

Supplementary Committee Agenda



Housing Scrutiny Standing Panel Monday, 30th January, 2006

Place: Committee Room 1, Civic Offices, Epping

Time: 5.00 pm

Committee Secretary: Zoe Folley (Direct Line:01992 564532)
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6. THE DEVELOPMENT OF AN EMPTY PROPERTY STRATEGY (Pages 3 - 24)

(Head of Housing Services). The attached report will be considered at the meeting.

Please bring these papers with you to the meeting.

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Report to Housing Scrutiny Standing Panel

Date of meeting: 30 January 2006

Subject: The development of an Empty Property Strategy

Officer contact for further information: S Stranders ex 4197

Committee Secretary: Z Folley (ext 4532)



Recommendations/Decision Required:

- (1) The Panel agree to receive a further report setting out the basis for a full Empty Property Strategy;**
- (2) The Panel gives its views in principle as to whether consideration should be given to remove or reduce Council Tax discount in 2007/8, for properties empty for more than 6 months:**
- (3) The Panel gives its views in principle, and makes recommendations to Cabinet, on whether it wishes to see, with funding being made available:**
 - financial assistance given for bringing empty properties back into use**
 - the Fresh START scheme being increased**
 - a finder's fee scheme being introduced which focuses on empty properties**
 - the existing Deposit Guarantee scheme being extended;**
- (4) The Panel agrees in principle that the Empty Property Strategy will include the use of all statutory powers including Empty Dwelling Management Orders and compulsory purchase. (EDMOs and compulsory purchase only to be used in exceptional circumstances and action in any individual cases only initiated with prior approval of the Portfolio Holder for Housing); and**
- (5) The Panel gives its views as to whether, in the light of the numbers of empty properties in the district and the data from the surveys, along with the need to put in place very quickly substantial change to policies and procedures, BV64 (number of properties brought back into use or demolished as a result of local authority intervention) should remain as an KPI where the Council is seeking to attain upper quartile performance.**

Purpose of Report

1. The purpose of this report is to update the Housing Scrutiny Panel of the latest position with regard to empty properties in the Epping Forest District, to give further information on the options available for bringing empty properties back into use and propose the way forward for developing an Empty Property Strategy.
2. Dealing with private sector empty properties is a complex issue and this report contains a substantial amount of detail, in particular on the various formal and informal measures that can be used as components in an Empty Property Strategy. A summary of the measures, including resource implications and risks, is given at Appendix A.

Background

3. The Housing Scrutiny Panel wished to examine the position regarding empty private sector properties in the District and also wished to see the development of an effective Empty Property Strategy. The Council has recently made Best Value Performance Indicator 64 (which relates to the numbers of empty properties returned to use or demolished as a direct result of action by a local authority) a key performance indicator to demonstrate the priority given to this matter.

4. The Panel received an initial report on 15 September 2005, which set out the reasons for addressing the issue of empty properties, a summary of the legal powers available and the scope of any future Empty Property Strategy. This report specifically addresses issues regarding empty properties in the private sector i.e. owner occupied and privately rented properties. It does not consider empty properties owned by the Council or Registered Social Landlords.

5. At any one time there will always be empty private sector properties – there is continuous change as a result of the normal working of the property market. Many properties will be vacant awaiting sale or a new tenant. Some will be undergoing renovation. A very small number of properties will be used infrequently, for example as second homes. Of concern to the Council are long-term vacant properties, normally defined as properties empty for six months or longer. The definition normally includes properties occupied by squatters, unless active steps are being taken to recover possession. There is also the issue of unused commercial space, for example empty space above shops.

6. The reasons for private sector properties remaining empty long term can be complex. In some parts of the country there may be low demand, but this does not apply to Epping Forest, where both property prices and rental values are high. In addition, the lack of affordable housing is a serious issue. Some properties may be empty long term for a variety of other reasons, including: -

- ownership of a property may be unclear (for example where an owner dies and solicitors cannot trace beneficiaries).
- a property may be owned by several different parties and agreement cannot be reached between them.
- a property may be in poor condition and the cost of returning the property to use may be excessive relative to the return that could be generated.
- a property may have been bought for speculative purposes and the owner is hoping to make a financial gain by sale at some stage in the future.

7. A local authority is not under any statutory duty to take steps to bring about the return to use of private sector properties. However, there is an obligation to report on the estimated numbers of such properties in the annual Housing Investment Programme (including an estimate of the numbers vacant for 6 months or more). In addition, Best Value Performance Indicator 64 requires the Council to state the numbers of properties brought back into use (or demolished) as a direct result of local authority intervention. As stated earlier the Council has now made this a top quartile indicator.

