

## APPENDIX B

### NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 25 MARCH 2025



Title of Report	EMPTY PROPERTY - COMPULSORY PURCHASE	
Presented by	Councillor Michael Wyatt Communities and Climate Change Portfolio Holder <div>PH Briefed<div>yes</div></div>	
Background Papers	Empty Homes Policy Cabinet approval - <a href="#">Agenda for Cabinet on Tuesday, 29th March, 2022, 5.00 pm - North West Leicestershire District Council (nwleics.gov.uk)</a>  Housing Strategy - <a href="#">Housing Strategy 9 March 2016 with glossary.pdf (nwleics.gov.uk)</a>	Public Report: No
		Key Decision: Yes
Financial Implications	There are costs associated with this action due to requiring external legal support. This is within existing budget. The risk will be the associated cost if there is a Public Inquiry. The costs are detailed in Section 6.0 of the report. There will be an indemnity agreement with a developer to mitigate costs associated with purchasing and maintaining the property.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	The Council requires external legal advice to support the process. The external advice has already been procured and has supported the team to get to this stage.	
	Signed off by the Monitoring Officer: Yes	
Staffing and Corporate Implications	There are no staffing implications. This is work that will be absorbed within existing capacity of Environmental Protection, Legal and Finance. This is a decision under existing policy.	
	Signed off by the Head of Paid Service: Yes	

<b>Purpose of Report</b>	To seek approval to authorise the making, confirmation and implementation of a Compulsory Purchase Order (CPO) pursuant to s17 (1)(b) of the Housing Act 1985 and the Acquisition of Land Act 1981 and all other enabling powers in relation to 65 Station Road, Kegworth, DE74 2FR, and its subsequent disposal for the purpose of providing housing accommodation.
<b>Reason for Decision</b>	<p>On this occasion due to the nature of the case, Cabinet are requested to review and confirm that a Compulsory Purchase Order is the correct enforcement approach. The property has been empty for a considerable amount of time, is affecting neighbouring properties, has attracted complaints from the public, ward members and the Parish Council</p> <p>Officers have delegated powers to carry out enforcement action under the Empty Homes Policy. In the Constitution, Section E sets out that where Executive Functions have been delegated, it does not prevent the Cabinet from reviewing decisions made in the discharge of those functions in accordance with the provisions of the Constitution.</p>
<b>Recommendations</b>	<p><b>THAT CABINET</b></p> <ol style="list-style-type: none"> <li><b>1. AUTHORISES THE MAKING OF A COMPULSORY PURCHASE ORDER UNDER SECTION 17 OF THE HOUSING ACT 1985, IN RESPECT OF THE PROPERTY IDENTIFIED IN THIS REPORT AND DELEGATES AUTHORITY TO THE STRATEGIC DIRECTOR (HOUSING AND COMMUNITY SERVICES) IN CONSULTATION WITH THE SECTION 151 OFFICER TO THEREAFTER CONFIRM THE ORDER IN THE EVENT OF THE SECRETARY OF STATE RETURNING THE ORDER FOR CONFIRMATION BY THE COUNCIL FOR THE PURPOSES OF ACQUIRING THE POSSESSION OF 65 STATION ROAD, KEGWORTH AS SOON POSSIBLE.</b></li> <li><b>2. AUTHORISES THE STRATEGIC DIRECTOR (HOUSING AND COMMUNITY SERVICES) IN CONSULTATION WITH THE SECTION 151 OFFICER TO ENTER INTO NEGOTIATIONS WITH REGARDS TO PAYMENT OF STATUTORY COMPENSATION AT CURRENT MARKET VALUE AT TERMS EQUIVALENT TO TERMS UNDER A CPO FOR THE PURPOSES OF ACQUIRING TITLE TO THE PROPERTY AS FURTHER REFERENCED IN PARAGRAPH 6.5 BELOW AND TO THEREAFTER, MAKE PAYMENT OF SAID COMPENSATION</b></li> </ol>

	<p><b>3. DELEGATES AUTHORITY TO THE STRATEGIC DIRECTOR (HOUSING AND COMMUNITY SERVICES) IN CONSULTATION WITH THE SECTION 151 OFFICER TO AGREE TERMS WITH AND THEREAFTER ENTER INTO AN AGREEMENT OR AGREEMENTS WITH AN APPOINTED DEVELOPER REGARDING REIMBURSEMENT OF ALL COUNCIL CPO COSTS AND EVENTUAL DISPOSAL OF THE PROPERTY TO SAME.</b></p>
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## 1.0 BACKGROUND

- 1.1 Empty properties are considered a waste of housing resource at both national and local levels. The Government's National Planning Policy Framework (2021) confirms that local authorities should 'identify and bring back into residential use empty homes and buildings, supported by the use of Compulsory Purchase Powers'.

