

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **JOINT HOUSING AND ENVIRONMENT OVERVIEW &
SCRUTINY COMMITTEE**
DATE: **MONDAY, 28 APRIL 2014**
REPORT BY: **HEAD OF HOUSING**
SUBJECT: **TACKLING LONG TERM VACANT PRIVATE HOMES**

1.00 PURPOSE OF REPORT

- 1.01 To provide Members with an understanding of the mechanisms available to tackle long term vacant private homes.
- 1.02 To update Members on the progress of the Welsh Government Houses into Homes Scheme.
- 1.03 To introduce to Members a proposed enforced sales policy, and seek support for its use.

2.00 BACKGROUND

- 2.01 There are currently circa 450 long term vacant private homes in Flintshire, a figure which has been reducing over the last two years. This reduction is as a consequence of both direct financial assistance through the Council's capital programme and specific funding from Welsh Government; alongside an improving housing market.
- 2.02 The Welsh Government has given priority to increasing housing supply and views empty homes as a key component of this. The commitment given in their Programme for Government is to return 5000 long term vacant homes in Wales to occupation, during this term of Government, 2011-2016.
- 2.03 To support this aim, Welsh Government has made available £20M of funding for the Houses into Homes Scheme. The resource is being used to provide interest free loans to owners of long term vacant homes (over 6 months) to renovate them and return them in to use. The loans are for 2 years if the owners wishes to sell the property once improved, or 3 years should they wish to let it.
- 2.04 Houses into Homes, is being delivered on a regional basis and Flintshire County Council is the lead authority for this Scheme in North Wales. Over the last 2 financial years in excess of 100 loans have been made across North Wales totalling £4.4M. Flintshire's claimed share of this resource is £950K.

- 2.05 The above resource is supporting 14 loans in Flintshire, with a value of between £25K and £150K. The scheme is limited to a maximum of £25K per unit of accommodation and an upper limit of £150K. The first homes to be completed through the scheme were a row of 6 terraced properties in Flint. These properties are now occupied and have supported the ongoing regeneration of the town. The Council manages the properties on behalf of the owner through a 5 year lease. There are currently a further 8 properties undergoing major regeneration across the County and this first phase of the initiative will provide an additional 19 units of accommodation, a grand total of 25 extra housing units.
- 2.06 Whilst it is intended that the Houses into Homes loans will be recycled upon redemption, the 3 year repayment term and the lack of new resources in 2014/15 means that there is likely to be a gap in activity until the first loans are repaid in 2016. All loans granted by Flintshire through the scheme have been loans to let.
- 2.07 Given the good progress being made, it is vital that as financial resources reduce, the Council remains in a position to tackle long term vacant private homes. Therefore, it has undertaken a review of its enforcement options and a WG funded consultant was provided to each Council to support this. On this basis the Council is bringing forward an enforced sales policy for consideration by Members and to seek support for its use in Flintshire.

3.00 CONSIDERATIONS

- 3.01 At present the Council has a range of options for returning long term empty dwellings back in to use. Outlined below are the main options at its disposal, along with any limitations as to their use.
- 3.02 **Building Act 1984**
This provides the Council with various powers that can be used to require works to buildings, including empty homes. The Act contains the provisions necessary to deal with dangerous structures, meaning those properties which are so dangerous that they are structurally unsafe. The most common remedy in this situation is demolition of all or part of the structure. As this can cover any building type, the legislation is currently enforced by Building Control on behalf of the Council.
- 3.03 Additional powers under this Act exist to deal with ruinous and dilapidated buildings and defective drainage from existing premises. The Act permits the Council to serve Notice on the owner and (if not completed within a given timescale), undertake the work themselves. These provisions are enforced by Officer's of the Environmental Health Service within the Public Protection Division.
- 3.04 **Housing Act 2004**
This Act allows the Council to serve a wide variety of Notices, the

most appropriate to empty homes being an Improvement Notice. The Notice can be used to specify work to bring the property up to a habitable standard and remove any category 1 hazards. Under the Housing Health & Safety Rating System there are 29 hazards that must be considered when assessing a dwelling. These are hazards that might affect occupiers or visitors to the property. However, it would be difficult to use this for an empty property, unless the condition of it was having an impact on the safety of others, e.g. slates falling from a roof on to a neighbour's property, or the street below.