8. Similarly, there is no statutory obligation to have a formal Empty Property Strategy. However, as listed below, there are a number of good reasons for preparing and implementing such a strategy. The Key Lines of Enquiry adopted when inspecting local authority private sector housing services make it clear that the Audit Commission expect to see an effective Empty Homes Strategy supporting the overall framework of housing strategies. The reasons, which make a clear case for coherent action to intervene with long term empty properties include: -

- left empty, properties deteriorate and are frequently a source of complaint as they become unsightly. They can often act as a focus for anti social behaviour and for other environmental problems such as rubbish dumping and vermin. They can have a significant impact on the value of neighbouring properties. Dealing with complaints about empty properties often takes a considerable amount of staff time.
- brought back into use, empty properties can assist with meeting other strategic housing objectives – for example in providing temporary accommodation where the authority accepts the statutory duty.

- there is lost revenue to the Council as currently a 50% discount is applied to empty properties.
- bringing empty properties back into use helps to relieve pressure for new development.

9. An Empty Property Strategy will normally contain a range of measures aimed at bringing properties back into use, with a balance between encouragement, incentives and where appropriate, enforcement. Component elements that could be included within an Empty Property Strategy are set out in Part 4 of this report.

Empty Properties in Epping Forest

10. Earlier this year, the Council commissioned PPS plc to undertake a House Condition Survey to give information on the condition of private sector housing stock in Epping Forest. The survey required the examination of the condition of at least 750 private sector dwellings selected at random. In practice, 761 dwellings were surveyed. Using the survey findings and other relevant data, the House Condition Survey report estimated there to be 1,250 empty private sector dwellings, representing 2.9% of the private sector stock of 42,700 private sector homes. Of these 1,250 empty properties, 450 (36%) were estimated to be long term vacant (more than 6 months).

11. The overall proportion of vacant dwellings at 2.9% is equivalent to the national rate (from the ODPM English House Condition Survey 2001). The proportion of empty properties that are long term vacant at 36% is below the national average of 51%. However, 450 long-term empty properties in a District where there is a significant shortage of affordable housing is clearly an issue that warrants attention.

12. In addition to the general House Condition Survey, PPS plc also carried a specific study of vacant properties. In total 171 properties were included within the survey, made up of 94 properties from a list provided by the Council, 21 drawn from vacant properties surveyed during the general House Condition Survey and 56 identified by surveyors whilst walking in the area. Like the general House Condition Survey, the Vacant Properties Survey broke the District down into 3 sub areas – Epping and South, Ongar and North and Waltham Abbey.

13. The separate Vacant Properties Report looked at issues such as the distribution of empty properties across the District and the condition of empty properties, particularly where long term vacant, in terms of the Decent Homes Standard, Housing Fitness Standard, the Housing Health and Safety Rating System (HHSRS), repair, amenities and energy efficiency. The findings include: -

- of the estimated 450 long-term empty properties, 260 have been vacant between 6 and 12 months and 190 for more than 12 months.
- the proportions of properties failing the Decent Homes Standard, fitness standard and with Category 1 hazards are all significantly higher in long term vacants (for example, over 90% of long term vacant properties fail the Decent Homes Standard compared with the average across the District for all homes of 23% (national average 30%).
- the average cost to rectify failures of the repair criterion in the Decent Homes Standard is £21,700 in properties vacant for more than 12 months compared with £12,100 for all properties across the District.
- the mean SAP ratings in long term vacant properties is 35 compared with 58 for all properties (the higher the rating the better)
- the proportions of older amenities are higher in long-term vacant properties.
- 47% of long-term vacants give an external impression of being defective, seriously defective or unfit.
- the highest percentage of vacant properties occurs in Waltham Abbey, but this sub-area

has the lowest proportion of long-term vacant properties. The highest percentage of long term vacant properties is found in Ongar and North – 26.3% more than 6 months and 34.8% more than 12 months, and the highest proportions of vacant dwellings in poor condition are found in Ongar and North.

Components of Empty Property Strategy

14. As indicated in the background section, the reasons for properties remaining vacant long term are often complex. To be effective, an Empty Property Strategy needs to overcome the barriers to them being returned to use. A starting point is an effective information base and progress has already been made on this with a database created using Council Tax records and with the Vacant Properties Survey. It is also important to ensure that there is a clearly identified officer with responsibility for action on empty homes. Beyond that, the strategy needs to combine a range of measures to give encouragement and incentives to bring properties back into use – along with enforcement measures to be used when appropriate. It is essential for property owners to be aware that enforcement measures exist and that they will be used if necessary.

15. The Council now has a database of empty properties prepared using Council Tax records. (The use of these records for this purpose has only been allowed since 2003). In addition, the Vacant Properties Report gives information as to the condition and distribution of empty properties. However, additional information gathering methods could be introduced:

- A simple measure would be advice on the Council's website. Periodic newspaper articles or leaflets could also be used. Realistically, a reporting mechanism starts once measures to deal with empty properties under the new Strategy have been put in place.
- by ensuring that relevant Council staff and Members are aware of the importance of reporting apparently empty properties to the Environmental Protection Team. Many Members and staff (Planning Officers, Building Control Officers, Housing Officers and Refuse Collectors) come into contact with empty properties as part of their usual work.