- 1.2 The Council has a revised Empty Homes Policy that was adopted by Cabinet on 29 March 2022. The policy is attached at **Appendix 1**.

The Policy outlines the options available to take formal action to bring properties back into use. One of the options available is to serve a Compulsory Purchase Order (CPO). This measure is employed only when all other efforts to persuade the owner to restore their property have been fully exhausted.

- 1.3 The Council's revised Empty Homes Policy in accordance with its Housing Strategy aims to unlock the potential of vacant sites and empty homes; thereby contributing towards meeting local housing demand.
- 1.4 The Council's Empty Homes Officer risk rates all long-term empty properties (where possible) based on their appearance, location, impact on the neighbourhood and complaints. This then helps to prioritise the list of empty properties.

## 2.0 INTRODUCTION

- 2.1 This report seeks approval to pursue a CPO of 65 Station Road, Kegworth. The compulsory purchase proposals are in the public interest and are considered a last resort, as they will secure the Council's aim to bring local properties back into use and increase the local housing supply.
- 2.2 The CPO will be progressed under section 17 of the Housing Act 1985 which empowers local housing authorities to compulsorily acquire land, houses, or other properties to increase the quality or quantity of housing provision for the purposes of their renovation and reoccupation as residential accommodation, and to increase the supply of housing stock and condition of the properties.
- 2.3 A CPO should only be made where there is a compelling case in the public interest and as a last resort, where the owners of properties cannot be traced or are unwilling/unable to bring the property back into use and the Council can demonstrate that there is a compelling case in the public interest to take enforcement action to achieve the aims of the Council.

- 2.4 The Council has determined that the Enforced Sale procedure is not appropriate for 65 Station Road as there is no debt involved, therefore, compulsory purchase has been determined as the appropriate action.

### **3.0 65 STATION ROAD, KEGWORTH**

- 3.1 This is a small (boarded up) two-bedroom mid terraced property in a residential area, on a main road position. The property has been unoccupied for at least 24 years and is in a poor state of repair, with the owner not having been seen by neighbours during this time. The owner appears to have abandoned the property.
- 3.2 There is a public footpath which passes under this property. Parts of the ceiling surface are dropping onto the public footpath. The rear garden of the property has been claimed by the neighbour, and there is no front garden. XX.
- 3.3 The current Empty Homes Officer has been in post for over eight years and during this time has made numerous attempts to contact the owner including over 30 letters, as well as making numerous visits to the property. Prior to this, other officers from the Council had been trying to engage with the owner over a period of at least 22 years.
- 3.4 The Council continues to receive complaints from the neighbours, as the condition of the house damages their properties. One neighbour has now moved away from the property, after attempting to sell for a number of years. The new neighbour now regularly complains regarding the property. Dangerous Structures notices have been raised, under the Building Act of 1984, and other notices including Local Government Miscellaneous Provisions Act 1976, 1982, and warrants of entry have also been served.
- 3.5 The Council has previously used a charging order and court hearing to ensure payment of significant arrears in respect of Council Tax, and the police have attended the property, following reports of Anti-Social Behaviour, leading to Council action. The owner has since paid the arrears and the fines imposed by the courts, for the prosecutions, but it is officers' understanding that the owner has never attended the property for over 24 years.
- 3.6 For this reason, the Environmental Protection Team is of the opinion that a longer-term solution is required, and the best option is Compulsory Purchase.
- 3.7 Officers from several Council departments including Building Control, Pest Control, Planning Enforcement, Environmental Enforcement, and Environmental Health have also visited the property during this time.
- 3.8 A chronology of the case and photos of the property can be found in **Appendix 2**.

### **4.0 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 In accordance with the Council's Empty Homes Policy, alternative options for bringing the property back into use have been considered. Officers have determined that the following options would not be appropriate:
- Enforced Sale procedure is not considered appropriate for 65 Station Road as its use would require works in default subsequent to the service of a specific statutory notice. The Council has also identified that there are no charges

currently against the property and there is no outstanding debt against the property, which would enable the Council to act.

- Empty Dwelling Management Order (EDMO) is not considered appropriate as the Council does not have the budget to enable the repairs that would be necessary to make the property viable for occupation. Furthermore, it is unlikely that the monetary input would be recouped within the seven-year period of an EDMO.
- Do nothing and allow the property to deteriorate further. This is not considered appropriate as the property would deteriorate further causing further nuisance to the neighbouring property and potentially could increase anti-social behaviour causing a detriment to the area and community.

