

Cabinet

Compulsory purchase of 36 Whitsoncross Lane



Date of meeting:	11 March 2024
Title of Report:	Compulsory Purchase Order Resolution for 36 Whitsoncross Lane
Lead Member:	Councillor Chris Penberthy (Cabinet Member for Housing, Cooperative Development, and Communities)
Lead Strategic Director:	Anthony Payne (Strategic Director for Place)
Author:	Rosie Gage/Neil Mawson
Contact Email:	rosie.gage@plymouth.gov.uk
Your Reference:	WL CPO RG
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

This report seeks approval to make a Compulsory Purchase Order (CPO) for 36 Whitsoncross Lane, Plymouth. Section 17 of the Housing Act 1985 empowers local housing authorities to compulsorily acquire land, houses or other properties for the provision of housing accommodation. The property was reported in 2019 and it is believed to have been empty for at least 6 years prior to that. Despite offering advice and assistance the owner has failed to work with Officers to take the necessary steps to bring the property back into use. The condition of this property is having a detrimental impact on the street and is affecting nearby neighbours resulting in complaints. This property has been prioritised for action in accordance with the Council's Empty Homes enforcement policy.

Recommendations

It is recommended that Cabinet:

1. Approve the making of a Compulsory Purchase Order under section 17 Housing Act 1985 and the Acquisition of Land Act 1981 for the acquisition of 36 Whitsoncross Lane, Plymouth being the land within the area shown edged red on the plan submitted (appendix 3).
2. Authorise the Head of Legal Services to take all steps and actions necessary to make and progress the CPO including but not limited to the following procedural steps:
 - a. finalising the Statement of Reasons setting out the Council's reasons for making the CPO;
 - b. making the CPO, the publication and service of any press, site and individual notices and other correspondence for such making;
 - c. the preparation and presentation of the Council's case at any Public Inquiry which may be necessary;
 - d. seeking confirmation of the CPO by the Secretary of State (or, if permitted, by the Council pursuant to Section 14A of the Acquisition of Land Act 1981);

- e. publication and service of notices of confirmation of the CPO and thereafter to execute and serve any general vesting declarations and/or notices to treat and notices of entry, and any other notices or correspondence to acquire those interests within the area, including, if required, High Court Enforcement Officer notices; and
- f. referral and conduct of disputes, relating to compulsory purchase compensation, to the Upper Tribunal (Lands Chamber).

Reasons for Recommendations

Having regard to the legal requirements for CPO, officers consider that the Council can demonstrate that there is a compelling case to compulsorily acquire this property for the following reasons:

- 36 Whitsoncross Lane has been empty since approximately 2013 and is in poor condition. Appendix 4 shows the front and back of the property and highlights how the front and back gardens are overgrown and the property is deteriorating.
- The property was first reported in 2019 due to the property being empty and the gardens overgrown. Due to a high level of housing need concerns were raised that this was a wasted housing resource.
- Despite the Council offering advice and providing information on the options available to the owner in order to assist him to bring the property back into use, he has refused to engage in any voluntary action.
- It is evident that the property is not being maintained and it is looking seriously neglected compared to neighbouring properties. Taking this action will address the nuisance caused to neighbouring properties and will prevent the property deteriorating further.
- The Empty Homes enforcement policy identifies the need to take enforcement action when all other alternative actions have failed.
- Enforcement action already taken includes a S215 Untidy Land notice and a S4 Prevention of Damage by Pests notice but both have failed to encourage the owner to renovate the property and bring it back into use.
- An assessment has been carried out on the most appropriate course of enforcement action including an Enforced Sale and an Empty Dwelling Management Order, however CPO is considered to be the only option that will achieve a permanent solution.
- Having tried to resolve this matter through negotiation officers believe that there is a compelling case in the public interest for the making of a CPO in order to have the premises at 36 Whitsoncross Lane renovated and re-used for housing purposes.

Alternative options considered and rejected

Option 1 – Take no further action

The use of compulsory purchase powers are only considered as a last resort when all other measures have failed. Doing nothing is not considered to be an appropriate option in this case as the property will almost certainly remain dilapidated and will continue to cause nuisance and distress to the neighbours. In its present condition this empty property would remain a waste of good housing accommodation especially when housing demand remains high. It will also put the reputation of the Council at risk as it sends out a message that action will not be taken if an owner ignores the problem and refuses to engage.

Option 2 – Advice and support

This is the first stage of the process and is often successful in engaging empty home owners and supporting them to bring their property back into use. Initial engagement is often vital in getting to the root of complex problems that are preventing owners from taking action. Offering advice and support is

therefore a crucial first step in the process, however in this case the owner has not engaged in any meaningful way and no action has been taken.

Option 3 – Consider other enforcement options

Enforced Sale - If there is an outstanding council tax or land charge debt an enforced sale can be considered, however this is not considered to be an appropriate option as there are no debts owed on this property.

Empty Dwelling Management Order (EDMO) – The Housing Act 2004 allows such orders to be made to allow Council's to take control and manage residential properties to bring them back into use. In this case this option has been considered, however it was decided that this would not be appropriate due to the extent of the work required to make this property habitable and the legal and housing management issues associated with an EDMO.

As a result it is considered that there is no alternative option to CPO that would guarantee that the necessary improvements are made to this property and that it is brought back into use. Every effort has been made to work with the owner on a voluntary basis, however this is now a last resort.