16. Some local authorities appoint a dedicated, full time officer with specific responsibility for empty properties. The proportion of empty properties in this district does not warrant such an approach. Responsibility for empty properties currently rests with one part time Environmental Health Officer in the Environmental Protection Team within Environmental Services. That officer also has to deal with other statutory housing functions (complaints concerning housing conditions, houses in multiple occupation, service of statutory notices, etc) and this workload will increase when the additional housing duties and powers under the Housing Act 2004 come into effect in April 2006, in particular the new Housing Health and Safety Rating System.

17. Dealing with empty properties is very time consuming and whilst responsibility for them is best located within the Environmental Protection Team, realistically additional resources may be required. The existing Private Sector Housing Strategy is due for review very shortly to take account of the Housing Act 2004 and other changes and it is anticipated that a future report on that matter will refer to staffing issues.

Measures To Bring Empty Properties Back Into Use

18. There are a variety of ways a local authority can intervene with the object of securing the return to use of empty properties. In practice, dealing with an empty property will generally involve a complex and frequently protracted process of negotiation in which Officers may need to adopt a “carrot and stick” approach.

19. The options range from informal action and initiatives (such as private sector leasing) to enforcement action. Appendix A to this report gives detailed information on the options available, including comments on resource implications. The comments below give a general

indication of the options.

Informal Measures:

- raising awareness
- promoting use of Letting Agents

Policy Led Initiatives:

- removal of 50% Council Tax discount for empty dwellings.
- grant aid to assist with the cost of necessary renovation works
- private sector leasing schemes
- deposit guarantee /"Finders Fee" schemes

Enforcement Measures:

- legal powers to compel an owner to deal with disrepair, dilapidation, blocked drains, refuse, vermin etc.
- enforced sale
- empty Dwelling Management Orders
- compulsory purchase

Taking each of these in turn:

Raising Awareness

20. Once the policies and procedures that will come from the new Empty Property Strategy are in place, publicity will be very useful to increase awareness of the issues involved with empty properties. This would include drawing the attention of landlords to the costs and risks involved in leaving dwellings vacant. A further option would be to write to owners of properties that have been vacant for more than 6 months, making them aware of the options available to assist them in bringing the property back into use and the risks involved in not doing so. This option involves limited revenue costs.

21. Some authorities publish lists of empty properties (with no ownership details) on their websites. The aim is to let prospective buyers/tenants know of empty dwellings. There is however a risk that the information could be used by squatters. However, if a person does contact an authority and asks for a list of empty properties, current guidance indicates that under the Freedom of Information Act 2000 the authority is obliged to release it (again without ownership details). On balance, it would appear preferable to respond only to specific requests rather than publish on the website.

22. However, there is one initiative backed by ODPM and currently used by authorities in West London and Birmingham (Empro), which does put prospective buyers and developers in touch with owners; (many estate agents are reluctant to market long term vacant properties). Property details are published on a website and buyers interested in a particular property contact the site managers. Their details are then passed on to the property owner, who may or may not respond. The service is being expanded and may be worth exploring further.

Letting Agents

23. This involves preparing a list of letting agents who manage privately rented dwellings on behalf of property owners. The list would give information on the services offered and fees involved. Some owners are simply not aware of this type of service and making this information available may overcome a barrier to letting with some owners. This option would involve a limited amount of Officer time.

Removal of Council Tax Discount

24. Properties empty for more than 6 months currently receive a 50% discount. This

tends to act as a disincentive to bringing properties back into use. The Local Government Act 2003 allows local authorities to reduce or remove the discount and a number of authorities have done this. One drawback is that removing the discount completely can lead to people not registering properties as vacant, with the result that an authority loses its information on empty properties. An option adopted by some authorities is to reduce the discount to 10% so there is still an incentive for people to report properties as empty. It should be noted that the increased revenue goes to the Treasury.

25. This option would involve officer time in Financial Services and would have cost implications for system modifications, new stationery, etc.

Grant Aid for Empty Properties

26. Many authorities provide grant aid towards the cost of bringing unfit dwellings back into use. Following the Regulatory Reform Order 2002, local authorities have considerable freedom to give financial assistance in whatever format they feel is appropriate to the particular circumstances and needs of their area and to their resources. Empty property grants take a wide variety of forms and they can prove very effective. In effect they can bridge a gap to make a renovation viable and are a common “carrot” in the “carrot and stick” approach.

27. However, empty property grants can involve substantial capital sums to be effective and before deciding in principle whether to revise the current regime for giving financial assistance and to incorporate grant aid in an Empty Property Strategy, the Panel would need to consider the financial implications.

28. The present capital allocation for financial assistance in the private sector is £500,000 and this will be fully utilised this year, with the £300,000 allocation for Disabled Facility Grants being already fully committed and the balance of the allocation being used for Renovation Grants and Home Repairs Assistance.

29. Realistically, to have any impact the actual grant amount for an Empty Property Grant would need to be in the order of £20,000 per property and the annual capital allocation for, say, five properties would therefore be £100,000. This funding would have to be met by altering the priorities for existing grants where there is already substantial demand or by introducing additional funding from Capital Resources. The Panel may wish to defer a decision on this until the review of the Private Sector Renewal Strategy, which will look at all the overall policies for giving financial assistance (and may include for example a recommendation to move towards a mixture of grants and equity release).

