

REPORT TO	ON
CABINET	12 September 2018



TITLE	PORTFOLIO	REPORT OF
30 Rhodesway, Hoghton	Assets and Transformation	Director of Planning and Property

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	No
Is this report on the Statutory Cabinet Forward Plan ?	No
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	No
Is this report confidential?	No

1. PURPOSE OF THE REPORT

- 1.1 This report provides an update to a Cabinet Report dated 6 November 2013 in respect of the property known as 30 Rhodesway, Hoghton, Preston, PR5 0JY. That report concerned the detrimental Impact of said property on the environment and amenity of the local area, providing options to deal with the property and recommends a way forward.

2. PORTFOLIO RECOMMENDATIONS

It is recommended that Cabinet:

Authorises the Interim Assistant Director of Property & Housing to continue negotiations and seek to conclude terms to acquire the property by agreement, in an attempt to avoid the need for a Compulsory Purchase Order (CPO), and to instruct the Legal Services Manager to draft the necessary documents and to execute such documents.

- 2.1 Subject to the outcome of the negotiations, Authorises the use of the powers of compulsory purchase and to authorise the making of an Order under Section 17 of the Housing Act 1985 (as amended) and all other powers as appropriate for the compulsory purchase of land for the purpose of re-sale and renovation in accordance with the Council's Empty Properties Policy 2013; namely 'The South Ribble (30 Rhodesway Hoghton) CPO 2013'.

That the Legal Services Manager be authorised:

- 2.2 To take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all notices, and the presentation of the Council's case at any Public Inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be, the execution of General Vesting Declarations.
- 2.3 To negotiate and enter into agreements and undertakings, prior to or following the making of the Order, with any owners of any interest in the land effected by the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order and to authorise the Interim Assistant Director of Property & Housing

and Legal Services Manager to draft, agree and execute all necessary legal documents to record any such agreements and/or undertakings;

- 2.4 To authorise the Legal Services Manager to appoint suitable Counsel to advise and represent the Council at any Public Inquiry held in respect of the Order and to provide legal support to the project team through the process;
- 2.5 That following the confirmation of the CPO or acquisition by agreement, that the Interim Assistant Director of Property & Housing be authorised to enter into negotiations with a purchaser, identified following a marketing exercise and agreed in consultation with the Cabinet Member for Assets and Transformation, for the disposal and renovation of the property with minimal financial impact to the Council, to bring it back to a habitable condition for occupation.
- 2.6 The Legal Services Manager to approve and execute all legal documentation that is considered necessary to give effect to the above.

3. REASONS FOR THE DECISION

- 3.1 The Council believes that the proposals for the CPO are necessary for the following reasons:
 - The property has been vacant for over fourteen years, having been registered as empty since April 2002 on Council Tax records;
 - The Council has sought to bring the property into acceptable use by way of negotiation to no avail;
 - The Council has made repeated attempts to acquire the property by agreement;
 - No works have been carried out to remedy the sub-standard condition and contribute to the property's re-use for housing purposes, despite having highlighted its condition and its effect on adjoining and neighbouring properties; and
 - The compulsory purchase will achieve a clear housing gain by bringing a sub-standard property back into residential use.
- 3.2 Accordingly, the Council considers there to be no other prospect of the property being brought back into residential use. This is consistent with the Council's Empty Properties Policy (adopted 4 September 2013), which is used to identify and tackle properties that have been vacant for a long time and are causing problems for neighbouring properties and residents.

4. EXECUTIVE SUMMARY

- 4.1 The property is a two-bed semi-detached bungalow incorporating integral garage and drive way with gardens to front and rear. It is situated in a semi-rural location on a residential street known as Rhodesway in the parish of Hoghton.
- 4.2 The dwelling is in very poor condition having been vacant and unoccupied since at least April 2002. The dwelling is uninhabitable and its condition is affecting the adjoining property, 28 Rhodesway.
- 4.3 Negotiations have been undertaken with the Reputed Owner in respect of the property with frequent requests made to both the Reputed Owner and solicitors acting on his behalf since

September 2013. The Reputed Owner has not taken any meaningful steps to remedy the disrepair, or bring the property back into residential use.

