

# **Report to Housing Select Committee**

**Date of meeting: 8 March 2016**

**Portfolio: Housing – Cllr David Stallan**

**Subject: Communities Directorate’s Housing Service Strategy on Empty Homes in the Private Sector**



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**Committee Secretary: Mark Jenkins (01992 564607)**

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## **Recommendations/Decisions Required:**

That the Housing Scrutiny Select Committee considers and endorses the Communities Directorate’s Housing Service Strategy on Empty Properties in the Private Homes in the Private Sector, attached as an Appendix, and provides any comments to the Housing Portfolio Holder for incorporation.

## **Report:**

1. The Communities Directorate’s Housing Service Strategies were originally produced more than 15 years ago. The Strategies give more detail than the Council’s main Housing Strategy on the various housing services provided.
2. In January 2016 the Housing Portfolio Holder agreed that with the exception of the Anti-Social Behaviour and Harassment Strategy, which is required by legislation to be reviewed every 3 years, the period covered by each Strategy should be extended from 3 to 5 years. In addition a number of changes were agreed to the format of the Strategies and that the number of them should be reduced from 17 to 7 on the following subjects:
  - Empty Properties (private residential sector);
  - Home Ownership and Leasehold Services;
  - Anti-social Behaviour and Harassment;
  - Tenant Participation;
  - Rent Arrears and Administration;
  - Older Peoples’ Housing; and,
  - Housing and Neighbourhood Management.
3. The Housing Select Committee is asked to consider and endorse the updated Housing Service Strategy on Empty Homes in the Private Sector and provide any comments to the Private Housing Manager (Technical) for incorporation.

**Reason for decision:**

The Housing Select Committee agreed at its meeting on 12 January 2016 that it would continue to be consulted on Housing Service Strategies when they are renewed.

**Options considered and rejected:**

Not to review the Housing Service Strategy on Empty Homes in the Private Sector.

**Consultation undertaken:**

The Tenants and Leaseholders Federation will be consulted on the Strategy at their meeting on 15 June 2016 and their comments, where appropriate, will be incorporated into the Strategy.

**Resource implications:**

Budget provision: N/A

Personnel: N/A

Land: N/A

Community Plan/BVPP reference: N/A

Relevant statutory powers: As set out in the Strategy

Background papers: N/A

Environmental/Human Rights Act/Crime and Disorder Act Implications: As set out in the Strategy

Key Decision reference: (if required) N/A None

## Appendix

### Housing Service Strategy

#### Empty Homes in the Private Sector

##### 1. Introduction

This Housing Service Strategy explains the Council's approach to bringing empty residential properties back into use and to tackle in particular those that are long term or problematic.

The Strategy will be implemented by the Private Sector Housing team within the Communities Directorate

There will always be empty homes and properties empty awaiting sale, re-letting or renovation, as these are a normal part of a healthy housing market. However properties that are left empty for long periods of time can cause significant problems both in the local and national context. Empty properties can be unsightly, attract nuisance and anti-social behaviour and devalue neighbouring properties. They are also a wasted resource in terms of housing provision, particularly in areas of high demand like Epping Forest District where 92% of land is green belt. The Government categorises a property as long term empty where it has been unoccupied for more than 6 months.

The previous and current government have recognised the value of reducing the number of empty properties as part of its overall ambition to provide an additional million homes nationally by 2020. It has introduced various incentives and options for local authorities to take positive action. These include New Homes Bonus (which rewards councils for additional homes provided, based on the cumulative total of new development and reduced empty properties each year) and by allowing councils local flexibility to charge up to 50% extra Council Tax on property that has been unoccupied and unfurnished for 2 years or more. This, together with an upturn in the housing market following the financial crisis in 2008, has contributed to a marked reduction in empty properties nationally. The official statistics on empty homes for England show that the recorded figures for the total number of empty homes peaked in 2008 at 783,119 and have dropped to 448,999 by 2015. The official statistics obtained from the Council Tax Base return for Epping Forest show a similar downward trend as is shown in Table 1 below.