30. If the Panel do reach a decision to make financial assistance available, then it will be necessary to make decisions on the form the assistance would take:

- the amount of the assistance.
- those eligible for assistance – prospective owner-occupiers, landlords, first time buyers.
- any means testing of applicants.
- eligibility criteria e.g. time has stood vacant.
- grant conditions e.g. availability of letting, linkage to leasing scheme, penalties for breach of conditions.

Private Sector Leasing Schemes

31. Private sector leasing is used in many parts of the country with empty properties in reasonable condition. As well as helping to deal with empty properties, it can make a contribution to the wider housing agenda by assisting to find accommodation for homeless households in priority need, and/or households on the housing register and/or key workers.

32. There are several different forms but in general terms it is an arrangement whereby the property owner enters into a lease agreement with a local authority or Registered Social Landlord (RSL), normally for a period of 2 – 10 years at a rent slightly below market value. Where the lease is to a local authority, the authority can manage the scheme directly or sub-contract management to an RSL. Where the lease is to an RSL, the local authority pays a sum of money to the RSL to cover costs and risks and nominates tenants.

33. The rent paid to the owner is below market value as the owner benefits from guaranteed income without void periods or bad debts. In addition the property is managed effectively and returned in good order at the end of the lease period. The tenants pay market rent. The local authority benefits as empty properties are bought back into use and the scheme helps to provide temporary accommodation for households in housing need.

34. The Council already uses private sector leasing with the Fresh START scheme in partnership with East Thames Housing Group. Under this arrangement, East Thames currently lease 10 properties from the private sector, for around three years and rent them to Council nominees (particularly homeless households) for a weekly management fee of £22 per week per property. In September 2005, Cabinet also agreed to extend the scheme to a further 10 properties, which should be leased by April 2006. As part of an Empty Property Strategy, the scheme could be extended by, say, a further 10 properties and East Thames asked to prioritise empty properties as the type of property that they lease.

35. If the scheme were extended, not only would it contribute towards a reduction in empty properties, it would also assist homeless and other housing applicants. Furthermore, it would save the Council money overall since, for every single homeless applicant accommodated under the Fresh START Scheme who would otherwise have to be accommodated in bed and breakfast accommodation, the Council would save around £5,500 per annum (after taking into account the cost of the management fee).

36. In this context it is important the Panel notes that the London Commuter Belt Empty Homes Forum has made a bid to the Government Office of the East of England for £3.5m for a scheme to renovate sub-standard empty properties to the decent homes standard. The proposed scheme involves private sector leasing – properties would be renovated on condition that the owner grants a lease to an RSL for a period of 3 – 5 years, with the relevant local authority having nomination rights for that period. The RSL takes the rent, with the owner benefiting from having a dilapidated property put into good condition. The relevant local authority specifies the schedule of renovation works. The RSL tenders for the renovation work and manages the property for the duration of the lease.

37. The scheme involves 5 partner local authorities with Chelmsford Borough Council taking the lead. The scheme has a target of 100 properties (i.e. roughly 20 properties per partner authority, but on a “first come first served” basis). If the bid is successful, the capital fund would be available for the years 2006-2008 and would not require payback. The outcome of the bid is anticipated early in the New Year.

Deposit Guarantee /Finder’s Fee Schemes

38. In many cases a major barrier to prospective tenants entering a private sector tenancy is the matter of the deposit required by landlords (usually the equivalent of one month’s rent in addition to a month’s rent in advance). Overcoming this barrier by local authority intervention can play a part both in assisting households in housing need and also potentially in bringing empty properties back into use.

39. There are various ways in which this can be done. Some authorities advance the deposit to a prospective tenant to pay to the landlord, with the returned deposit being kept by the tenant at the end of the tenancy as an incentive to conduct the tenancy in a proper manner. More commonly, a form of guarantee scheme is used whereby no money is advanced to the landlord but the local authority underwrites the guarantee, which is only paid if the tenant defaults. This type of scheme is often used in conjunction with some form of

landlord accreditation.

40. There is an existing deposit guarantee scheme in Epping Forest operated by a voluntary organisation called Epping Forest Housing Aid. The Scheme is mainly funded from £40,000 lottery funding, although the Council gave a grant of £5,000 when the scheme was first set up. In February 2005, the Council also agreed to underwrite rent guarantees provided by the scheme of up to £10,000 at any one time. At any one time, the scheme provides around 60 guarantees to private landlords, assisting the same number of clients who would otherwise be unable to access the private rented sector. Epping Forest Housing Aid could be asked to prioritise guarantees to landlords whose properties have been kept empty for more than 6 months, with such landlords being advised of this facility at that time.

