes Bonus)	364
Empty for between 2 and 10 years	294
Empty for over 10 years	91
Empty properties claiming a Council Tax Exemption (eg. nursing home or deceased)	310
Overall Total	1530
<u>Potentially suitable for Council Intervention</u>	<u>385</u>

- 3.6 There remains a substantial level of housing need and homeless within the borough that homes which are currently empty could be utilised to meet; there are currently 2,032 households on the East Staffordshire Housing Register seeking accommodation⁷. In each of the last 5 years the Council has had in excess of 1,000 separate enquiries seeking assistance with housing and homelessness⁸.
- 3.7 The Council has taken a number of actions in the past to reduce the numbers of empty homes:
- 3.7.1 In 2006 the Council introduced a Voluntary Leasing Scheme for empty homes in conjunction with Trent & Dove Housing, however the scheme ended in 2009 due to lack of interest from owners.
- 3.7.2 Since 2013, the Council has been working with CapacityGrid to review all of the empty properties on its Council Tax records, contacting the

⁶ Local Government Act 2003, Section 85

⁷ As at 1 May 2017

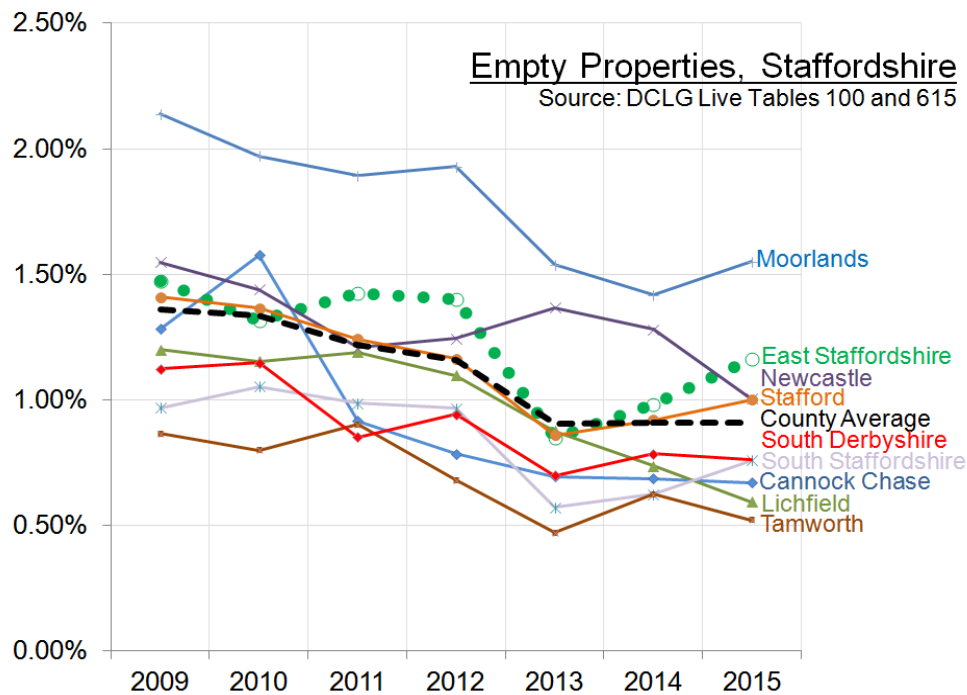
⁸ ESBC Housing Options Team records for homelessness approaches.

owners of empty properties directly to encourage them to bring those properties back into use.

3.7.3 Since April 2016 properties which have been empty for 2 years or more, and are not exempt for another reason, have been subject to an Empty Homes Premium being applied to their Council Tax account, which increases their Council Tax liability by a further 50% to 150%.

3.8 Despite this activity there has been a slight increase in empty homes over the past 2 years.

3.9 Figure 2: Comparison with Staffordshire Authorities



3.10 Figure 2 shows that the Council does not compare well to other Staffordshire authorities, strengthening the case for action to reverse this trend.