**Table 1: The Total Number of Empty Homes in Epping Forest District 2005-2015**

EFDC	2005	2008	2014	2015
All empty homes	1,837	1500	1391	607
All long term empty homes	934	611	431	347
Empty more than 2 years	Not recorded	Not recorded	124	122

However, there are still over 200,000 properties nationwide that have been empty for more than 6 months and as such it is necessary for local authorities to continue their commitment to reduce the number of long term empty properties in their districts as far as possible.

This Strategy explains the approach the Council will take to reduce the number of long-term empty properties within its District, including the incentives that may be offered and the

enforcement options that may be imposed.

## **2. Aims and objectives**

The aim of this Strategy is:

To bring empty properties back into use and to tackle in particular those that are long-term or problematic.

These aims will be met by:

**(i) The effective use of information on empty homes within the District.**

- Through the maintenance of a database of all empty homes using information from Council Tax and other areas of the Council, supported by information from owners and other individuals.

**(ii) Maintaining effective partnership working within the Council and with external partners.**

- Effectively using Council resources in the identification and investigation of empty homes, and in prioritising them for action where required; and,
- Working with external partners to support empty homes initiatives, in particular the PLACE Scheme which provides financial assistance to owners of long-term empty properties in need of renovation so they can be brought back to use.

**(iii) Raising awareness on the issues associated with empty homes in the District and encouraging action to bring them back into use.**

- Effectively publicising the opportunities there are to help bring empty properties back into use for the owners and for those affected by an empty property in their locality; and,
- Encouraging owners to take up the opportunities that are available.

**(iv) Offering financial assistance where applicable to renovate empty properties so that they are in a condition suitable for occupation.**

- This may be through the Council's Empty Homes Repayable Assistance (EHRA) or the PLACE Scheme that is administered by a Consortium Group of 5 local authorities including Epping Forest.
- The EHRA provides a loan of up to £10,000 (repayable on sale or disposal) to owners of long term empty properties that intend to reside in the property themselves.
- The PLACE Scheme offers loans of up to £25,000 to owners of long term empty properties who intend to sell or let their properties (repayable on sale or within 2 or 5 years respectfully). A PLACE Grant is available within the Scheme but this Council prefers generally to offer loans rather than grants so that the PLACE monies allocated to this Council can be recycled to benefit more owners and properties.

**(v) Enhancing the character of the local community through the improvement and reuse of empty homes.**

- Prioritising for action those empty homes that are problematic in their local neighbourhoods through blight or anti-social behaviour and that could meet particular housing need.

**(vi) Taking enforcement action where appropriate and where resources permit.**

- Where a property is prioritised for action and the owner refuses to bring the property into use, to undertake the most appropriate enforcement action for that situation.

**Targets and monitoring**

There are no national targets set in respect of the numbers of empty properties that a Council should bring back to use over a given time period although the introduction of the New Homes Bonus in 2012 acts as an incentive to ensure that the number of long term empties is kept to a minimum.

This Council sets internal targets including those in respect of empty properties. The Council’s Community Strategy for 2010-2031, ‘Putting Epping Forest First’, includes four key theme areas; ‘Safe’, ‘Sustainable’, ‘Healthy’ and ‘Aspiring’ which are translated into specific objectives. These objectives inform the direction of the Housing Strategy and, in turn, the Private Sector Housing Business Plan which includes a target to return at least 30 empty properties into occupation annually through council initiatives and is measured as a performance indicator, ‘PS30’.

Performance against PS30 for the last 3 years is shown in Table 2 below:

**Table 2: Performance on Empty Homes**

<b>Performance Indicator PS30</b>	<b>Target</b>	<b>Performance 2012/13</b>	<b>Performance 2013/14</b>	<b>Performance 2014/15</b>
Number of long term empty properties brought back to use through Private Sector Housing team initiatives	30 per annum	115	55	60

Progress against PS30 is reviewed through regular meetings between the Empty Homes Officer and the Private Sector Housing Manager;

Quarterly ‘Continuous Improvement Meetings’ between the Private Sector Housing Manager (Technical) and the Assistant Director (Private Sector Housing and Communities Support); and

The Housing Select Committee’s work programme includes a six monthly review of the Housing Strategy Action Plan: and,

**3. Approach to Service Delivery**

In order to develop an effective strategy for dealing with empty properties it is important to understand why properties are left empty for long periods of time, so that officer time and resources can be directed more effectively to tackle those issues that prevent homes being returned to use more quickly.