41. The previous report referred to the possibility of a Finder's Fee scheme. Here, a single non-refundable premium is paid to the owner of an empty property if the property is let to a person on the Housing Register for a minimum of 12 months. The scheme would work by a prospective tenant finding a suitable empty property (and ownership details if possible) and approaching the Council for assistance. The property is inspected and if found suitable, negotiations with the landlord are undertaken over rent and any necessary works. Other local authorities have also linked the scheme with fast tracking of housing benefit claims and landlord insurance at reduced premiums.

42. The benefit to a potential landlord scheme is a one off payment, which is typically £1,000 - £1,500 dependent on property size. The benefit to a Local Authority is the housing of a nominated person from the housing waiting list and the bringing back of an empty property into use. The scheme is relatively simple to administer and has proved notably successful in Harrow. The drawback to a local authority is the cost, which would have to be funded from the General Fund, for which a CSB Growth Bid for 2007/8 would need to be made. (If adopted in Epping Forest, Officers would recommend a minimum budget of £5k). In addition, there may be difficulties in some cases with landlords with no previous experience of the responsibilities involved in letting.

Miscellaneous Legal Powers

43. In addition to enforced sale, Empty Dwelling Management Orders and compulsory purchase to be described shortly, there are a range of legal powers, which can be used by the Council to deal with specific problems at individual empty properties. These are summarised at Appendix B. None in effect gives a simple, straightforward remedy for bringing an empty property back into use as a decent home, and none deal entirely with all aspects that can cause concern with an empty property. However, in appropriate circumstances they can be effective, both to remedy particular problems and also as part of the overall negotiating process to focus the mind of the owner.

44. There are practical and technical issues, which have to be considered when using any of the powers. The option of serving a statutory notice requiring the owner of an unfit empty dwelling to make it fit for human habitation may achieve renovation of the dwelling. However, if the owner does not comply with the notice a local authority has the option of prosecuting the owner or carrying out the work in default. Prosecution does not secure any works to the property. Work in default can have substantial risks, as the cost may be thousands of pounds, which the authority pays and the recovery of the costs may be very complex and take a substantial time.

45. In recent years, the Environmental Protection Team has made little use of statutory powers, reflecting to a degree the very limited staffing resources. It is highly likely that as part of the review of the private sector renewal strategy officers will recommend that a more robust enforcement policy be adopted and this could include use of some of the powers set out in Appendix B in response to problems with empty properties.

46. Not all of the powers listed in Appendix B are delegated to the Environmental Protection Team. One power, which has been used effectively in other parts of the country,

is Section 215 of the Town and Country Planning Act 1990. This allows a local authority to require the owner of an empty property to deal with unsightly land or the external appearance of a property. The works that can be required relate only to the external appearance of a building but as with other statutory notices experience shows that simply writing indicating that a notice will be served often prompts action from the owner.

47. The use of statutory powers where works are done in default may lead on to the use of enforced sale (please see below).

Enforced Sale

48. This procedure allows a local authority to enforce the sale of an empty property where there is an unpaid debt (e.g. unpaid Council Tax, the cost of works done in default, etc). Such debts are recorded as a Local Land Charge. The Law of Property Act 1925 allows the Council to force the sale of the property in order to recover the monies owed. Obviously the local authority has no say whom the end purchaser is, but resale will normally result in the property being returned to use.

49. Although the process does not allow for any control over the ultimate purchaser, there are many advantages over compulsory purchase. It is much quicker and cheaper and there is no need to pay any compensation to the owner, indeed an authority can recover the cost involved in the process and interest incurred. Importantly, it does not involve any of the risks involved in compulsory purchase where an authority may acquire a property and then not be able to resell.

50. The process would only have limited resource implications (staff time and costs associated with the sale that would then be recovered).

Empty Dwelling Management Orders

51. Part 4 of the Housing Act 2004 introduces a new power to allow local authorities to make Empty Dwelling Management Orders (EDMOs). EDMOs are designed to provide local authorities with power to take over (or have a third party take over) the management of an empty property that has been empty for more than 6 months in order to ensure that it becomes and remains occupied. The first stage in using Part 4 powers is to make an interim EDMO to ensure occupancy of a vacant dwelling. Before doing so an authority must have taken all reasonable steps to ascertain what action (if any) the landlord is taking, or is intending to take, to ensure that the dwelling is occupied. The interim EDMO has to be authorised by a Residential Property Tribunal. Once an interim EDMO has been made the local authority is obliged to ensure that the dwelling is occupied as soon as possible.

52. The interim EDMO lasts for up to a year. The local authority has many of the rights and responsibilities of the owner but cannot sell the property and cannot let the property without the consent of the owner.

53. A local authority may proceed to apply for a final EDMO on a dwelling if, having secured an interim EDMO, they find that there is no prospect of the dwelling becoming and remaining occupied. An authority does not have to apply to a Residential Property Tribunal in order to make a Final EDMO. A Final EDMO must contain a management scheme setting out how it intends to carry out its duties and account for monies collected and expended. It can remain in effect for up to seven years. The owners of properties affected by Interim or Final EDMOs can apply to the Residential Property Tribunal for compensation for interference with their property rights.

