

# BRIEFING REPORT FOR CABINET MEETING

Compulsory Purchase of 1 Holdsworth Street



This report seeks to provide justification for initiating compulsory purchase proceedings in relation to 1 Holdsworth Street, Plymouth.

## **Background**

The Council is committed to achieving a reduction in the number of empty homes in the city. The Plan for Homes supports a range of housing delivery and service initiatives which includes reusing empty homes. The focus on reoccupying empty properties will help us to meet several of our priority objectives including improving housing conditions for those in private rented housing and improving communities through regeneration.

## **The property**

1 Holdsworth Street is situated in Pennycomequick in the Stoke ward of the city. The ground floor has historically been used as a shop and more recently as an office with the rest of the property being a two bedroom residential flat. Planning permission has been granted for a change of use from office to residential in line with the rest of the property and to replace the shop front with a bay window. The plans submitted will result in the creation of a three bedroom house. The owner died in 2010 and the property has remained empty since then. The property is a source of nuisance to neighbours and has generated a high volume of complaints. The property is in a poor state of repair and looks run down, there is graffiti on the shop front window and the back garden is overgrown.

## **A history of action taken**

The owner's son was first contacted in 2014 to discuss the property after the council tax department referred the property to the Housing Delivery Team (HDT) as probate had not been applied for following the death of the owner.

Although he has engaged with the HDT to some extent, he has failed to attend a number of scheduled meetings, cancelled them at the last minute and has also failed to respond to emails and voicemails. The HDT has offered a number of measures to support him to bring the property back into use including Financial Assistance, Houselet and Lease and Repair. Advice has also been provided on a number of issues including applying for probate/letters of administration, sourcing mixed use buildings insurance and sourcing architectural technicians. Despite our attempts to engage with the owner's son on a voluntary basis to support him to bring the property back into use it remains unoccupied and in a poor state of repair.

A high volume of complaints have been received in regards to this property and these have escalated since 2019. Neighbours have reported the poor condition of the property, slates falling from the roof, anti-social behaviour including the shop front window being smashed and drug taking and concerns that it will attract squatters.

Due to the increased lack of contact from the owner's son all informal means of encouraging him to take action have so far failed. A compulsory purchase order (CPO) was first considered in 2021, however we agreed to delay this action pending the submission of a planning application. Planning permission was granted for a change of use on the 2<sup>nd</sup> September 2021 and for removal of the shop front and replacement bay window on the 10<sup>th</sup> February 2022. Due to the lack of action taken by the owner's son he was given a deadline of the 1<sup>st</sup> April 2022 to start work on site, however there has been no evidence that work has started at the property.

A letter was issued from the Council's Legal team enclosing a Statutory Request for Information pursuant to Section 5A of the Acquisition of Land Act 1981 on the 10<sup>th</sup> February 2023. This questionnaire is used for preparing a CPO if necessary and it is an offence not to comply with the notice. To date despite repeated assurances the owner's son has not returned the required information and has also failed to make contact to arrange a meeting at the property.

The proposed CPO action is now considered to be the only action left to take that will result in the renovation and reoccupation of this property. It is considered that there is a compelling case in the public interest due to the ongoing distress it is causing the neighbours and the fact that it has now been empty for 13 years with no action taken except the submission of a planning application.

Other options have been considered including an Enforced Sale, however as probate has not been applied for the property is exempt from council tax so there is no outstanding debt. An Empty Dwelling Management Order has also been considered, however a substantial amount of work is required so this would not be a feasible option as the Council would not be able to recover its costs. The HDT activity log shows in more detail how much officer time has been spent on this case and demonstrates how all other options have been exhausted.

## Legal

The Council will need to be satisfied that the purposes for which it is making the CPO sufficiently justify interference with the human rights of those with an interest in the property, and to consider the rights of owners to the free and undisturbed use of their property, provided by Article 1 of the First Protocol to the European Convention on Human Rights.

The Council should also be able to demonstrate that the public benefit will outweigh the private loss and that the Human Rights of those affected are fully considered.

In making decisions Members therefore need to have regard to the Convention. The rights that are of particular significance to Cabinet's decision are:

- First Protocol Article 1: Peaceful enjoyment of possessions. This right includes the right to peaceful enjoyment of property and is subject to the State's right to enforce such laws as it deems necessary to control the use of Property in accordance with the general interest.
- Article 6: Entitlement to a fair and public hearing in the determination of a person's civil and political rights. This includes property rights and can include opportunities to be heard in the consultation process.
- Article 8: Protects the right of the individual to respect for private and family life.

The court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Any interference with a Convention right must be necessary and proportionate.

CPO is a last resort, and purchases should always be attempted by negotiation in the first instance.

The Council must show that negotiations with the landowner to purchase the property have been pursued and that an on-going dialogue has been maintained, but that the use of the property as housing accommodation cannot be achieved unless a CPO is made and confirmed.

The powers to acquire properties either by agreement or compulsorily with the consent of the Secretary of State are contained in section 17 of the Housing Act 1985 which are specifically designed for acquisition in these circumstances.

In acquiring property by way of a CPO, the Council is required to comply with and have regard to Government guidance contained in the MHLG Guidance on Compulsory purchase process and The Crichel Down Rules updated in 2018, and to justify how the Council can demonstrate a compelling interest in the circumstances in the compulsory acquisition of the property, sufficient to defend its proposals at public inquiry (or written representations), or in the courts.

Members should note that compensation will be payable to the owners and anyone with a legal interest in the property where they are entitled.

In this case it is considered that there is a compelling case in the public interest for the CPO. The public interest is served by the Council acquiring this unsafe property, arranging for its sale so it can be brought back into use and this future qualitative housing gain outweighs the necessary interference with the private rights and interests.

In addition, the individual affected by the CPO has the right to object and have their objection heard at a public inquiry and, additionally, appropriate compensation will be available to those entitled to claim it under the relevant provisions of the CPO Compensation Code.

Therefore, it is considered that in making the CPO the Council has struck a fair and proportionate balance between the interests of those whose Convention rights will be affected and the wider public interest.

## **Equality**

The Council has a Public Sector Equality Duty under the Equality Act 2010 to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between people who share those protected characteristics and people who do not.
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

Although it is not enforced in legislation as a protected characteristic, the Council also treats care experience as a protected characteristic.

The decision refers to the Council's compulsory purchase of one property. Due to the fact that the property is vacant and has been for many years and that the property's value means it will most likely be returned to the private market, it is not anticipated that this decision will have a positive or negative effect on those with protected characteristics and the equalities impact will therefore be neutral.

**Rosie Gage**

**Housing Delivery Officer**

**22/02/24**