Common reasons that have been identified from both national surveys and by the Council’s

Empty Property Officer when communicating with owners of long-term empty properties in the District are:

- A landlord previously rented out a property and it now needs a lot of work before it can be let again and the landlord is unable to find the money to get the works done.
- Someone has inherited a property (perhaps jointly with another family member) and is unsure what is best to do: whether to sell, rent, or move into it. There are also often emotional ties to the property that make quick decisions difficult.
- People have bought properties to do up and for a variety of reasons, including the pressure of other commitments, planning implications and financial constraints, are taking a long time to complete the works or the works have stalled due to financial constraints or otherwise.
- People are holding a property empty for investment purposes. There are some very high value properties in the District that have been empty for more than 2 years. Also some people have unrealistic expectations of the price their property could be sold for. Others hold on to a property with the intention of passing it to their children.
- The property owner has died but probate has not been granted for a variety of reasons and as such the matters of the estate, including the empty property, cannot yet be dealt with. Sometimes probate is not being progressed because it is not in the financial interest of the person that will inherit the estate.
- Flats over commercial units. Sometimes these are difficult to occupy by anyone other than the owner of the commercial element – either for security reasons (e.g. pharmacy) or suitability (pub). However the owner resides elsewhere and so the flat stays empty.

Evidence shows (Table 1) that a significant number of properties identified as long-term empty (i.e. that have been empty for 6 months) will be back in use within two years. Whilst it is recognised that any empty property can be a problem and therefore all owners of long-term empty properties should be contacted, it seems sensible to concentrate officer time and resources on those properties that have been empty for the longest time. Therefore, in considering our priorities for action the focus of our more significant work will be on those properties that have been empty for more than two years, or are the subject of complaint.

Our aim to reduce the number of empty properties as far as possible must also be balanced against the fact that it is not an offence to leave a property empty per se (although the consequences of the property being left empty may give rise to issues that justify enforcement action if left unresolved).

The starting point for meeting our objective is therefore to try and engage with property owners in a positive and co-operative way to encourage them to return their property to use, helping them find solutions and offering financial support where appropriate.

However where the properties are empty for more than two years, or are the subject of complaint we will follow up our earlier investigations and will risk assess properties to produce a target list for focused action based on an annual process of prioritisation.

Where an owner of a property on this list is unwilling to bring the home back into use after further efforts to establish a dialogue and encourage voluntary reuse, we will take the appropriate steps towards enforcement action as necessary.

## The Process

### **Step 1 – Identification**

The Empty Homes Officer uses information provided by Council Tax to identify long term empty properties. Certain classes of empty property are liable for Council Tax and others qualify for exemption or discount (see Appendix 1). Of these, some classes are considered appropriate to pursue in terms of trying to bring back to use and others are not.

Every two months the Council Tax Officer will forward to the Empty Homes Officer a list of properties that are liable for Council Tax and have been empty for more than 6 months plus those properties that have been empty for more than 6 months and fall within exempt codes B,E,F,G,L and Q. All these will be considered empty for the purposes of this Strategy and will be subject to initial investigation at Step 2 although the action taken will vary according to the individual circumstances and resources available.

The owners of some empty homes will choose not to apply for discounts and these properties will only become known to us through local Officer/Member knowledge or through complaints/notification from members of the public. Regardless of whether Council Tax discounts or exemptions are claimed, all identified empty properties will be covered by this Strategy.

Officers, Councillors and members of the public will be encouraged to report empty properties and owners will be encouraged to contact the Council for support and advice in relation to properties that are, or may become, empty. All properties reported in these ways will be investigated.

### **Step 2 - Investigation**

Details of empty properties on the District are maintained in a database. Properties classed as exempt for Council Tax purposes are kept on a 'monitoring list' within the database whilst all other properties notified by Council Tax, the public, Councillors or otherwise are recorded on an 'active list'.

Council Tax records are also checked regularly for any updates and before taking any specific action in respect of the empty properties concerned.

