

**THE ACQUISITION OF RESIDENTIAL PROPERTY BY
COMPULSORY PURCHASE**
(Report by the Head of Environmental & Community Health
and the Head of Housing Services)

1. INTRODUCTION

- 1.1 The purpose of this report is to provide Members with the opportunity to consider the principle of using compulsory purchase powers available in Housing legislation to acquire long-term empty residential properties in order to bring them back into use.
- 1.2 Compulsory purchase powers can only be used in circumstances where there appears to be no other prospect of a property being brought back into residential use, in effect as a last resort.

2. SUPPORTING/BACKGROUND INFORMATION

- 2.1 Section 17 of the Housing Act 1985 empowers local housing authorities to compulsorily purchase a house, or houses, for the provision of housing accommodation (whether by the local housing authority or someone else) and this power can be used to acquire empty houses. In practice the power involves the use of procedures set out in the Acquisition of Land Act 1981. Section 54 of the Housing Act 1985 provides a specific power of entry for the purpose of survey and examination and section 15 of the Local Government (Miscellaneous Provisions) Act 1976 provides a similar general power.
- 2.2 Government advice on the procedure is available in Circular ODPM 06/04 which suggests that the acquisition must achieve a quantitative or qualitative housing gain such as bringing an empty property back into use, that other measures have not worked and that the disposal plans are realistic and can be achieved in the three-year period following compulsory purchase.
- 2.3 Circular 06/04 explains that compulsory purchase powers are seen as an important tool for local authorities to help deliver social and economic change. The acquiring authority must be able to justify its proposals and to defend them at an Inquiry (or through written representations) and, if necessary, in the courts. The process should only be used where there is a compelling case in the public interest and the Compulsory Purchase Order (CPO) must be confirmed by the relevant Minister.
- 2.4 The procedure can be summarised as follows:
- ◆ Establish the history and all available information regarding legal interests in the long-term empty property.
 - ◆ Attempt to convince the owner(s) to make the property habitable within a reasonable time or to sell the property on the open market.
 - ◆ Explain the possibility of the use of CPO to the owner, seek to acquire the property by negotiation and offer mediation via an independent third party.

- ◆ Obtain an open market valuation for the property by the District Valuer in order to establish the level of compensation* to be offered.
 - ◆ Establish how a CPO scheme will be financed.
 - ◆ Establish a timetable for carrying out CPO procedure.
 - ◆ Draft a report including a statement of reasons and a draft CPO for consideration by Cabinet.
 - ◆ Subject to Cabinet making a resolution declaring the Council's intention to make a CPO, initiate the CPO procedure.
 - ◆ If the owner has made no genuine effort to restore the property to a habitable condition for rent or sale and it apparently cannot be acquired by negotiations continue with CPO procedure.
 - ◆ Make the CPO by affixing the Council's Seal, advertising it in the press and serving copies upon all persons with legal interests in the land.
 - ◆ Consider any objections to the proposals made within 28 days.
 - ◆ If valid objections are received the Secretary of State will direct a CPO Inquiry to be held. On completion of the Inquiry the Inspector will report back to the Secretary of State and the CPO will be confirmed, modified or rejected. Compensation issues are not valid reasons for objection but are dealt with by the Lands Tribunal (website www.landtribunal.gov.uk).
 - ◆ If there are no objections the Secretary of State can confirm the CPO and the Council can serve a General Vesting Declaration, or a Notice to Treat/Entry which serves to transfer the legal interests from the then owner to the Council. After this the Council can arrange to formally dispose of the property in order to bring it back into use.
- * Compensation (Circular 06/04) = open market value + compensation for severance + compensation for disturbance and other losses based upon the value of the land (equivalent to 7.5% of the property's value).

3. IMPLICATIONS

- 3.1 Rather than bring a property back into use itself, the Council can make arrangements to sell a compulsorily purchased property immediately after it has been acquired by CPO. It would seem logical to agree in advance that the Council will seek to pay the open market value as determined by the District Valuer and offer the property to a developer or Registered Social landlord prepared to pay the same amount to acquire the Council's interest. In practical terms this arrangement would be in place before the Council adopted the legal interests in the property.
- 3.2 There are complex rules set out for compensating persons who have legal interests in a property that is compulsorily purchased. This is based upon putting the individual into a similar position as before they lost their interest by compensating them in monetary terms plus a home loss payment. Even if the Council acquires a property by agreement the owner is still entitled to the home loss payment.
- 3.3 The acquiring authority will normally be required to meet the costs of any Inquiry and any written representations and also the costs of valuing the property, advertising and legal costs, the owner's reasonable costs and it may be necessary to use specialist external legal services at least in

the first instance. The following table provides an estimate of the costs and compensation involved in procuring an empty property with an open market value of £125,001 by compulsory purchase where the owner appealed against the decision of the Council:

Cost and Compensation Arrangements in Respect of a Property Valued at £125,001		
Item	Comment	Amount
Market value	District Valuer's Valuation	£125,001.00
Stamp Duty	Set By HM Revenue & Custom	£1,250.01
District Valuer's fee	Set by District Valuer	£1,000.00
Legal fees	HDC legal fees for CPO administration	£2,000.00
Legal fees	HDC legal fees for administering the sale	£2,000.00
Legal fees	Owner's reasonable fees for conveyancing	£1,000.00
Surveyors fees	Owners reasonable fees for preparing and negotiating a compensation settlement	£1,000.00
Inquiry Costs	If the owner objected to the CPO the Council has to pay the costs of an Inquiry estimated at one day plus travel and other costs for the Inspector	£4000.00
Home Loss payment	Section 29 of the Land Compensation Act 1973 (as amended) entitles a person to a home loss payment when a CPO is made. In this case the payment is 7.5% of the open market value	£9375.00
Total		£146,626.01
Recoverable costs		£125,001.00
Total Cost to HDC		£21,625.01

3.4 The Council's policy relating to the use of the Repairs Assistance budget (£250k per year) would enable CPO to be funded from this source. The cost of the property would be reimbursed upon sale. The estimated cost of £21.6k would not be recoverable and would have to be met from the Repairs Assistance budget. The budget could fund the unrecoverable costs of 1 or 2 properties per year. There is insufficient funding (given the other demands on this budget) to fund any more than 1 or 2 properties per year.

3.5 Properties brought back into use in this way will not necessarily become 'affordable housing'. To change the tenure into social rented housing would require a further £70k+ per property. There may be scope to change the tenure to shared ownership, or intermediate rent at a lower additional cost. Each case will be appraised on its merits.

4. EMPTY PROPERTIES

4.1 Currently there are thought to be about four or five long term empty properties around the District that have defied the best efforts of Environmental Health and Housing Services to encourage the owners to return them to residential use.

- 4.2 These properties are known to have been empty for many years and have gradually fallen into a state of disrepair. The owners are known to Council Officers and have been contacted many times to encourage them to repair the properties for rent or sale. They have also been offered grant aid but apparently prefer to leave their properties as they are, unoccupied and in a state of increasing disrepair, some attracting vandals and blighting the local environment. As the properties are unoccupied they cannot be considered a priority for alternative housing enforcement action.

5. CONCLUSION

- 5.1 Empty properties represent a wasted and depreciating asset that cannot be justified at a time when there is a shortage of social housing, a lengthening Housing waiting list and increasing homelessness. Such properties can be put to good use and the threat of CPO in itself may be enough to encourage recalcitrant owners to actively manage their empty properties or to dispose of them on the open market. However, if the property is acquired by compulsory purchase there are considerable costs to the Council.

6. RECOMMENDATION(S)

It is RECOMMENDED that members:

- 6.1 Consider the use of compulsory purchase powers as set out above for the purpose of acquiring empty property as a last resort when all other measures have failed.
- 6.2 Delegate authority to the Director of Operational Services to appoint authorised Environmental Health Officers and Environmental Health Enforcement Officers to exercise the powers of entry set out in section 54 of the Housing Act 1985 and section 15 of the Local Government (Miscellaneous Provisions) Act 1976 for the purpose of survey or examination of property to determine if CPO powers should be exercised or progressed.
- 6.3 Authorise the Head of Environmental and Community Health Services and the Head of Housing Services to prepare joint reports for Cabinet in respect of properties considered suitable for CPO setting out the case for CPO, the statement of reasons and a draft CPO.
- 6.4 Authorise the Head of Environmental and Community Health Services to submit orders approved by Cabinet to the Secretary of State for confirmation and complete the CPO procedure.
- 6.5 Authorise the Head of Housing Services, to establish a developer prepared to take over any property acquired by CPO from the Council at the established market value and to transfer ownership on these terms.
- 6.6 Authorise the Head of Housing Services to use the Repairs Assistance budget for the purpose of acquiring property by CPO.
- 6.7 Note that the likely costs associated with the compulsory purchase procedure that are not all recoverable; an estimated £21.6k per property could be funded from the Repairs Assistance budget subject to a maximum of 2 CPOs per annum.

BACKGROUND INFORMATION

Housing Act 1985 section 17
ODPM Circular 06/04

Contact Officer: **John Allan**
 ☎ 01480 388281
 Jo Emmerton
 ☎ 01480 388203