- 3.05 The Council could equally choose to use the Building Act and the section in relation to dangerous structures to remedy this. It is very much dependant on the outcome the Council is seeking to achieve to determine the most appropriate route. If the eventual outcome desired is demolition of the dwelling, then the Building Act is most appropriate. If the long term aim is to work with the owner to return the dwelling to a good standard and returned in to use, then housing legislation should be utilised.
- 3.06 The Housing Act also introduced the power to serve an Empty Dwelling Management Order (EDMO). This allows the Council to serve Notice on the owner of a long term vacant property, stating that it intends to take over all responsibility for the property, renovate it and let it out. Given the severity of the measure there are many restrictions to its use. The property must have been vacant for over two years and the owner must not be making any attempt to market the property for sale or let. An Order shouldn't be considered by the Council when the owner is absent from the property, but the reason is not of their choosing e.g. when they are receiving medical care, or are in prison.
- 3.07 In addition the Council must make its case to the Residential Property Tribunal (RPT). The RPT is an independent tribunal set up to resolve disputes relating to private rented and leasehold property. The tribunal is usually made up of 3 people, a legal representative, a housing professional and a lay person. The tribunal must consent to the serving of an Empty Dwelling Management Order. In reaching that decision they will accept representations from both the Council and the owner. The Council must prove that it has done all it can to work with the owner to bring the property back in to use without success. Similarly the owner will be required to prove why the service of an EDMO is not reasonable.
- 3.08 In the event that an EDMO is granted it initially operates for up to 12 months. During which time the Council, or its managing agent can renovate the property and let it out. The Council, or its managing agent, can then recover the cost of the work required to bring the property up to a habitable standard through rental income. Any residual rent after the Council's costs are passed back to the owner.
- 3.09 After 12 months the Council must then decide whether it can pass the

property back to the owner, or if it does not wish to do so, apply to extend the Order for a 6 year period. A Council might chose to do this if it does not have confidence that the property will remain occupied and well managed if it were to be transferred back to the owner. However, the owner would once again be able to challenge this decision at the RPT. Given that serving an EDMO is a protracted and complex process and initially the Council must fund the cost of improvements, it is the least used of all the tools available.

3.10 Environmental Protection Act

This Act allows the Council to service notice on property owners where the premises is prejudicial to health or a nuisance. In the context of empty homes it is most commonly used where properties are linked and a defect in one is causing damage to the other for example. Where a defective roof on one property is causing dampness in the adjacent property, then a statutory nuisance exists and Notice is served on the owner to address the issue under this Act. However, whilst this affects the repair, it doesn't put pressure on the owner to occupy the property, other than any charges incurred.

3.11 Local Government Miscellaneous Provisions Act and the Prevention of Damage by Pests Act

The above Acts are regularly used in connection with empty properties, as they provide for securing them against unauthorised access and provide the ability to clear properties and gardens to eliminate vermin. These Acts, alongside the Environmental Protection Act are enforced by Environmental Health Officer's in the Public Protection Division.

3.12 Town and Country Planning Act

There is a section within the above Act that relates to 'premises which are detrimental to the amenity of the neighbourhood.' This allows the Council to serve legal notice on the owners to take reasonable steps to improve their properties. However, the threshold on this piece of legislation in case law is high and therefore whilst it is a tool at the disposal of the Council, it isn't frequently used in the area of vacant homes. However, it is now common for this power to be available to those responsible for empty property enforcement. Compulsory purchase is also available under this, or the Housing Act. However prior to the use of these powers, Officer's are required to seek Cabinet approval and make provision for the necessary acquisition costs and associated compensation payments.