For properties recently identified as empty, and that are on the 'active list', letters will be sent to the owners in order to:

- make contact with the owner
- confirm that the property is empty
- understand any plans the owner has for the property
- offer assistance to help bring the property back into use in partnership with the owner and this may include financial assistance through EHRA or PLACE.
- advise the owner that enforcement action is a possibility if properties are left empty over a long term

Where there is no response to this initial letter, a second follow up letter will be sent stressing the potential consequences of not taking positive action themselves to bring the property back to use.

The properties that are on the 'monitoring list' are reviewed at least every 3 months including checking the Council Tax records for any updates. Each case is considered on its merits and where appropriate it may be moved onto the 'active list' for further investigation and the

owners will be sent the first and second letters if required.

It is hoped that during this process the owner of the empty property will make contact with the Empty Homes Officer and enter into dialogue to discuss why the property is empty and how the Council may be able to assist in bringing it back to use.

However, where the property remains empty and is problematic, or where it is the subject of complaint, or in any case once it has been empty for more than 2 years, further investigation will be initiated. In these cases the property situation will be reviewed; Planning, Council Tax and other available information will be searched and the properties will be visited to assess their condition and impact on their neighbourhood in preparation for Step 3 - Prioritisation.

### ***Step 3 – Prioritisation***

For all properties with complaints and those that have been empty for more than two years a process of prioritisation will be followed. The information from Step 2 will be used to risk assess and score against the criteria below using the Empty Homes Impact Assessment (Appendix 2):

- Length of time vacant
- Number and spread of complaints received
- Property condition and appearance impacting on the neighbourhood
- Issues of vandalism/ arson/ anti-social behaviour/ nuisance/ pests/accumulations of rubbish
- Attitude of the owner, his level of co-operation and contact
- Property location and whether it has listed status

In making the assessment we will also consider the following factors, although they will not form part of the scoring criteria:

- Council Tax band,
- Type of property- whether flat/ house/ detached/ semi/ terraced
- Number of bedrooms
- Age of property
- Estimated extent and cost of works required to make suitable for occupation
- Any debt owed to the council due to the property
- Any history of previous enforcement action

Those properties with the highest scores will be prioritised for further action. The cases will be reviewed and options for action considered, taking into account the views of internal services and key external organisations as appropriate. Properties with a low risk score will not be subject to further action at that time but each of these cases will be reviewed every 6 months or before if appropriate.

### ***Step 4 – Enforcement***

For properties identified for action at Step 3, where it is not possible to enter dialogue with an owner or where they refuse to take action within an acceptable timescale, enforcement action will be considered. Any enforcement action will be undertaken in accordance with the Regulators' Code and the Private Sector Housing Enforcement Policy.

When considering enforcement options each case will be assessed on its merits and the most appropriate course of action decided following a case review with the Private Sector Housing Manager. Where carrying out 'works in default' is being proposed prior approval by the Assistant Director (Private Housing and Communities Support) will be required.



Member approval will be required before taking action to make a Compulsory Purchase Order, an Empty Dwelling Management Order or pursuing Enforced Sale.

Possible enforcement action includes:

- **Compulsory Purchase Orders**

Local Authorities have the power to acquire land and property compulsorily where the owner is not willing to sell by agreement. This applies to underused or ineffectively used property/land for housing purposes if there is housing need in the area. Compulsory purchase can be approved where acquisition will allow improvements or redevelopment to take place, providing that the improvement/redevelopment contributes to the promotion of economic, social or environmental wellbeing.

- The powers to do this are conferred under (i) The Housing Act 1985 Section 17 - which allows Local Authorities to acquire houses for the provision or improvement of housing; and (ii) The Town & Country Planning Act 1990 section 226 (as amended by the Planning and Compulsory Purchase Act 2004) - which allows acquisition of land if the acquisition will facilitate development, redevelopment or improvement.

- **Empty Dwelling Management Orders (EDMO's)**

Empty Dwelling Management Orders are a discretionary power introduced in the Housing Act 2004 that came into force in April 2006. They allow Local Authorities to take management control of certain empty properties initially for up to 1 year (under an interim EDMO) and then for 7 years (under a final EDMO). Under an interim EDMO the authority can only grant tenancies with the permission of the owner but under a final EDMO the owner's consent is not required.