4. Contribution to Corporate Priorities

4.1 Protecting and Strengthening Communities.

5. Identification of Specific Properties Requiring Intervention

5.1 Due to the large number of empty homes potentially suitable for Council intervention, a matrix was developed to quantify the reason for targeting a particular empty home. This provides justification to owners, Members and the public as to why a particular property is/is not being pursued. This represents a strategic approach to enforcement as not every property can be tackled simultaneously.

5.2 The Empty Homes Scoring Matrix scores the property for the following factors, up to a maximum weighting in each case:

5.2.1 The need for such a property to be in general use; including property type as per the Council's supplementary planning documents, services in the area and any disabled adaptations that are visible.

5.2.2 Visual impact based on a reasonable person's assessment; including visible disrepair, location, any enforcement activity and ASB.

5.2.3 Council Tax arrears, as intervention will prevent further accrual of arrears and creates an opportunity for collection via a charge on the property.

5.2.4 Supplementary information; including Zoopla estimate and approximate age of the property. Supplementary information is not assigned a weighting for scoring purposes.

5.3 Figure 3: Empty Homes Scoring Matrix

Address						
Post Code						
Property Type						
Criteria			Points			
Property Type	1	4 bed house		Services within 1 mile	1	Local Shop
	2	1 bed house or flat			1	GP Surgery
	3	Bungalow			1	Chemist
	4	3 bed house		Visual Impact (Location)	3	Medium
	5	2 bed house			4	High
			5		V High	
Visual Impact (Exterior, ASB)	1	Complaints per item max 4		Accessibility	2	Some Adaptions
	1	Visible Disrepair per item max 4			3	Significant Adaptions
					4	Fully wheelchair accessible
				Council T Debt	1	1 point per £1,000
Grand Total						

	1	Abandoned vehicle on drive	
	2	Overgrown Garden	
	2	Boarded up	
	2	Vermin	
	2	Graffiti	
	2	Dumped Rubbish	
	3	Council Enforcement	

Likely Investment Required

Zoopla Estimated Value	£
Year Built (approx)	
Registered Empty Since	
State of Repair Visibly: V Poor/ Poor/ Fair	
Summary View	Low / Medium / High

5.4 The advantage of the matrix as constructed is that it provides a rational basis for action against a select set of properties that are causing a problem in a variety of ways and are impacting on society.

5.5 The properties which scored the highest at the conclusion of this process are identified at Appendix 2 through 7, it should be noted that the available information is limited because the owners have not yet been actively pursued.

6. The Escalating Approach

6.1 If it is possible to make contact with the owner it will be vital to understand why the particular home has been left empty, and adjust our response accordingly. There are a number of common scenarios in which a home may become empty and remain so for an extended period of time, communication with the owner will necessarily be sensitive to the situation⁹:

6.1.1 Property inherited (perhaps jointly) and it is taking a long time to decide what to do.

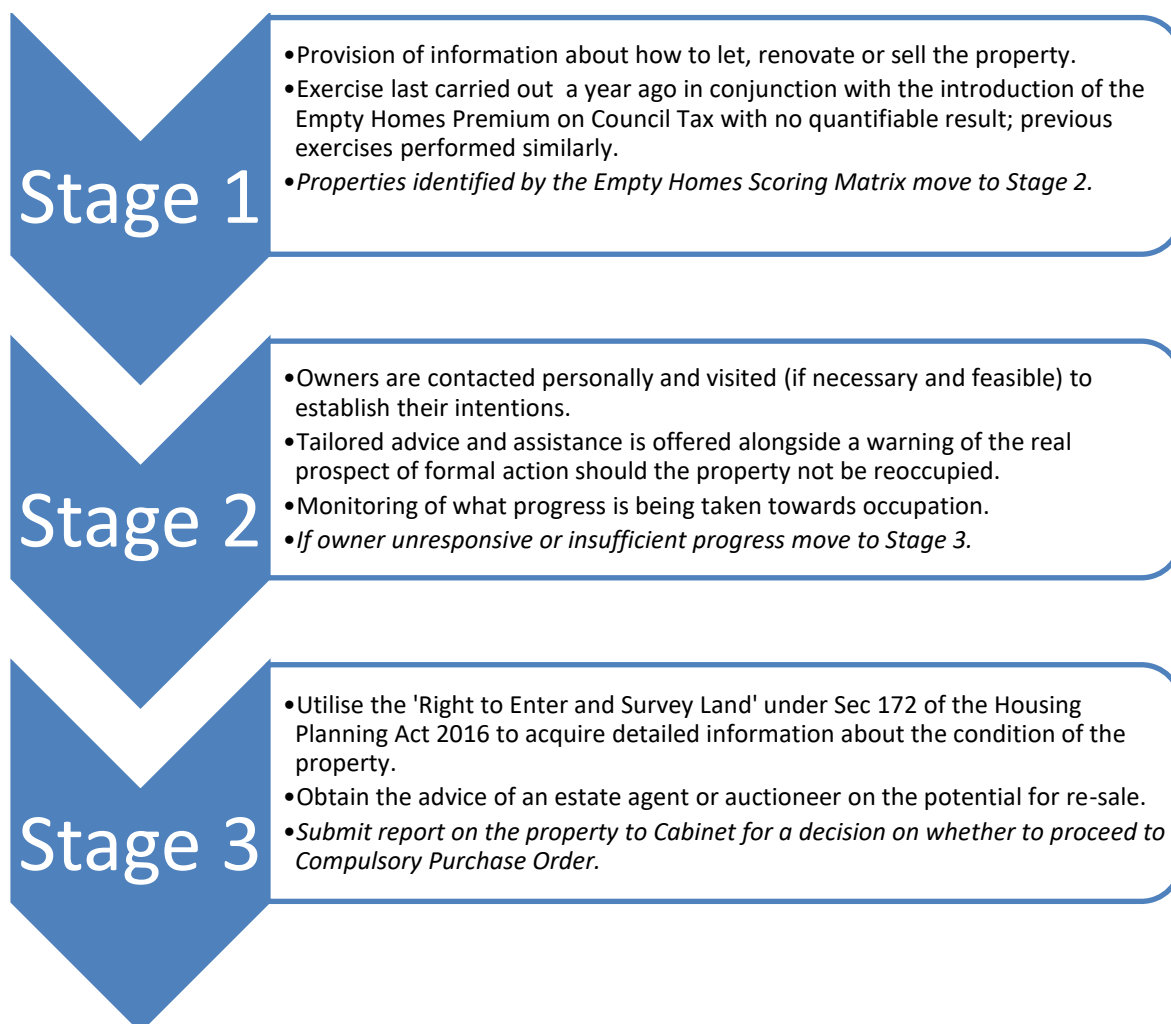
6.1.2 Private Rented Sector landlord or developer with a property that requires work which has stalled due to time / money constraints.

6.1.3 Owner holding the property empty anticipating a rise in its market value over time.

6.2 In order to deal with owners fairly it is proposed to adopt a staged escalating approach, as set out below in Figure 3.

⁹ <http://www.emptyhomes.com/assets/empty-homes-in-england-final-september-2016.pdf>

