



Committee and Date

**Communities Overview
Committee**

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Public

Overview of Regulatory Services Empty Homes work

Responsible Officer

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1.0 Summary

1.1 This report provides an overview of the Empty Homes work carried out by Regulatory Services including the legal powers available. It also provides a summary of the previous scrutiny review of the function.

2.0 Recommendations

2.1 Committee considers and comments on Regulatory Services' approach to use all powers available to address problems associated with empty properties and return them to use, in accordance with Shropshire Council's Better Regulation and Enforcement Policy.

2.2 Committee supports Regulatory Services' proposal to appoint a full-time officer on a temporary two-year fixed contract funded through the existing empty homes capital budget as part of their approach to utilise all powers available to return empty properties to use.

2.3 Regulatory Services private rented sector housing work including empty homes is reflected in the Council's Housing Strategy and infrastructure required to support this can be raised through Place Plans.

3.0 Opportunities and risks

3.1 Returning empty homes back to use can have a positive impact on the local community, providing much needed homes and improving the street scene and reducing anti-social behaviour.

3.2 There is limited resource allocated to the empty homes function (0.9fte which also carries out other private rented sector housing functions). There is an opportunity to increase the staffing resource using existing capital funding for empty homes.

3.3 There is a risk of complaints to Local Government Ombudsman or civil action if legal and regulatory action is not taken appropriately.

4.0 Financial assessment

4.1 Every home returned to use generates additional new homes bonus for the Council. Under the scheme, the Government rewards the council at the national average band d council tax rate of £1,672 for a period of four years for every property returned to use over the expected baseline increase of 0.4%. Direct

intervention by Regulatory Services to return properties to use generates New Homes Bonus for the Council.

- 4.2 There is a loss of income to the Council of the 100% council tax premium (this is paid in addition to the normal council tax charge for long term empty property) which is no longer applied when a property is returned to use but the wider social and economic benefits and the resulting New Homes Bonus offset this loss.
- 4.3 The current available ring-fenced capital funding for empty property work is £252,000 which the service can use for both capital and revenue purposes to achieve the best outcome of reducing the number of empty properties and maximising income from new homes bonus.
- 4.4 The capital funding was previously used for incentive grants to encourage the return to use of empty properties. Across Shropshire this returned 19 empty properties to use and created 16 new dwellings.
- 4.5 The ongoing funding ceased and therefore the Service has prioritised the remaining capital funding to support escalated enforcement action as a longer-term sustainable option for the function as the incentive grant programme cannot be sustained without on-going funding. It aims to do this through the appointment of a temporary officer and the funding of specialist legal advice if this is recommended by Legal Services who have agreed to initially review the cases.
- 4.6 A two-year temporary contract for a Band 11 Professional Officer would be £71,868 plus on-costs.

5.0 Report

- 5.1 Homes and other buildings left empty are a significant wasted resource, both to their owners and to those in housing need across Shropshire. They can attract vandalism, anti-social behaviour and can be detrimental to an area.
- 5.2 There are many reasons why properties may become empty, such as the owner being in care, the owner having a lack of skills or finances to manage the property, legal issues such as probate creating delays, inability to sell, imprisonment or a fear of renting.

6.0 The Service we provide:

- 6.1 As of 1st January 2019, there were 1329 long term empty properties in Shropshire. These are residential properties which have been empty for at least six months. There were also an additional 455 empty properties which are exempt from Council Tax charges because for example, the owner is in care.
- 6.2 We will investigate if an empty property is causing the following problems:
- It's insecure
 - It's dangerous
 - It attracts flytipping
 - It attracts anti-social behaviour
 - The empty state is causing it to be physically damaging to another property.

- 6.3 We aim to work with owners of empty homes to resolve these problems and secure the improvement of the empty property. We also offer advice for returning their property to use but we will consider enforcement options available to us in accordance with the Council's Better Regulation and Enforcement Policy.
- 6.4 There are a range of options available to bring empty properties back into use. We aim to work with owners of empty properties to assist them in returning their property to use through engagement. For those owners looking to sell, rent or renovate the property we will provide advice and signposting.
- 6.5 Local authorities have a range of powers and incentives to bring empty homes back into use. The powers include Empty Dwelling Management Orders, enforced sales and compulsory purchase. Enforcement action against owners of problematic empty properties, who are unwilling to work with us, is considered in line with Shropshire Council's Better Regulation and Enforcement Policy. Other incentives include the 100% Council Tax Premium for long term empty properties.

7.0 Compulsory Purchase

- 7.1 Where agreement cannot be reached with the owner of an empty property a local authority may seek to acquire the property compulsorily.
- 7.2 Compulsory Purchase Orders (CPOs) can be made by local authorities under their Housing Act powers e.g. acquisition of land or buildings for the provision of housing. One potential use of CPOs is to acquire empty properties to bring them into housing use. These powers should only be used where the authority can demonstrate that the acquisition would be in the public interest and should be considered as a last resort where owners have refused or failed to co-operate. The Secretary of State must confirm a Compulsory Purchase Order.
- 7.3 Recent technical reforms to the compulsory purchase system were enacted through Part 7 of the *Housing and Planning Act 2016*, with the aim of making the system clearer, fairer (for both acquiring authorities and for those whose interests are compulsorily acquired) and faster.
- 7.4 When a CPO is undertaken the property owner is entitled to compensation for the loss of their property at a rate of 7.5% up to a maximum of £75,000. This is in addition to the proceeds of the sale minus costs owed to the Council. There are exemptions to being eligible for the compensation such as when the owner has failed to comply with an Improvement Notice served under the Housing Act 2004 or a Section 215 Notice served under the Town and County Planning Act 1990.

