

Appendix I

Sections:

- (i) ***Breakdown of unrecoverable costs***
- (ii) ***Revenue and capital costs***
- (iii) ***Chronological Background Report***
- (iv) ***Equality Impact Check***

Section (i) Breakdown of estimate of unrecoverable costs

Public Local Inquiry Costs. If an objection to the CPO is made by the owner of the property or a mortgagee (mortgagees virtually never object in practice) the objection will either be dealt with by written representations or at a public inquiry. Written representations are covered by the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004. Public inquiries are covered by the Compulsory Purchase (Inquiries Procedure) Rules 2007. The objector has the choice over which procedure to use. Whichever procedure is used, the Council has to pay the Planning Inspectorate's costs for dealing with the objection. These are likely to be about £3,500 for a written representations case and £10,000 - £15,000 for a public inquiry. Unfortunately, these costs can rarely be reclaimed from the objector.

Estimated cost in this case **£10,000**

If the Council is unlucky enough to find that the Secretary of State does not confirm the CPO following an objection, the Council must pay the objector's costs of objecting. If the CPO is confirmed the Council will only get its costs paid by the objector if the objector has acted unreasonably.

Basic Loss payment

In addition to paying the owner the market value of the property, the Council would also have to pay the owner a basic loss payment of 7.5% of the market value.

Stamp Duty.

Stamp Duty Land Tax is payable on the General Vesting Date based on the estimated value of the compensation unless the circumstances are those described below.

"Her Majesty's Revenue & Customs have a provision for relief from SDLT where land is purchased following the making of a compulsory purchase order for the purpose of facilitating development.

This is outlined in SDLTM22005 and allows the Local Authority relief from SDLT on the purchase provided that the conditions of Section 60 of the Finance Act 2003 are met. These state that the land must be purchased by compulsory purchase order for the purpose of facilitating development by another person.

FA03/S60 then states that the word development has the same meaning as in the Town & Country Planning Act 1990 (S55). In that Act 'development' means the carrying out of 'building operations' including demolition, rebuilding, structural alterations and other operations normally undertaken by a builder.

Additionally relief may be claimed for certain acquisitions by registered social landlords where certain conditions are met. According to the SDLT Manual Guidance note SDLTM27500 relief is available where inter alia, the transaction is funded with the assistance of a public subsidy. Where it can be proved that the transaction is funded with the assistance of a public subsidy or partially funded with public subsidy then the Council may be able to claim relief and significantly reduce the amount of SDLT payable.

If the requirements of the above are met then stamp duty will not be applicable. It will be necessary to confirm if the conditions are met at the time of acquisition.

Property Insurance. This will need to be arranged for any period that the property is in Council's ownership.

Security. This will depend upon each individual property. The minimum cost will be to change the locks but there may also be additional boarding up costs. For this property costs are estimated to be **£300**.

Total predicted unrecoverable cost for this property are estimated to be in the order of **£71,783** should the CPO process go all the way through to vesting.

If the owner brings the property back into use prior to vesting or sells voluntarily to the council these costs will be significantly reduced.

Section (ii) Revenue and capital costs

Revenue Cost - £71,783

Section (iii) Chronological Background Report

Background report with respect to proposal to commence compulsory purchase action of an empty property in Clifton, Bristol, BS8.

Ward: Clifton Down

Recommendation

That having given consideration to all the provisions of this report including those matters relating to the Human Rights Act 1998 contained in paragraph 9, the Executive Director of Growth and Regeneration takes all necessary steps to secure the making, confirmation and implementation of a Compulsory Purchase Order on a house in Alma Vale Road, Clifton, Bristol BS8 pursuant to the provisions of Section 17 of the Housing Act 1985 to enable this empty property to be brought into housing use to meet housing need.

Summary

The significant issues in the Report are:-

The property is a three storey terraced house with attached gardens to the front and rear.

A Land Registry search was undertaken on 19th July 2018 to confirm ownership and it was noted that it had been registered in the ownership of the named owner since 23rd July 1996

No agreement has been reached with the owner to sell the property to the Council. Several offer to purchase letters have been sent to the owner since 19th October 2015, the latest one being on 30th November 2018 which also advised that this report was being submitted, these have been sent to the property, the owners contact address and contact email addresses, to date this offer has not been accepted. This option has also been discussed with the registered owner over the telephone on 13th January 2017.

There is significant need for housing accommodation in the city.

The test that the Secretary of State applies in deciding if a CPO should be confirmed is that of “a compelling case in the public interest”. In the case of this empty house, this test is likely to be met.