- 4.4 Section 17 Housing Act 1985 empowers the Council to acquire housing by compulsion and involves an application to the Secretary of State for confirmation of the CPO. One of the main uses of this power is to bring empty properties into housing use and to improve substandard or defective properties.
- 4.5 As a last resort, it is recommended that the Council uses its powers of compulsory purchase to bring this vacant, sub-standard property back into residential use. It is estimated that the net cost to the Council arising from acquisition, and resale of the property will be in the region of £16,000 to £19,000.
- 4.6 Should the Order be confirmed it is to be recommended that the property will be offered for sale by way of either a building agreement requiring works be complete within a 12-18 month period, or a conditional contract containing a schedule of works.

5. CORPORATE PRIORITIES

- 5.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	✓
Place	✓

Projects relating to People in the Corporate Plan:

People	
--------	--

6. BACKGROUND TO THE REPORT

- 6.1 The property is a two-bed semi-detached bungalow incorporating integral garage and drive way with gardens to front and rear. It is unregistered land. The property is situated in a semi-rural location on a residential street known as Rhodesway in the parish of Hoghton.
- 6.2 The dwelling is in very poor condition having been vacant and unoccupied since at least April 2002. In that time, the dwelling has fallen into significant disrepair and is deteriorating severely both internally and externally. The dwelling is now uninhabitable and its condition is affecting the adjoining property, 28 Rhodesway.
- 6.3 The state of obvious neglect not only impacts negatively on the adjoining owner but also on the surrounding community. A unit of much needed family sized accommodation is being withheld from a market where there is established demand.
- 6.4 The dwelling is reputed to be owned by a private individual ("the Reputed Owner"). The Reputed Owner was last known to live in private rented accommodation in Lancaster. The Council have made numerous attempts to encourage the Reputed Owner to provide evidence of his interest in the dwelling and to bring about the improvement and reoccupation of the dwelling. The dwelling, however, remains neglected and unoccupied.
- 6.5 One of the key responsibilities of local authorities is to preserve their housing stock. The Housing Act 2004 places duties on local authorities to review housing standards within their districts and take enforcement action where necessary. The Housing Act 1985 (Section 17)

enables local authorities to acquire underused property land for housing. The Town and Country Planning Act 1990 (section 226) also allows local authorities to acquire land, where such acquisition will lead to the improvement of an area. In response to the above the Council has both a Housing Framework, which identifies empty properties as a priority, and an Empty Properties Policy.

- 6.6 Negotiations have been undertaken with the Reputed Owner in respect of the property, however the Council has yet to receive evidence of his legal interest in the property despite frequent requests having been made to both the Reputed Owner and solicitors acting on his behalf since September 2013. The Reputed Owner has not taken any meaningful steps to remedy the disrepair, or bring the property back into residential use.

7. PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)

- 7.1 The property has been registered empty since 1 April 2002. It is in a poor state of repair and is not deemed fit for habitation by the Council's Environmental Health Team. The adjoining semi-detached property is also affected by the disrepair.
- 7.2 Despite the best efforts on the part of the Council, the property has continued to remain empty, resulting in a deterioration in its condition and causing problems in the immediate neighbourhood. Therefore, as a last resort, it is recommended that the Council uses its powers of compulsory purchase.
- 7.3 The proposals in the report link to the Council's Corporate priority of a clean, green and safe Borough; also with the priorities of strong and healthy communities, and an efficient and effective Council.

8. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

- 8.1 Officers from Legal and Finance have been consulted and comments reflected in the report.

9. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Option 1 – No Action

- 9.1 Take no action. There are obvious problems and issues with this position and the property will continue to blight the neighbourhood. It will also continue to decline, potentially resulting in vandalism and the property becoming a dangerous structure.

Option 2 – Disrepair Notice

- 9.2 Serve a statutory disrepair notice and carry out the work in default. However, the Council would have to fund the cost of repairs, and then place a land charge on the property. This will cost approximately £65,000 after taking into account estimated professional fees and officer time. This could potentially leave the property empty as the party believed to be the Reputed Owner has indicated that he is unlikely to return, and the financial cost is likely only to be recovered on disposal of the property.

10. FINANCIAL IMPLICATIONS

- 10.1 It is estimated that the net cost to the Council arising from acquisition, and resale of the property will be in the region of £16,000 to £19,000. This will reflect all compensation due to the owner under the CPO procedure and the receipts realised on sale which in turn depend on the costs of renovation.