6.3 Figure 3: The Escalating Approach

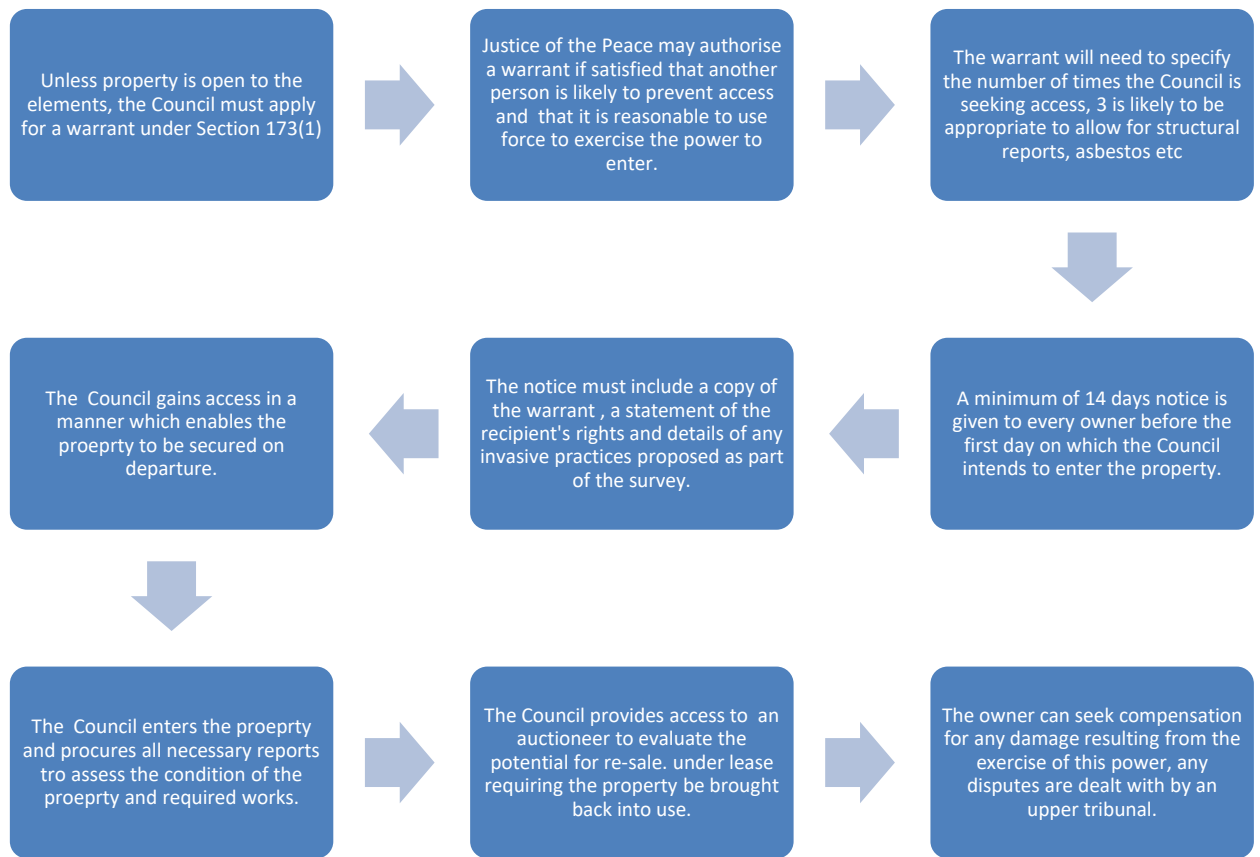


6.4 Stage 2 is the start of the Council's enforcement negotiation process with the owner of the empty home. The Council will reassure owners that so long as they produce and stick to a reasonable schedule of work then enforcement action will not proceed.

6.5 In each case the Council will need to exercise discretion in determining whether the owner is facing genuine difficulty in bringing the property back into use, or whether there is no realistic prospect of the property becoming occupied within a reasonable timescale.

6.6 Stage 3 concerns the ‘Right to Enter and Survey Land¹⁰’ which can be utilised where there is a proposal to acquire an interest in or a right over land. The word ‘proposal’ is not defined in the act. Thus this right to enter can be utilised in order to survey and value the property prior to a formal Cabinet report being produced to assess options for bringing the property into use.

6.7 Figure 4: Right to Enter and Survey Land



6.8 Pursuing a warrant offers two significant benefits:

6.8.1 The owners who have been unwilling to take any action based on previous warnings will see a demonstrable intent by the Council to pursue legal action. Some owners may be spurred into action as a result of receiving the warrant.

6.8.2 The surveys and specific advice of the auctioneer will be crucial to forming a solid basis for Cabinet consideration of any further enforcement in respect of individual empty homes.

6.9 The costs incurred from this process are to be met from S106 funds. Costs are likely to include the following:

¹⁰ Sec 172 – 179 of the Housing and Planning Act 2016
http://www.legislation.gov.uk/ukpga/2016/22/pdfs/ukpga_20160022_en.pdf

- 6.9.1 Court Costs for issuing a warrant, approx £400¹¹.
 - 6.9.2 Lock smith for gaining access, approx £100.
 - 6.9.3 Survey by the Valuation Office Agency¹², approx £975.
 - 6.9.4 Other surveys as may be necessary will be subject to the Council's Procurement Strategy.
- 6.10 Entering buildings of this type does expose Council staff to health and safety risks; however the Council is experienced in managing these risks in the daily activities of the Building Control and Housing Standards Departments.

