

<b>Report To:</b>	<b>CABINET</b>	<b>Date:</b>	<b>15 MARCH 2018</b>
<b>Heading:</b>	<b>ENFORCED SALE OF EMPTY PROPERTIES</b>		
<b>Portfolio Holder:</b>	<b>HOUSING AND ASSETS AND SAFER AND STRONGER COMMUNITIES</b>		
<b>Ward/s:</b>	<b>ALL</b>		
<b>Key Decision:</b>	<b>YES</b>		
<b>Subject to Call-In:</b>	<b>YES</b>		

### **Purpose of Report**

To advise Members about the Enforced Sales Procedure (ESP), a process that can be used to recover costs incurred by the Council when dealing with long term empty properties. As a consequence of this action, the ESP will assist in reducing the number of empty properties in the District.

To request approval of a budget of £20,000 to implement the ESP. The budget will enable the Private Sector Enforcement Team (PSE) to undertake minor works on long term empty properties where the owner has failed to act and a statutory notice has been served.

### **Recommendation(s)**

**To note the content of this report, specifically the new Enforced Sales Procedure.**

**To approve a budget of £20,000 for the year 2018/19 to implement and administer the Enforced Sales Procedure. The budget will be used for the purpose of undertaking minor works to properties in disrepair, including empty and derelict properties and for other costs associated with operating the procedure.**

### **Reasons for Recommendation(s)**

The Council has a responsibility to ensure that empty properties in the District are maintained in a good condition and that prompt action is taken if a property owner fails in their obligation to maintain their home(s).

The Council has a number of statutory powers to deal with disrepair associated with empty properties and officers normally work alongside property owners to ensure works are completed in a timely manner. However, if a property owner fails to comply with requests the Council may need to take action including undertaking minor works at the property. It is important the Council is able to

recover all costs associated with such action. The ESP will be the mechanism for ensuring the Council is fully reimbursed if the property owner fails to pay the debt.

As a consequence of action to recover monies owed the empty property will be sold and so brought back in to use.

The Council has a commitment to reduce the number of empty properties in the District. Members have recently highlighted, via a Substantive Motion put to Council on 1<sup>st</sup> February 2018, that the housing and homelessness crisis is worsening and it is important the Council continues to take a pro-active approach to dealing with empty homes.

The Homelessness Reduction Act 2017, that becomes law in April 2018, will intensify this need as the Council will be obliged to assist more homeless applicants' access accommodation suitable for their long term needs. The more properties that are available for occupation in the district, the better chance we have of assisting those in need.

### **Alternative Options Considered**

Not to introduce the ESP. This was not considered as it is important the Council seeks to recover debts owed and that empty properties are brought back in to use.

### **Detailed Information**

The Council has made empty homes and properties a focus and has set up a cross departmental working group to ensure that all the relevant knowledge and powers are considered in dealing with empty properties.

The Council's PSE Team works hard to identify vacant properties and work with the owners to bring the properties back into use. In recent years the Team has been successful in reducing the number of vacant properties in the District. There are currently 507 properties in the District that have been vacant for 6 months or more. During the last 3 months 210 empty properties have been brought back in to use.

The role of the team is primarily one of advice and support as on most occasions this is successful in bringing about the desired outcome. When a property owner fails to engage or act on the advice a Notice may be served under the relevant Act. Some of the most commonly used include;

- Section 4 Prevention of Damage by Pests Act 1949 - Requires land to be kept free of rats and mice
- Section 79 Building Act 1984 - Requiring works to remedy ruinous and dilapidated buildings and neglected sites
- Section 80 Environmental Protection Act 1990 - Requiring abatement of statutory nuisance
- Section 215 Town and Country Planning Act 1990 - Requiring steps to be taken for the purpose of remedying the adverse effect on amenity caused by detrimental condition of land and buildings
- Housing Act 2004 - Requiring the taking of action to deal with category 1 or 2 hazards in residential premises

Failure to comply with a Notice amounts to an offence and the Council may have a right to carry out the works in default and recover the cost.