4.2 The Council has tried to seek a voluntary resolution with the owner and will continue its interactions with the owner to try and bring about a voluntary solution. It is considered at this present time that compulsory acquisition is the most appropriate action.

## **5.0 CPO ACTION**

5.1 Taking CPO action is a last resort. It should only be made where there is a compelling case in the public interest to do so, for example when the Council has tried other options of engaging with the owner but the owner has not cooperated, and the property continues to remain empty. The Council must be able to show that it has a clear idea as to how it intends to use the land it has acquired and that all necessary resources are available to achieve the desired result.

5.2 The advantages of a CPO are:

- The property is brought back into use
- The property is renovated, therefore, improving the appearance and the condition of the land. Due to the small size of the house, this could be achieved fairly quickly
- The property, once renovated and reoccupied, would provide a much-needed additional home in Kegworth, where property is in short supply
- Without a CPO, the Council will continue to receive complaints from the neighbours, and the public regarding the footpath
- Without the CPO, the property will remain boarded and unsightly on a main road in a village centre .
- This owner never engages or replies to the Council, so may allow this process to go ahead without challenging it.

5.3 The disadvantages of a CPO are:

- If the owner(s) appeals the CPO there could be the written representations procedure or a public inquiry. If the Council is unsuccessful, they can incur the cost of the owner's fees

5.4 If the CPO is approved, a project team would be set up to manage and oversee the project. The project team would consist of Empty Homes Officer, Environmental Health Officer, Public Protection Team Leader, internal legal representative and Communications Officer.

## **6.0 FINANCIAL IMPLICATIONS**

6.1 Implementing a CPO will require involvement from the Council's Legal Services and throughout the process legal costs will be incurred, details of which are set out below.

The costs of £3,200 outlined in paragraph 6.3 below will be met from existing budgets within the Public Protection Team.

6.2 Three quotes were obtained from external law firms. 'nplaw' was chosen as the law firm to use as they offered the best value for money. They undertake CPO work for a number of local authorities around the country.

6.3 Nplaw charges a fixed fee of £3,200 plus VAT plus disbursements for a non-contested CPO. This includes:

- Advice on the decision-making report seeking authority to make the CPO
- Preparation of the order, statutory notices, statement of reasons
- Submission of the order to the Secretary of State for confirmation
- If the order is confirmed, the post confirmation procedures
- Vesting of the title in the local authority
- Registering title at HM Land Registry
- Disbursements can include newspaper notices, Stamp Duty Land Tax, Land Registry fees. Average costs can total £1,000.

6.4 Estimated CPO costs breakdown

	<b>Non contested</b>	<b>Contested</b>
Fee	£3,200	Up to £10,000
Disbursements	£1,000	£1,000
Additional legal capacity provided by nplaw	Up to £10,000	Up to £10,000
Public Inquiry	£0	Up to £5,000
Total	£14,200	£26,000

6.5 If there are objections, complications in dealing with the CPO or it needs to be dealt with by a public inquiry, nplaw charge on an hourly basis at the rate of £130 per hour plus vat plus disbursements in addition to the fixed fee. For a contested CPO the costs could total up to £26,000 as per the table at 6.3 above. In such circumstances, the costs would have to be met from existing reserves. If, for some reason, the matter is stopped at an earlier stage than the registration of title nplaw will charge the full fixed fee.

6.6 Not all CPO cases proceed all the way to a confirmed order and in a substantial number of cases going through the process often provokes the owner into action to bring the property back into use or sells it. However, by their very nature these cases are complex and contentious, and some owners will not engage at all and the process concludes in the making of the order.

6.7 Once the Order is confirmed, it can be implemented either by way of Notice to Treat or by General Vesting Declaration (GVD). The legal advice is that the latter procedure is the most appropriate as although the Council will have to wait three to four months after confirmation of the Order for possession, it would not have to wait for compensation issues to be settled, which could take even longer under the alternative route.

6.8 The Council will pay the compensation having followed the relevant approval procedures for payment of the compensation in accordance with property related purchases as outlined in the Council's Constitution. Prior to instigating any CPO action, the Council will enter into an agreement with a developer to ensure that the Council is indemnified in full for the total costs of the compensation, acquisition costs

and associated expenses of the acquisition of the property. The Council as the acquiring authority will initially own the property once the General Vesting Declaration vests the land in the Council, however, the property will be transferred as soon as possible to the developer as per the indemnity agreement.

- 6.9 The fixed fee is not due until the end of the process. However, to date the Council has paid nplaw £1,781 +VAT to cover additional expenses incurred. These include assistance with drafting the indemnity agreement.
- 6.10 In exchange for the council exercising its power of compulsory purchase, it is intended that the preferred developer bidder will reimburse it in terms of both the CPO Costs (see para 6.3 above) and the compensation plus any interest paid by the council to the property owner, when agreed.
- 6.11 Note, the property valuation will need updating.