Policy

The purchase of this house will enable it to be brought into residential use and to meet one of the ‘Fair and Inclusive’ policy objectives of the City Council’s Corporate Strategy 2018-2023 and Corporate Business Plan 2018/19 to make sure that 2,000 new homes (800 affordable) are built in Bristol each year by 2020. There are a number of actions to achieve this, one of which is to:

‘bring empty private properties back into use, through both informal negotiations with owners and formal enforcement when required’.

The purchase of this property will also meet The Bristol Housing Strategy 2016-2020 and the Private Housing Policy statement objective of reducing empty properties and Provide well designed, quality homes that are affordable, sustainable and suitable for people’s needs.

Additionally, paragraph 51 of the National Planning Policy Framework states that local authorities should identify and bring back into residential use, empty housing and buildings in line with local housing and empty homes strategies and where appropriate acquire properties under compulsory purchase powers.

Background

The property in Clifton, Bristol. BS8 is a long term empty property.

Council tax records show the account is also held in the name of the registered owner and has been since 30th November 2003. The property is listed as unoccupied and unfurnished and the property is currently attracting a 100% levy as a long term empty property, from April 2013 to March 2019 a 50% levy and prior to this the property had been receiving a zero occupiers discount due to the property being un-occupied.

The Private Housing Team involvement began in 2009.

The Council carries out a priority assessment on empty properties in the City according to length of time empty. This property is now one of the longest standing empty houses in the city, although until January 2013 the empty property process was not pursued as the owner was serving in the armed forces and it was believed that they would be returning to the property.

On 28th January 2010 a case officer from the Private Housing and Accessible Homes Service visited the property to check whether the property was occupied and make an assessment of the condition of the property. The property appeared to be empty, a photograph was taken.

On 28th January 2010 the case officer checked Land Registry to confirm ownership of the property. It was noted that ownership had been registered to the current owner since 23rd July 1996

On 12th January 2017 a case officer visited the property but there was no access. The property still appeared to be empty but the front garden was in a tidy condition.

On 27th January an e-mail was sent to a third party housing organisation asking if they would be interested in purchasing the property and passing on the registered owners contact details.

On 9th February an e-mail was received from the third party housing organisation saying that they were in principle interested in property and would contact her.

As the property is valued at over £500K compulsory purchase of the property is a Key Decision and a further report will need to be submitted to Cabinet before pursuing further.

On 6th June 2019 the case officer sent a letter to the owner advising that the matter of CPO authorisation would now need to be considered by full Cabinet and again asking for any proposals with respect to re-occupation of the property. No response to that letter has been received to date.

Justification for Compulsory Purchase of an Empty Property in Clifton, Bristol. BS8

There is a desperate need for more housing in Bristol to address the unmet demand.

Under Section 17 of the Housing Act 1985, the Council has the power to purchase land, hoses or buildings by agreement or compulsorily if there is a need for housing in the area.

For financial year 2017/18, Bristol City Council accepted 721 main homelessness duties towards households who were in priority need.

The number of households applying for housing accommodation and on the waiting list for accommodation from the City Council and other public housing providers was 11190 as of May 2018.

Demand for accommodation specifically in the Clifton Down Ward during 2017-18 were as follows:

1 one-bedroom property was advertised, for which a total of 10 bids were placed, an average of 10 per property.

1 two-bedroom property was advertised, for which a total of 479 bids were placed, an average of 479 per property.

Overall there were 489 bids for 2 properties, an average of 245 per property.

An Empty Dwelling Management Order under the Housing Act 2004 has been considered for this property but is not appropriate. In your officer's opinion, in the absence of any agreement to sell, the making of a compulsory purchase order is the only option available to ensure renovation and re-occupation.

The Private Housing and Accessible Homes Service has considered the owner's proposals for the use or re-use of the property and having regard to the owner's previous record of failing to maintain the property to an acceptable standard suitable for housing

accommodation as well as their unwillingness to negotiate a sale by agreement to the Council or to a third party, it is the officer's opinion that the making of a compulsory purchase order and subsequent proposals for selling the property on is the only realistic option available to ensure renovation and re-occupation within a reasonable timeframe.

Proposals for the property if purchase by the Council is agreed.

If the compulsory purchase order is confirmed and the Council take possession of the property, it will be considered for bringing back to use by either:

- the council as temporary accommodation, retention within the council housing stock
- offered to a Registered Provider or other not-for-profit housing organisation for sale at market value

If the property is not to be brought back into use through one of these methods, the property would be disposed of as soon as possible, by auction, subject to appropriate covenants/restrictions in order to bring the property back into use for housing purposes within a specific time.