3.13 Law of Property Act

This piece of legislation has been on the statute books since 1925, however it was rarely used until Manchester City Council decided it would be a good tool to address their growing problem of vacant homes in the early 2000's. At that time it was identified that a little known provision within the Act allowed Council's to force properties in to auction, were there was an outstanding debt.

- 3.14 Relevant debts can include Council Tax arrears, Social Care charges and any other debt for work carried out and funded by the Council as a result of exercising any of the powers discussed above (excluding the EDMO). The enforced sales procedure therefore offers the Council the potential to resolve the issue of the property being empty and also place it in a stronger position to recover monies it is owed. The only way the owner of the property can prevent the property from being placed in auction is to repay the debt. Therefore, to pursue this route the debt must be significant, so there is reasonable confidence the process will reach a conclusion and the property be sold. The Council can then work with the new owner to ensure the property is reoccupied in a timely manner.
- 3.15 Given that Council Tax debt is a relevant debt for the purpose of the enforced sale, it is envisaged that this will become an important tool in the future. The current WG Housing Bill contains provisions for increasing Council Tax charges for long term vacant homes (over 12 months) up to 150%. The aim is to encourage owners to reoccupy their properties, rather than pay the increased charge. Should this remain unaltered in the Housing Bill, it will be an option for all Welsh Councils from April 2015. As the additional charge is optional, any increase will be the subject of both Scrutiny oversight and Cabinet approval prior to implementation. However, should the additional charge be approved, it will not only act as a deterrent to owners leaving their properties unoccupied, but it may also increase opportunities for enforced sales and increase revenue generally.
- 3.16 There are currently a small number of properties across Flintshire where use of this power would be appropriate. All the properties have an outstanding debt to the Council and we have been unable to secure their occupation voluntarily by the owner. One of the properties has social care charges in excess of £40K, where the owner and recipient of care is now deceased and the family are unwilling to sell the property as they wish to live in it, but are unable to fund the cost to make it habitable. The property is in a severely dilapidated state and there is little chance of the current owners ever being in a position to improve it. Given the level of debt owed, they will also not have the ability to prevent the sale, as they cannot repay it. Should an enforced sale be successful, the Council's local land charge is secured and would be repaid out of the proceeds of the sale during the conveyancing process.

4.00 RECOMMENDATIONS

- 4.01 That Members note the mechanisms for returning long term vacant private homes back in to use.
- 4.02 That Members note the progress the Council has made in delivering the Welsh Government Houses into Homes Scheme.

4.03 That Members support the proposed enforced sales policy and its use in Flintshire.

5.00 FINANCIAL IMPLICATIONS

5.01 The Houses into Homes Scheme is funded through Welsh Government and the intention is that it will be a recycling fund for use by Council's in perpetuity.

5.02 A successful enforced sale will allow the Council to recover any debt owed. However, adequate financial provision will need to be made through the Council's capital programme to enable works in default of a Notice to be carried out when required.

5.03 In respect of empty properties, there is the option for Council's to utilise Houses into Homes capital for works in default. To date the Council has not pursued this option, as the resource would have to be repaid by the Council in future years and it reduces the overall pot available for applicants.

6.00 ANTI POVERTY IMPACT

6.01 Activity in respect of long term vacant homes assists property owners to improve and rent or sell their properties. This provides additional accommodation, often at affordable rents to local people.

6.02 In addition, where the cooperation of the owner is not forthcoming, they can be compelled to return their property in to use, with all the benefits highlighted above.

7.00 ENVIRONMENTAL IMPACT

7.01 Returning long term vacant properties to occupation is more environmentally friendly than building new properties to meet housing need. Additionally the standards of those properties improved are high and as result this also lessens their environmental impact.

8.00 EQUALITIES IMPACT

8.01 The service in respect of empty properties is of benefit to both property owners and those in housing need.

9.00 PERSONNEL IMPLICATIONS

9.01 There are no personnel implications arising as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 No consultation is required as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 No consultation has been undertaken as a result of this report.

12.00 APPENDICES

12.01 Proposed enforced sales policy

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

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