54. In effect this is a form of compulsory leasing. In practice, using EDMOs is likely to involve significant staff time even if the subsequent management is contracted out. It will be most important to ensure that a property is in good order before letting (complying with all relevant legislation). The management scheme would have to ensure that the cost of any works necessary to the property (both before letting and as the tenancy continues) can be

met from the rents received over the duration of the EDMO.

55. Because of the complications involved, in particular with the management scheme, it is likely that officers will only recommend that an EDMO is used in very exceptional circumstances for example where an empty property in fair condition is being held empty long term for no good reason. Use of an EDMO in such circumstances would send a clear message to other owners of empty properties.

56. The resource implications of an EDMO are difficult to predict, as they are a new power. Realistically there would be significant staff time involved and there are potential capital implications as a landlord can apply for compensation.

Compulsory Purchase

57. Both the Housing Act 1985 and the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) allow for compulsory purchase of buildings and land. The Housing Act power applies to underused properties where there is a general housing need in the area (which clearly applies to Epping Forest).

58. Compulsory purchase is a very powerful tool, which results in the owner of a long term vacant property being dispossessed, a local authority acquiring the property and then normally selling it on to an RSL or developer to bring it back into use. However, it is a process which requires formal approval of the Secretary of State and which can be subject to formal appeal. It can be very complex, time consuming and costly (possibly costing up to £20,000 if contested and taking up to 18 months).

59. In addition to the staff time and legal costs, there are very substantial capital resource implications. Obviously the authority has to fund the actual cost of purchase (which would typically be £250,000 – £300,000 in Epping Forest) along with additional compensation, which may be up to 7.5% of the purchase price. In theory the capital outlay would be recovered rapidly by resale of the property but there is always the risk of a sudden change in the property market or other factors, which could delay or prevent sale.

60. As with many other powers, simply indicating an intention to use compulsory purchase often brings results. Those councils which regularly use compulsory purchase powers say that up to 50% of cases get resolved on the basis of one letter from Legal Services saying that they have instructions to proceed. Many cases go through to compulsory purchase without any objection by the owner. However, many do involve the full, complex process.

61. Compulsory purchase is very much a power of last resort. Approval will only be granted if an authority can show that they have taken all possible steps including persuasion and/or statutory notices to bring the property back into use.

62. In spite of the risks and significant resource implications, Officers may, in highly exceptional circumstances, make a recommendation that a compulsory purchase order be made where all other approaches have failed, and it is strongly recommended that the potential use of compulsory purchase powers is included in the Empty Property Strategy that will be drawn up.

Conclusions/Recommendations

63. This report has set out why long term empty homes in the private sector are a legitimate concern for Epping Forest, and the importance of developing an effective Empty Property Strategy. It has also set out the key findings of the recent House Condition Survey report and the Vacant Properties report, which show that the proportion of private sector empty homes in Epping Forest at 2.9% is broadly comparable with the national average and that the proportion of vacant properties empty long term at 36% is below the national average

of 51%.

64. However, this still means that an estimated 450 homes are a wasted housing resource in an area where there is high housing demand. Furthermore, the condition of these long-term empty properties is significantly worse than average (over 90% fail to meet the decent homes standard). Many will be, or are likely to become, a significant problem in their neighbourhood.

65. The report also sets out the various ways that a local authority can intervene to bring empty homes back into use. Some are fairly straightforward but some have very significant resource implications both in terms of staff and capital expenditure. Some of the measures (for example private sector leasing) require more investigation in order to advise the Panel further.

66. At the present time, officer resources to deal with all statutory private sector housing matters in the Environmental Protection Team is very limited. For a number of years the Council has intervened only to a very limited degree. A review of the Private Sector Renewal Strategy will start early in January 2006 and, after consultation; this is likely to lead to some recommendations to increase the staffing resource.

67. The new Strategy will take into account the information in the full House Condition Survey report that has just been completed. It will set out the ways the Council will seek to address the other priorities in the private sector in addition to empty homes (unfit dwellings, Decent Homes, properties in disrepair, the new Housing Health and Safety Rating System, houses in multiple occupation, etc) as well as revised ways to give financial assistance (for example loans/equity release).

68. An Empty Property Strategy supports the main Private Sector Renewal Strategy. It would be preferable to have the main Strategy in place before preparing a detailed Empty Property Strategy.

69. The Council has decided to make BV64 a Key Performance Indicator to indicate the priority now placed on this issue. This also implies that the Council will be seeking to achieve upper quartile performance i.e. to be within the top 25% of authorities in terms of intervening to bring empty properties back into use or secure their demolition. From the current position, very substantial progress will have to be made very quickly to approach this. The Council may wish to consider whether BV64 should remain as a KPI.

(i)

Options for action:

The only options are those set out in the report or not to proceed with an empty property strategy.

Consultation undertaken:

Nil

Resource/Budget implications: The issue is complex and has significant resource implications in terms of staffing, revenue and capital costs. It is not possible to quantify some of these costs without additional work and until decisions have been reached as to what options Members wish to see included in the Strategy.