- **Enforcing Improvements to the property**

In some situations, following an assessment of the property's condition and impact on its neighbourhood, the Council may determine that it requires improvement works to be carried out. This enforcement action may not lead directly to the property being brought back into use but it may focus the mind of the owner. It may also lead to the consideration of Enforced Sale where the owner fails to comply with the Notice and the Council proceeds with carrying out the works in default. A list of the most common statutory provisions that may be used to improve the property is given at Appendix 3.

- **Enforced Sale**

The Law of the Property Act 1925 allows a Local Authority the power to enforce the sale of a property on which it has a registered debt. The debt is recovered from the proceeds of the sale.

Where works in default have been undertaken at a property and the owner fails to repay the debt this power enables the Council to recover its debt through the enforced sale of the property. A list of the most common statutory provisions that enable the enforced sale procedure to be used is given at Appendix 3

As stated previously the Council's preference is for the owners of empty homes to bring them back into use voluntarily. If, whilst preparing for and undertaking enforcement action, the owner requests to take such voluntary action this will be considered. Enforcement action may be deferred if appropriate and the progress will be closely monitored.

#### **4. Review of the Strategy.**

This Strategy will be reviewed by the Housing Select Committee no later than March 2021.

## **Appendix 1 - Council Tax Exemptions and other categories relating to Empty Properties** (as at 1 March 2016)

### ***CLASS B Dwellings owned by charities***

An unoccupied dwelling owned by a charity which was last occupied in accordance with the objectives of the charity. The exemption will be for a maximum of 6 months from the date that it was last occupied.

### ***CLASS D Dwellings left empty by prisoners***

An unoccupied dwelling which either was or would be the sole or main residence of a prisoner.

### ***CLASS E Dwelling left empty by patients in hospitals and care homes***

An unoccupied dwelling which was previously the sole or main residence of a person who now has their sole or main residence in a hospital or care home.

### ***CLASS F Dwellings left unoccupied by deceased persons***

A property left empty following the death of the occupier and where probate has not yet been granted or probate has been granted within the last 6 months

### ***CLASS G Occupation prohibited by law***

An unoccupied dwelling the occupation of which is prohibited by law, or which is kept unoccupied by reason of action taken under powers conferred by or under any Act of Parliament, with a view to prohibiting its occupation or to acquiring it.

### ***CLASS H Clergy Dwellings***

An unoccupied dwelling which is held for the purpose of being available for occupation by a minister of any religious denomination as a residence from which to perform the duties of office.

### ***CLASS I Dwellings left empty by people receiving care***

An unoccupied dwelling which was previously the sole or main residence of a person who now has his sole or main residence in another place (not being a hospital, residential care home, nursing home, mental nursing home or hostel).

### ***CLASS J Dwelling left unoccupied by people providing care***

An unoccupied dwelling which was previously the sole or main residence of a person who now has his sole or main residence in another place for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder.

### ***CLASS K Dwellings left unoccupied by students***

An unoccupied dwelling which was last occupied only by one or more students whose sole or main residence it was.

**CLASS L *Mortgagee in possession***

An unoccupied dwelling where a mortgagee is in possession under the mortgage.

**CLASS Q *Bankruptcy***

An unoccupied dwelling in relation to which a person is a qualifying person in his capacity as a trustee in bankruptcy.

This is an abbreviated extract from the full list of Council Tax Exemptions and only covers those exemptions that apply to empty properties. The full list can be viewed on the Council's [website](#).

The Council made the decision to change some Council Tax discounts in 2013 in order, partly, to discourage empty homes:

- **Empty, requiring major repair work to render it habitable/or undergoing structural alterations (previously Exemption Class A)** - 50% discount for up to 12 months, followed by the full charge.
- **Empty, Unoccupied and Unfurnished (previously Exemption Class C)** - 100% discount for up to 3 months, followed by the full charge.