- 10.2 If negotiations to purchase by agreement are successful this net cost will fall to approximately £13,500 to £16,500.
- 10.3 If the Reputed Owner does not come forward to provide evidence of ownership and receive their market value compensation, the General Vesting Declaration procedure will be followed and payment will be made in to Court. After a period of 12 years, if the owner has not come forward to claim payment, the Council can request money back from the Court.
- 10.4 The project budget includes an estimate for the costs associated with the CPO process excluding a public inquiry. This estimate allows for the costs of surveyors / solicitors fees and would exclude any references to the Lands Tribunal in respect of compensation.

11. LEGAL IMPLICATIONS

- 11.1 A CPO is the final sanction available to the Council to improve substandard private sector housing where persuasion or statutory notices have failed.
- 11.2 Section 17 Housing Act 1985 empowers the Council to acquire housing by compulsion and involves an application to the Secretary of State for confirmation of the CPO. One of the main uses of this power is to bring empty properties into housing use and to improve substandard or defective properties with current practice for authorities acquiring land or property compulsorily being to dispose of it to the private sector, housing associations or owner-occupiers.
- 11.3 This route can be lengthy if objections are received (possibly 18-24 months) and the Council must demonstrate that attempts have been made to work with the owner on a voluntary basis and that the human rights of the owner are not contravened.
- 11.4 While an authority should use compulsory purchase powers where it is expedient to do so, in considering whether to confirm the CPO the Secretary of State will need to be convinced that there is a "compelling case in the public interest for compulsory acquisition" and Members should apply a similar test before authorising its making on the balance of the information contained in this report.
- 11.5 When considering whether to confirm such an order the Secretary of State will normally wish to know the length of time the property has been vacant, steps which the authority has taken to encourage the owner to bring it into acceptable use and what works have been carried out by the owner towards its reuse for housing purposes.
- 11.6 The acquiring authority is also expected to show that if compulsory acquisition is authorised this is likely to bring the property back into residential use. As already noted the recommendation in this report, the recommendation is to proceed with the CPO. Should the Order be confirmed it is to be recommended that the property will be offered for sale by way of either a building agreement requiring works be complete within a 12-18 month period, or a conditional contract containing a schedule of works.
- 11.7 Those receiving notice of the making of the CPO have a right to object and, if they wish, have their objections heard at a local public inquiry. As acquiring authority, the Council will need to make the case for the Order at any inquiry. The CPO does not take effect until confirmed by the Secretary of State. However, once the Order is confirmed an affected party aggrieved by the decision would have a further six weeks after receiving notification of the confirmation to challenge the decision in the Administrative Court on a point of law. This could result in the Order, or the decision to confirm it, being quashed in whole or in part.
- 11.8 In addition to the above the Council may enter into an agreement prior to the making of the CPO for the acquisition of the property (rather than by use of CPO powers). The Council has the power pursuant to s120 of the Local Government Act 1972 to acquire land by agreement. Therefore, the Interim Assistant Director of Property & Housing will continue to try to engage

with the owner but should this not proceed an application to the Secretary of State will be made for confirmation of a CPO.

11.9 Once this is confirmed the Interim Assistant Director of Property & Housing will arrange for the property to be marketed for sale to identify a buyer who is prepared to commit to its renovation and reoccupation, ensuring that a full marketing exercise is carried out and that the buyer provides value for money. The Council will then enter into a 'back to back' transaction to minimise any financial risk to the Council.

11.10 At this stage the Legal Services Manager will give Notice to all parties of an intention to make a General Vesting Declaration (GVD) which transfers legal ownership to the Council. 28 days after making the GVD the Council will be in a position to transfer the property to a buyer subject to a building license or conditional contract which requires a schedule of works to be carried out.

12. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS

12.1 There are no human resource implications that arise from the scheme.

13. ICT/TECHNOLOGY IMPLICATIONS

13.1 There are no ICT/Technology implications that arise from the scheme.

14. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

14.1 This will return a long term empty home back into use and improve the surrounding area

15. RISK MANAGEMENT

Compensation awarded to the owner of the Land's Tribunal is higher than anticipated

15.1 The figures assembled to date reflect all statutory payments, costs and compensation to which the owner is entitled under current legislation. The market value of the property in its current condition will be tested as part of the resultant marketing exercise to attract a bidder to purchase and renovate and the disposal will be back-to-back to minimise the liability to the. Unless there are any significant unforeseen complications, the risk is considered slight.