However, a summary of the measures, including an estimate of potential resource implications and risks are included in Appendix A of the report.

Budget provision: See report

Personnel: Nil at this stage

Land: Nil

Community Plan/BVPP reference: Top quartile performance aspiration for BV Indicator 64

Relevant Statutory powers: Housing Acts/Town and Country Planning Act/Building Act/Public Health Act

Background papers: House Condition Survey 2005, Vacant Property Survey 2005 and reports to Housing Scrutiny Panel.

Environmental/Human Rights Act/Crime and Disorder Implications: N/A

Key Decision reference (if required):

OPTIONS TO ASSIST BRINGING EMPTY PROPERTIES INTO USE AND THE RESOURCE IMPLICATIONS

APPENDIX A

OPTION	Type of property targeted	No. Likely to be brought into use per annum	Resource Implications		Contribution to BVPI 64	Risks	Impact for other service areas
			Revenue	Staff Days P/A			
<p>PUBLICITY: Letters to owners of all properties empty for over 6 months. Leaflets and posters Articles / displays</p>	All empty properties	Impossible to monitor the direct impact of publicity only – It will assist in the success of other initiatives	Costs in printing leaflets say £100	Production of leaflets / articles/ promotions and general admin 14 days	None Publicity alone does not count towards the indicator.	<p>Benefits cheap; reaches all residents and owners; positive message to the community Risk none</p>	None
<p>EFDC WEBSITE: Provide an updated list of empties with a link to the Land Registry Dept</p>	All empty properties. Allows the public access to information on known empties so that they may approach the owner directly.	Not quantifiable.	None	2 days to create website and update every 6 months	None As above	<p>Benefits with periodic updates it runs itself Risk that information exposes empty properties for squatting</p>	I.T.Services
<p>LETTING AGENTS: Producing a data base of information re letting agents to distribute to interested owners</p>	All empty properties	Not quantifiable.	None	3 days	None As above	<p>Benefits simple to administer Risks none</p>	None

OPTIONS TO ASSIST BRINGING EMPTY PROPERTIES INTO USE AND THE RESOURCE IMPLICATIONS

OPTION	Type of property targeted	No. Likely to be brought into use per annum	Resource Implications		Contribution to BVPI 64	Risks	Impact for other service areas
			Revenue	Staff Days P/A			
REMOVAL OF DISCOUNT ON COUNCIL TAX	At discretion of the LA E.g. properties left empty > 12 months NB: Maybe reduction to 10% discount rather than complete removal.	Not quantifiable.	System modifications and new stationery.	None for Env. Services but implications for Finance Services	None As above	Benefits no longer a financial incentive to leave a property empty. Sends out a consistent message Risk Financial cost to administer and increased revenue cannot be retained by the LA. May lead to under-reporting / counting of properties.	Finance Services Council Tax
EMPTY PROPERTY GRANT	Detail of grant dependent on results of house condition survey E.g. >12 months empty & requiring major works to Decent Home Standard	5	E.g. £100,000 from single capital pot (additional to existing grant budget for DFG's etc.)	10 days per grant	5	Benefits grant targeted to suit EFDC policies and targets Risks poor take up if inadequate publicity / targeting / interest from owners / abortive work on some	Housing Services allocation of nominated tenants if this forms part of the grant conditions

OPTIONS TO ASSIST BRINGING EMPTY PROPERTIES INTO USE AND THE RESOURCE IMPLICATIONS

OPTION	Type of property targeted	No. Likely to be brought into use per annum	Resource Implications		Contribution to BVPI 64	Risks	Impact for other service areas
			Revenue	Staff Days P/A			
<p>PRIVATE SECTOR LEASING SCHEME: Utilising the existing Fresh START scheme set up with East Thames Housing Association</p>	<p>Those properties of type and location in particular housing demand May lead to formal action through an EDMO</p>	6 - 10	<p>There will be costs to this scheme – to be investigated further.</p>	<p>Approximately 2 days in liaison.</p>	6-10	<p>Benefits PSL is already set up by Housing Services. Risks Poor take up if suitable properties not available or owners not interested ETHA may be reluctant to take properties requiring major works.</p>	<p>Housing Services in the allocation of nominated tenants</p>
<p>LCB SUB REGIONAL BID: Approx. £350,000per annum for 2 years</p>	<p>Problematic long term properties in disrepair</p>	10	<p>None If successful this is a non- repayable grant.</p>	<p>56 days to set up. Thereafter 5 days per annum for 2 years</p>	10	<p>Benefits A non-repayable grant targeting properties in poor condition and likely source of complaint. Properties will be brought to the Decent Homes Standard. Risks target may not be met if poor interest</p>	<p>Housing Services in the allocation of nominated tenants</p>