If the cost of works are not repaid within a specified period of time they can be placed as a Local Land Charge against the property. The charge takes effect as if created by a deed of charge by way of legal mortgage within the meaning of the Law of Property Act 1925. This is what provides the power of sale.

At this stage a letter will be sent to the owner to advise them of the existence of the charge and that if it is not paid off the Council will take steps to sell the property.

If this letter is ignored a Notice under section 103 of the Law of Property Act 1925 will be served. This is a legal requirement before a power of sale is exercised under a mortgage/charge. The notice explains that money is owed under a mortgage/charge and that if it is not paid off within 3 months, the Council may then sell the property to recover the money.

If a property is sold it is common to sell via auction. It is important the Council seek to obtain the best price as a duty is owed to the owner of the property not to sell at under value.

When the property has been sold the Council will deduct from the sale proceeds the original works in default costs, the legal costs in undertaking the enforced sale procedure, conveyancing costs in connection with the sale, auctioneer's or other marketing costs, and other officer time in relation to the enforced sale process. If there are any other debts owed to the council these can be deducted too. The balance is then paid over the ex-owner of the property or, if there is another mortgage on the property, the Council will pay them off first before handing the balance over.

Additional benefits of the Enforced Sales Procedure are the likelihood that a new owner will refurbish the property and increase the chance that it will become reoccupied and improve the local amenity. The Council may also consider buying the property itself if it is in the interest of the neighbourhood to do so, suitable budgets are available and set viability parameters are met.

The above is a brief summary of how the ESP will work. A more comprehensive procedure, including other rules and guidelines has been developed for officer use.

The ESP is another option the Council may wish to utilise when dealing with empty properties. As an alternative it may be more appropriate for the Council to consider an Empty Property Management Order (EDMO). An EDMO is issued under Part 4 of the Housing Act 2004 and gives the Council the power to take over the management of a vacant property for a set period and recovers its costs from the ongoing rental income.

Whilst the focus of this report is on the new ESP, it is important that Members are aware this is just one of a number of powers available to the Council when dealing with empty properties. On some occasions it may be appropriate, at other times an EDMO or other may be the best course of action. Each empty property and each empty property owner is dealt with individually and wherever possible the PSE Team work with and in support of the owner to bring their home back into use.

## **Implications**

### **Corporate Plan:**

Housing is a priority within the Corporate Plan. The recommendations within this report will help with the following aims within the Plan;

- Bring more empty homes back into use
- Ensure that new housing is sustainable and fuel efficient
- Support the delivery of energy efficiency in existing homes
- Deal with disrepair in the private sector by encouraging owners to improve their properties

### **Legal:**

The Council will be exercising a statutory power of sale under Section 103 of the Law of Property Act 1925 in order to recover costs that it has incurred in carrying out works in default thus enabling the sale of the property to an organisation committed to ensuring that it is improved and brought back into occupation.

**Finance:**

Budget Area	Implication
General Fund – Revenue Budget	A budget of £20,000 will be released from the Economic Development & Place Reserve for the year 2018/19. Subject to the performance of the budget this year and the recovery of costs it will be considered for inclusion in the annual budget from 2019/20.
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

The actual requirement will be monitored throughout 2018/19 when the new process as had time to produce results. Then look to review the financial position to see if the process of recouping costs from the enforced sale produces a nil overall cost to the Council.

**Risk:**

Risk	Mitigation
Potential failure to recover Council monies spent	Robust process and procedure is in place and that it is effectively monitored to ensure prompt action is taken to recover monies owed.

**Human Resources:**

No additional staff resources are required. The proposals will require action by existing officers within the Planning, Private Sector Enforcement and Community Protection teams.

**Equalities:**

An Equalities Impact Assessment Screening Form has been completed and has not identified any equality related issues.

**Other Implications:**

None

**Reason(s) for Urgency**

N/A

**Reason(s) for Exemption**

N/A

## **Background Papers**

None

## **Report Author and Contact Officer**

*Phil Warrington*  
*Lettings & Strategic Housing Manager*  
[p.warrington@ashfield.gov.uk](mailto:p.warrington@ashfield.gov.uk)  
01623 608893