Purchaser does not carry out the agreed works

15.2 The property will be sold subject to a building license or conditional contract. In the event of a failure to bring the property back into good repair within 12-18 months, the Council will be able to take the property back and identify an alternative party with whom to treat.

Objections to CPO and a public inquiry is required

15.3 It is not possible to accurately assess the costs of a public inquiry and there is a risk that the CPO will not be confirmed as a result of representations at the public inquiry or a subsequent judicial review. The strength of the Council's case as set out above mitigates this risk.

16. EQUALITY AND DIVERSITY IMPACT

16.1 There are no equality or diversity implications that arise from the scheme.

17. RELEVANT DIRECTORS RECOMMENDATIONS

It is recommended that Cabinet:

- 17.1 Authorises the Interim Assistant Director of Property & Housing to continue negotiations and seek to conclude terms to acquire the property by agreement, in an attempt to avoid the need for a Compulsory Purchase Order (CPO), and to instruct the Legal Services Manager to draft the necessary documents and to execute such documents.
- 17.2 Subject to the outcome of the negotiations, Authorises the use of the powers of compulsory purchase and to authorise the making of an Order under Section 17 of the Housing Act 1985 (as amended) and all other powers as appropriate for the compulsory purchase of land for the purpose of re-sale and renovation in accordance with the Council's Empty Properties Policy 2013; namely 'The South Ribble (30 Rhodesway Houghton) CPO 2013'.

That the Legal Services Manager be authorised:

- 17.3 To take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all notices, and the presentation of the Council's case at any Public Inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be, the execution of General Vesting Declarations.
- 17.4 To negotiate and enter into agreements and undertakings, prior to or following the making of the Order, with any owners of any interest in the land effected by the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order and to authorise the Interim Assistant Director of Property & Housing and Legal Services Manager to draft, agree and execute all necessary legal documents to record any such agreements and/or undertakings;
- 17.5 To authorise the Legal Services Manager to appoint suitable Counsel to advise and represent the Council at any Public Inquiry held in respect of the Order and to provide legal support to the project team through the process;
- 17.6 That following the confirmation of the CPO or acquisition by agreement, that the Interim Assistant Director of Property & Housing be authorised to enter into negotiations with a purchaser, identified following a marketing exercise and agreed in consultation with the Cabinet Member for Assets and Transformation, for the disposal and renovation of the property with minimal financial impact to the Council, to bring it back to a habitable condition for occupation.
- 17.7 The Legal Services Manager to approve and execute all legal documentation that is considered necessary to give effect to the above.

:

18. COMMENTS OF THE STATUTORY FINANCE OFFICER

- 18.1 The estimated net capital cost to the Council arising from acquisition, and resale of the property will be in the region of £16,000 to £19,000, including all compensation due to the owner under the CPO procedures and the receipts realised on sale. The scheme was previously included in the Housing Strategy capital budget but was removed from the capital programme due to the uncertainty of timing of the process. The budget will need to be reinstated and can be funded from capital receipts previously earmarked for this scheme. The figure will alter depending on any changes to the estimates costs of renovation.
- 18.2 If negotiations to purchase by agreement are successful this net cost will fall to approximately £13,500 to £16,500. If the owner does not come forward to evidence the ownership of the property and receive their market value compensation, payment will be made into Court and after a period of 12 years, if the owner has not come forward to claim payment, the Council can request the money back from the Court.

18.3 Bringing the property back into use will generate additional council tax revenue.

19. COMMENTS OF THE MONITORING OFFICER

19.1 In terms of Human Rights Acts implications, Government advice is that local authorities must strike a fair balance between the demands of the community and the need to protect an individual's fundamental rights. In considering the balance, one of the issues that a court would look for is whether compensation is negotiable between the Council and the property owner's valuer or fixed by the Land's Tribunal in the absence of agreement. In addition, individual rights are protected by the statutory object and inquiry procedure.

19.2 The statutory process outlined above will be followed once Members have approved the way forward.

20. BACKGROUND DOCUMENTS (or There are no background papers to this report)

Previous Cabinet Report (6 November 2013)
Empty Homes Policy
Enforcement Policy
Register of Activities

21. APPENDICES

Site Plan

Jonathan Noad
Director of Planning and Property

Report Author:	Telephone:	Date:
Cath Conroy	01772 62 5228	23 rd July 2018