7. Further Enforcement

- 7.1 This report does not contain a recommendation for further enforcement; this would be the subject of another Cabinet report in respect of individual empty homes after having made every effort to resolve the matter as detailed in Section 6.
- 7.2 As a result this report does not deal with further enforcement, but an overview of the powers available for further enforcement, in the event of no improvement by the end of Stage 3, can be found at Appendix 8.

8. Financial Considerations

- 8.1 *This section has been approved by the following member of the Financial Management Unit: Anya Murray*
- 8.2 The main financial issues arising from this Report are as follows:
 - 8.2.1 It is intended that there will be no impact on the Medium Term Financial Strategy as the programme is to be funded from S106 balances.
 - 8.2.2 The S106 Affordable Housing Sum balance is currently £1,406,296 (£64,583 currently committed). The availability of the monies for this scheme depends on the precise wording of the individual S106 agreements and whether these are achieved by the results of this scheme.
- 8.3 It is proposed that an initial sum of £20,000 is made available for this programme. Funds would then be drawn down as required.

9. Risk Assessment and Management

- 9.1 The main risks to this Report and the Council achieving its objectives are as follows:

¹¹ <http://formfinder.hmctsformfinder.justice.gov.uk/ex50-eng.pdf>

¹² <http://cti.voa.gov.uk/dvs/servicesTransportInfrastructure.html>

- 9.2 Positive (Opportunities/Benefits):
 - 9.2.1 Reduction in the number of empty homes which can blight local communities.
 - 9.2.2 Make use of housing resources which are currently wasted.
 - 9.2.3 Reduce the need for ongoing enforcement activity and improve Council Tax collection.
- 9.3 Negative (Threats):
 - 9.3.1 The owners targeted by this programme may feel persecuted.
- 9.4 The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

10. Legal Considerations

- 10.1 *This section has been approved by the following member of the Legal Team: John Kirkham.*
- 10.2 The main legal issues arising from this Report are as follows:
 - 10.2.1 Relevant powers are the right to enter and survey land in Part 7 of the Housing and Planning Act 2016.
 - 10.2.2 The ability to use S106 monies in this way will depend on the precise wording of each S106 agreement and whether any necessary deeds of variation can be secured. There are S106 funds in excess of the proposed £20k the terms of which do not prohibit expenditure for the purpose described in the report.

11. Equalities and Health

- 11.1 **Equality impacts:** NA.
- 11.2 **Health impacts:** NA.

12. Human Rights

- 12.1 Protocol 1 and Article 1 of the Convention provide for the right to peaceful enjoyment of possessions. Exercising the right to enter and survey the property may be challenged under this criterion even though the property is empty, although it has not been possible to find a record of any such challenge in the past. Previous challenges, to Compulsory Purchase Orders in

particular, have been unsuccessful due to proportionality having been carefully considered¹³ in the process of making the order.

13. Sustainability (including climate change and change adaptation measures)

13.1 Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) Yes

13.2 Please detail any positive/negative aspects:

13.3 Positive (Opportunities/Benefits)

13.3.1 None.

13.4 Negative (threats)

13.4.1 None

14. Recommendation(s)

14.1 To make contact with the owners of the 6 identified properties to offer tailored advice and assistance alongside a warning of the real prospect of formal action should the property not be reoccupied

14.2 If owner unresponsive or insufficient progress, utilise the 'Right to Enter and Survey Land' under Sec 172 of the Housing Planning Act 2016 to acquire detailed information about the condition of the property, in order to inform a future Cabinet report detailing options for the property.

15. Background Papers

15.1 The Housing Strategy 2015

15.2 The Procurement Strategy 2016

¹³ Baker v First Secretary of State, 15 October 2003 (High Court), and Walker and Brian v Secretary of State for Communities and Local Government and Blackburn with Darwen Borough Council; R (on application of Walker) v Blackburn with Darwen Borough Council [2008] EWHC 62 (QB) QBD (Admin) (Wilkie J)