After a property has been empty for 2 years a 'premium' charge of 50% will become payable (this means the charge payer will be paying a full Council Tax charge plus an additional 50%). Further information is available on the Council's [website](#)

## Appendix 2 Empty Homes Impact Assessment

Property Address:

Date Vacant:

<u>Nature Of Impact</u>	<u>Impact Assessment</u>	<u>Score</u>
<b>1) Length of time Vacant</b> <i>On what date did the house become vacant?</i>	6months -1 year = 1 point 1-2 years = 2 points >2 years = 5 points >5 years = 8 points	
<b>2) Complaints received</b> Number of complainants?	1 complainant = 3 points >1 complainant = 5 points	
<b>3) Property appearance</b>	Shabby, overgrown, or detrimental to street scene = 1-3 points	
<b>4) Property condition</b>	Moderate disrepair = 3 points Severe disrepair = 5 points	
<b>5) Disrepair affecting adjacent property</b> Only if scored for disrepair above	Disrepair affecting neighbouring property = additional 5 points Potential for disrepair to affect neighbouring property i.e. semi, terrace or flat = 3 points	
<b>6) Evidence/ likelihood of vandalism/arson/ ASB</b>	1-3 points	
<b>7) Pests</b> <i>Is the property a source of verminous pests?</i>	Mice, minor or temporary infestation = 1 point Ongoing rat infestation = 3 points	
<b>8) Accumulation of rubbish / Fly tipping</b> <i>Are there problems with accumulations of rubbish or fly tipping?</i>	Minor, temporary or occasional rubbish = 1 point Significant, increasing, long term, or hazardous waste = 3 points	
<b>9) Owners response</b>	Owner not contactable = 5 points Owner does not intend to return property to occupation within 2 years = 3 points Owner intends to return property to occupation (evidence) =1 point Owner actively pursuing reoccupation: not suitable for enforcement	
<b>10) Location</b>	Remote location = minus 5 points	
<b>11) Listed Building</b>	If listed building = minus 5 points	
<b><u>Total Score</u></b>		

Inspection Date:

Officer:

**Additional Comments**

<b>Council Tax Band</b>	
<b>Description of property: detached/ semi/ terraced/ flat/ flat over shop</b>	
<b>No. of bedrooms</b>	
<b>Description of locality: isolated rural/ rural with transport link/ residential/ town</b>	
<b>Age of property</b>	
<b>Estimated extent and cost of works required</b>	
<b>Any CT debt – amount/ relevant comments from CT</b>	
<b>Any history of previous enforcement; any outstanding notices</b>	
<b>Any other comments</b>	

Photo

**Most Satisfactory Course of Action**

Action	
None	
Monitor	
Negotiate with owner	
Renovate	
Enforcement action (detail)	
EDMO	
ESP	
CPO	
Demolish	

Officer Signature \_\_\_\_\_ Empty Property Officer \_\_\_\_\_

Validated by

\_\_\_\_\_ Dated \_\_\_\_\_  
Private Sector Housing Manager (Technical)

**Appendix 3 - Common statutory provisions that enable the enforced sale procedure to be used.**

<b>Statute</b>	<b>What notice is used for</b>	<b>Type of charge</b>	<b>Comments</b>
Section 4 Prevention of Damage by Pests Act 1949	Requiring land to be kept free of rats and mice	On the premises and on all estates and interests therein	Charge arises from date of completion of work. Reasonable interest can be claimed from date of service of demand for costs.
Section 79 Building Act 1984	Requiring works to remedy ruinous and dilapidated buildings and neglected sites	On the premises and on all estates and interests therein	Charge arises from date of completion of work. Reasonable interest can be claimed from date of service of demand for costs.
Section 80 Environmental Protection Act 1990	Requiring abatement of statutory nuisance	On the premises	Charge arises 21 days after service of demand under s81A (unless an appeal is made against the notice, when the period is extended). Reasonable interest can be claimed.
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	Binding on successive owners of the land	Charge arises from date of completion of the works.
Sections 11 and 12 Housing Act 2006	Requiring the taking of action to deal with category 1 or 2 hazards in residential premises	On the premises	Charge arises 21 days after service of demand (unless an appeal is made against the notice, when the period is extended). Reasonable interest can be claimed.

Source : Enforced Sale Guide – Chris Skinner, NPLaw