OPTIONS TO ASSIST BRINGING EMPTY PROPERTIES INTO USE AND THE RESOURCE IMPLICATIONS

OPTION	Type of property targeted	No. Likely to be brought into use per annum	Resource Implications		Contribution to BVPI 64	Risks	Impact for other service areas
			Revenue	Staff Days P/A			
DEPOSIT GUARANTEED SCHEME:	Properties requiring only minor works; suitable for letting to single non-priority homeless	Estimate 5-10	Existing scheme is funded by £40,000 lottery funding.	None for Env. Services but implications for Housing Services	5-10	<p>Benefits targeted at non priority homeless; should be reasonably simple to administer</p> <p>Risks May not be a large enough incentive to Landlord especially if property requires work to bring it to lettable condition.</p>	Existing scheme administered by Housing Services.
ENFORCED SALE:	Problematic long term empty that has incurred a debt as a local land charge	Maximum one n/a to our current known empties	Council never takes ownership therefore no budget implications. Council can recover all associated costs No compensation payable to owner	20	1	<p>Benefits cheaper and quicker process than CPO. Deals with worst cases</p> <p>Risks none</p>	Legal Services

OPTIONS TO ASSIST BRINGING EMPTY PROPERTIES INTO USE AND THE RESOURCE IMPLICATIONS

OPTION	Type of property targeted	No. Likely to be brought into use per annum	Resource Implications		Contribution to BVPI 64	Risks	Impact for other service areas
			Revenue	Staff Days P/A			
EMPTY DWELLING MANAGEMENT ORDERS (EDMO):	Long term empty suitable for Private Sector Leasing. Comes into force April 2006	Only realistically workable if PSL scheme is in place for RSL to take on management	Budget allocation to carry out essential works poss. £20000 per property. Compensation may be payable to the owner- LA can claim back from any surplus rent	Officer time to set up the scheme approx. 30 days To administer thereafter 2/3 days per property.	Likely none for two years. Possibly 2 p/a thereafter.	<p>Benefits provides a back up to voluntary leasing and an alternative to enforcement</p> <p>Risks If property requires major works it may not be possible to recover costs within the 7-year lease period. Owner retains the right to sell the property at any time.</p>	Housing Services in the allocation of nominated tenants Management of property taken on by the preferred RSL.

OPTIONS TO ASSIST BRINGING EMPTY PROPERTIES INTO USE AND THE RESOURCE IMPLICATIONS

OPTION	Type of property targeted	No. Likely to be brought into use per annum	Resource Implications		Contribution to BVPI 64	Risks	Impact for other service areas
			Revenue	Staff Days P/A			
CPO:	Problematic long-term empty e.g. run down, squatters, nuisance. All other options to bring property back into use have been exhausted	Maximum one due to capital & revenue implications	Requires a budget allocation from the single capital pot to purchase property- approx. £300,000. If the property is sold on within 3 years, 90+% of monies can be returned to the capital programme. Costs in engaging consultants- up to £2000. Compensation costs to owner- poss. £20,000. CPO procedure- up to £6000	35	1	<p>Benefits last sanction measure where all other options have failed. Deals with the worst cases and sends a strong message of commitment to addressing empty properties</p> <p>Risks Council takes on full liability for property until it is sold</p> <p>Risk that the property cannot be sold on or that it cannot be sold at market value</p>	Legal Services

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APPENDIX B – MISCELLANEOUS LEGAL POWERS

Problem	Legislation	Power granted
Dangerous or dilapidated buildings or structures	Building Act 1984, Sections 77 and 78	To require the owner to make the property safe (Section 77) or enable the Local Authority to take emergency action to make the building safe (Section 78)
	Housing Act 1985, Sections 189 and 190	To require the owner to make the property safe. Section 189 applies if the property is Unfit for Human Habitation. Section 190 applies in other cases of serious disrepair. These provisions are due to be repealed when Part 1 of the Housing Act 2004 comes into effect in April
Unsecured properties (if it poses the risk that it may be entered or suffer vandalism, arson or similar)	Building Act 1984, Section 78	To allow the Local Authority to fence off the property
	Local Government (Miscellaneous Provisions) Act 1982, Section 29	To require the owner to take steps to secure a property or allow the Local Authority to board it up in an emergency
Blocked or defective drainage or private sewers	Local Government (Miscellaneous Provisions) Act 1976, Section 35	To require the owner to rectify obstructed private sewers
	Building Act 1984, Section 59	To require the owner to rectify blocked or defective drainage
Vermin (if it is either present or there is a risk of attracting vermin that may detrimentally affect people's health)	Public Health Act 1961, Section 17	To require the owner to rectify defective drainage or private sewers
	Public Health Act 1961, Section 34	To require the owner to remove waste so that vermin is not attracted to the site
	Prevention of Damage by Pests Act, Section 4	
	Public Health Act 1936, Section 83	
	Environmental Protection Act 1990, Section 80	
Unightly land and property affecting the amenity of an area	Building Act 1984, Section 76	To require the owner to remove waste from the property
	Public Health Act 1961, Section 34 (see above)	
	Town and Country Planning Act 1990, Section 215	To require the owner to deal with unsightly land or the external appearance of a property
	Building Act 1984, Section 79	To require the owner to take steps to address a property adversely affecting the amenity of an area through its disrepair

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