Relevance to the Corporate Plan and/or the Plymouth Plan

Reusing empty homes will help address one of the Council's key priorities of tackling climate change. The Empty Homes Agency suggests that the advantages of making the best use of existing housing are being overlooked in the fight against climate change. 'The New Tricks with Old Bricks – how reusing old buildings can cut carbon emissions' research report suggests that new construction emits more than four-and-a-half times as much CO₂ per square metre as comprehensive refurbishment of an existing property. Over 50 years, the combined CO₂ emissions from construction/refurbishment and daily use show that existing homes can be as green, if not greener, than new ones. Reusing empty buildings also has the benefit of much lower embodied CO₂, which is the CO₂ emitted as a direct result of constructing a new building.

The blight of an empty property can also affect those living nearby due to the negative impacts associated with empty homes e.g. vermin, overgrown gardens and fly-tipping. Poorly maintained properties can cause damage such as damp ingress to neighbouring properties which can then be difficult and costly to repair. Therefore renovating dilapidated empty homes will also contribute to a clean and tidy City.

Finally it will enable the Council to provide more decent homes for those in need. Maximising the City's existing housing stock is increasingly important as there are now over 12,000 applicants on the housing register. Reusing empty properties will help provide a wide range of good quality homes from properties that have been left in a poor state of repair and would otherwise remain empty.

Keeping children, adults and communities safe

The negative impacts of empty properties can also cause people in the surrounding areas to feel unsafe. They can attract criminal activity such as vandalism, arson, drug taking, squatters and anti-social behaviour. Tackling empty properties and bringing them back up to a decent standard to allow occupation will address these issues. It is also important to focus on early intervention so that those affected by problem empty properties can see that the Council is taking action to help address their concerns.

Plymouth Plan

This decision will help PCC to meet Policy HEA8 of the Plymouth Plan which helps meet local housing need: "Increasing choice in housing for those in need by greater utilisation of the private rented sector."

Implications for the Medium Term Financial Plan and Resource Implications:

The Plan for Homes 3 has allocated £500,000 to accelerate action that will bring long term empty properties back into use including enforcement. The use of a CPO procedure will mean that the Council will have to pay compensation to the owner at open market value or if the owner fails to make contact then the money will be paid into court.

Once the title vests with the Council it will be sold at auction, therefore no capital funds are required. At the appropriate time a valuation survey will be carried out prior to the auction sale and a reserve price will be set at that value, thus enabling the Council to obtain the best price for the property at the time of sale. There should be minimal delay between acquisition and disposal.

Financial Risks

There are a range of unrecoverable costs including legal costs, advertising costs and land registry fees etc. Therefore action will require a budget of £5,000 to be set aside to meet costs associated with securing the proposed compulsory purchase order. If there are objections and a Local Public Inquiry is required this could incur additional costs.

There may be additional payments due to the owner of the property including a basic loss payment, however this can be avoided if the owner has not complied with certain statutory notices including a Section 215.

Carbon Footprint (Environmental) Implications:

Reusing empty homes will help address one of the Council's key priorities of tackling climate change which is highlighted above in the relevance to the Corporate Plan. Reusing empty buildings can help cut carbon emissions as new construction emits more CO₂ than a complete refurbishment of an existing property. It also allows existing properties to be upgraded to higher energy efficient standards.

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:

** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

Crime and Disorder

Renovating this empty property will reduce rates of anti-social behaviour and fear of crime as once occupied it will remove the risks associated with an empty property such as arson, squatting vandalism, and substance abuse.

Health and Safety

As indicated above empty properties can pose a risk to owners, Officers and members of the public. Renovating and occupying the property will also address what could be a health and safety risk in the future if the property is left to deteriorate further.

Public Health

Empty properties typically attract neighbourhood complaints about matters such as rodent infestations, a build-up of rubbish, overgrown gardens and unsecured premises. These are all issues that can potentially impact upon the health and well-being of the public. The environment and amenity of the area will be improved by bringing this property back into use.

Risk Management

The following risks are identified as part of this course of action:

- Delays and costs of protracted legal procedures
- The Secretary of State refuses confirmation of the CPO
- The potential for appeal to the Upper Tribunal (Lands Chamber) to determine a true market value over the transfer/auction sale price.

The above risks have been mitigated by the following considerations:

- Doing nothing is not considered to be an appropriate option
- Other actions have been considered and discounted
- Procedural delays are unavoidable but acceptable in progressing this case
- Evidence exists for a compelling case in the public interest

Appendices

*Add rows as required to box below

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
		1	2	3	4	5	6	7
1	Briefing Report – Compulsory Purchase of 36 Whitsoncross Lane							
2	Equalities Impact Assessment							
3	36 Whitsoncross Lane plan							
4	36 Whitsoncross Lane photos							

Background papers:

*Add rows as required to box below

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of any background paper(s)	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
	1	2	3	4	5	6	7

Sign off:

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Originating Senior Leadership Team member: Paul Barnard (Service Director for Strategic Planning and Infrastructure)											
Please confirm the Strategic Director(s) has agreed the report? Yes Date agreed: 29/02/2024											
Cabinet Member approval: <i>Approved verbally by Councillor Penberthy (Cabinet Member for Housing, Cooperative Development, and Communities)</i> Date approved: 01/02/2024											