Risk assessment

If it is decided not to proceed with compulsory purchase or if the action to obtain an order is not successful, the likelihood is that this property will remain empty, and the opportunity to provide an extra unit of accommodation will be lost.

There is a risk that the City Council could purchase the property and not be able to re-sell it for use as housing accommodation. At the moment that is unlikely as the demand for housing in the city is high.

There is a risk that the Council could buy from the owner at market value but sell at a lower price at auction or by private sale, as the sale would include a covenant requiring the new purchaser to renovate the property and ensure re-occupation within a specified time scale which may reduce the potential sale price.

The Council has the resources to meet this shortfall. If the resale value is less than the purchase price there are sufficient funds available in the overall Private Housing budget to meet any difference.

Legal and Resource Implications

Compulsory purchase must be a last resort when other possible actions have failed. The Council needs to be satisfied that it can achieve a gain in the number of units of housing accommodation or in the quality of the existing accommodation to justify Compulsory Purchase.

In seeking to exercise compulsory purchase powers the Council must have regard to the Human Rights Act 1998 (HRA) which came into force on 2 October 2000.

The Human Rights Act 1998 ("the Act") incorporated in UK domestic law the European Convention on Human Rights ("the Convention"). The Human Rights Act 1998 makes it lawful for a public body to act in contravention of the Act in certain specified circumstances.

The Convention includes provisions in the terms of the Articles the aim of which is to protect the rights of individual's (including companies). In this case the rights engaged are:-

The main articles of the Convention which are of importance in circumstances where the Council is considering making a compulsory purchase order are considered below.

In making a CPO, an acquiring authority must show that the acquisition is justified in the public interest.

Issues arising under Article 8 and Article 1 of Protocol 1

Article 8

Issues arise under Article 8 and Article 1 of Protocol 1.

Article 8(i) provides that everyone has the right to respect for his or her private and family life and home but Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes, e.g. public safety, economic wellbeing, protection for health and protection of the rights of others.

This property is vacant at present and the owner lives elsewhere. The acquisition of the property by CPO is an interference with these rights, however it is the view of your officers that this is justified on the grounds of public interest **Article 1 of Protocol 1**

This article provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of those possessions except in the public interest and subject to the conditions provided for by law. However, the rules shall not prevent a State enforcing such laws as it deems necessary to control the use of property in accordance with the general interest.

The Council must decide in relation to Article 1 whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's rights under this Article. The right to compensation is an important factor in considering the balance between the two.

The Council will be aware that the owner will receive compensation for the market value of the property, and may be entitled to further compensation for the "basic loss" of the property.

With regard to Article 1 Protocol 1, the officer recommendation is that the interference is justified by the advantages accruing to the community by proceeding with the acquisition, in terms of the provision of good quality and much needed housing in the area, particularly taking into account the fact that there is a legal right to compensation for the property purchased.

Article 6 of the First Protocol: the right to a fair hearing

Representations will be possible before an Order can be confirmed. In addition objections will be heard if necessary by an Inspector appointed by the Secretary of State.

Compensation will be available to parties whose interests whose interest in land is directly affected through the acquisition of land or new rights.

Conclusion

In the light of the significant public benefit that would arise from the project being taken

forward it is considered appropriate to make the Compulsory Purchase Order and to exercise those CPO powers. It is not considered that any unlawful interference with an individual's rights will occur as the interference will be in accordance with the law and, where property interests are affected directly, the compulsory purchase compensation code will apply.

Equality Act 2010

Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to:

- i. eliminate discrimination, harassment and victimisation of persons protected under that Act (protected characteristics, are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.);
- ii. advance equality of opportunity for protected characteristics; and
- iii. foster good relations between groups who share a protected characteristic and those that do not share that characteristic.

Financial

The property has been valued as being in excess of £500,000 in its existing condition. The owner has not requested to date to enter into negotiations with the City Council in response to letters enquiring if they are interested in selling the property to the Council voluntarily.

The owner will be entitled to the market value of the property (the sale price achieved by the Council when the property is sold will be good evidence of this).

The service currently has a specific budget to cover the unrecoverable costs associated with compulsory purchase of empty residential properties (compensation, Public Local Enquiry, property insurance, stamp duty land tax, land registry fees and security etc.). In addition to paying the owner the market value of the property, the Council may also have to pay the owners reasonable solicitors and surveyors costs connected with the sale and valuation of each property.

If the resale value is less than the purchase price there are sufficient funds available in the overall Private Housing budget to meet any difference.