## **7.0 LEGAL IMPLICATIONS**

- 7.1 Where an owner cannot be traced or where a response from the known owner is unlikely or non-committal or otherwise unsatisfactory, there is scope for a compelling case in the public interest for enforcement action to be taken by the Council, to ensure that their strategic aims are achieved. In this case this is the length of time the property has been empty and the previous failed attempts to secure the renovation/co-operation from the owner, along with complaints and the adverse effects on the amenity of the neighbourhood. Details of actions taken can be found in **Appendix 2**.
- 7.2 In this case, the Council has made every effort to contact the owner and requested that they improve the property to the benefit of the neighbours and locality generally, particularly given the continued deteriorating state of the premises. It is important that the Council can evidence the graduated approach to these cases as this will be required as part of the legal process. The Empty Homes Officer keeps a record of all actions on the Council's back-office database.
- 7.3 The Council has the power under section 17 of the Housing Act 1985 to acquire land by way of compulsory purchase (land in this instance includes houses) for housing purposes. Part XVII of the Housing Act 1985 applies to compulsory purchase. This in turn applies, with modifications, the Acquisition of Land Act 1981 (compulsory purchase procedure), the Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation).
- 7.4 Local authorities have a power under section 123 of the Local Government Act 1972 to dispose of land in any manner they wish, including the sale of freehold interest. The constraint on the local authority is that the disposal must be for best consideration reasonably obtainable, unless the Secretary of State consents to the disposal. This is to ensure that assets which are held by the Council are not sold at an undervalue.
- 7.5 Although steps are taken to minimise risk, the CPO carries the risk on a Public Inquiry. The additional legal costs of a single plot CPO is considered at a public inquiry could be between £2,500 and £5,000

## **8.0 STAKEHOLDER ENGAGEMENT**

- 8.1 As part of stakeholder engagement, ward members and Kegworth Parish Council have been asked for comments which are detailed below.

- 8.2 The Cabinet Member fully supports this paper given all efforts have been taken to encourage the landlord to take the necessary action. Reducing the number of empty properties across the district is vital to increase the supply of homes to local people and also improve the appearance and safety of local areas.
- 8.3 Comment from ward member Cllr Sewell “As the Ward member for Station Road, Kegworth, I fully support the Compulsory Purchase Order on this property, which I remember as a characterful cottage in the past - it is dispiriting to witness its current dilapidated state; and recently I have assisted residents in the adjoining property who have had flooding issues from the leaking roof at 65, causing delays to building work and major disruption.”
- 8.4 Comment from Cllr Sutton: “Nobody in Kegworth wants to see properties empty for so long and it is good to see the tougher end of the Empty Homes policy being invoked by the Council in what have become trying circumstances for the neighbours. There is at least one other case in Kegworth waiting in the wings if this proves successful.”
- 8.5 Comment from Kegworth Parish Council: Kegworth Parish Council is supportive of District Council initiatives, such as compulsory purchase of long-term disused properties, as it is in the best interests of the community to address longstanding issues, ensure the sites are used effectively, and it enhances the local area for residents.

## 9.0 VOLUNTARY PURCHASE

- 9.1 Guidance from the Ministry states that the acquisition of a property by compulsory purchase should always be a last resort. Accordingly, before making a CPO, a local authority should endeavour to purchase a property by agreement. If the council can show that reasonable attempts to acquire the property in this way have failed, this can assist it in demonstrating that a compulsory acquisition is necessary in this case. In view of the above, the council will initiate the formal CPO procedures in parallel with negotiations with the property owner.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> <li>Developing a clean and green district</li> <li>Local people live in high quality, affordable homes</li> </ul>
Policy Considerations:	Acquisitions policy – N/A in this CPO case Empty Homes Policy
Safeguarding:	If any safeguarding matters were raised during the CPO process relevant referrals would be made.
Equalities/Diversity:	This is a decision under an existing policy therefore an Individual EIA has been completed.
Customer Impact:	CPO's give the local authority the legal right to return the property back into use.
Economic and Social Impact:	CPO's will improve the local area and neighbours lives by not having a blighted property in the area.
Environment, Climate Change and	N/A



Zero Carbon:	
Consultation/Community/Tenant Engagement:	N/A
Risks:	<p>The CPO process would ensure a purchaser/developer has been identified prior to the final CPO process being commenced. Risks will be managed as part of the project management team.</p> <p>As set out in Section 6.0 of the report, there is a risk that this matter will be contested which could result in additional costs, which would have to be met from existing reserves.</p>
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