8.0 Enforced sale procedure

- 8.1 Where a local authority has invoked enforcement measures and the owner expresses no interest in bringing the property back into use, the authority may step in and undertake the works with a view to reclaiming the cost from the owner on completion. Once the works are completed, a charge may be attached to the property on the Local Land Charges Register.
- 8.2 The Enforced Sales Procedure is covered by the Law of Property Act 1925 which enables the Local Authority to force the sale of an empty property where there is an outstanding debt owed to the Council which has been registered against the

title of the property. Under the enforced sale procedure, the property is sold on the open market at auction.

9.0 Empty Dwelling Management Orders (EDMOs)

9.1 Empty Dwelling Management Orders (EDMOs) are a discretionary power of local authorities to take over management of certain empty residential premises.

9.2 Where a residential property has been vacant for a minimum of two years, the local authority can seek an interim EDMO which will allow the authority to let out the dwelling with the proprietor's consent. A First-Tier Tribunal (FTT) must authorise the making of an interim Empty Dwelling Management Order and will consider whether any exemptions apply. The orders are normally granted for twelve months.

9.3 Where consent to letting the dwelling cannot be obtained from the proprietor, the interim order may be revoked and replaced with a final EDMO; this will not require the consent of a FTT. Final EDMOs remain in force for a fixed period of no longer than five years. Where a final order is in place authorities do not need the proprietor's consent to letting out the dwelling.

9.4 The use of EDMOs was restricted by the Government in 2012 to protect civil liberties and the fundamental human rights which include the right to property because they were seen as draconian powers which were heavy handed. It is a tool to be used as last resort by Councils for the most extreme cases of empty properties that have become magnets for vandalism, squatters and other forms of anti-social behaviour - blighting the local neighbourhood.

10.0 Previous Scrutiny Review of Empty Property Service

10.1 In 2015, an Empty Homes Task and Finish Group was set up by the Enterprise & Growth Scrutiny Committee. One of the original concerns leading to Scrutiny considering this area of work was the perceived increasing number of empty homes in Shropshire in comparison to some nationally reported statistics. The group reviewed the accuracy of the data from various sources and was confident that there has not been a significant increase in the number of empty exempt properties in real terms.

10.2 The work of the Group focused on:

- the aims and objectives of the Empty Homes Strategy,
- how the Empty Homes Team works and is funded,
- how additional funding and staff resource could be utilised to further Empty Homes work and what this would achieve for the Council and Shropshire communities.

10.3 The Group made the following recommendations:

1. The Empty Homes Team continues to work in accordance with the current Empty Homes Strategy 2014-17.
2. It is strongly recommended that improvements are made to the working arrangements between Council Tax and Empty Homes, allowing better and faster access to the necessary data:

- A data sharing agreement is produced and put in place within one month to allow the Empty Homes Officers read only access to the Council Tax system.
 - The Council Tax Team should, on receipt of investigation/case evidence from Empty Homes Officers that a property is empty or incorrectly registered, update property records to reflect this. This will ensure properties are correctly registered and being charged accordingly. Council Tax should inform the Empty Homes Team of the type of evidence they require in order to be able to do this.
3. The Empty Homes Officers are enabled to utilise appropriate enforcement action when necessary in order to return empty properties to use, either in partnership with the Planning team, or by having these powers delegated to them.
4. The Task & Finish group considers that both additional funding and staff resource in the Empty Homes Team would be of significant benefit to both the Council and Shropshire communities. It is therefore recommended that a business case is produced, to be considered by Cabinet on an agreed date, detailing the level of additional funding required to deliver a more widespread and comprehensive approach to Empty Homes work. This should include the additional staffing resource required to carry out the tasks identified in the report's findings, and budget required to be able to effectively utilise enforcement powers, including works in default. It should highlight the positive benefits these measures could have for the Council and Shropshire Communities.
- 10.4 The report of the Empty Homes Task and Finish Group was then reported to Cabinet on 24 July 2015 and its recommendations were approved.
- 10.5 This report was also presented to People Overview Committee on 5th June 2019.
- 11.0 Changes to the Service since 2015**
- 11.1 Read only access to the relevant parts of the Council Tax database was provided to Regulatory Services which has improved access to information.
- 11.2 Regulatory Services liaise and share information with the Council Tax visiting officers who visit empty properties at least twice a year.
- 11.3 Regulatory Services continues to provide information to the Planning Service regarding potential section 215 notices which can be served under the Town and County Planning Act 1990 in relation to properties in a condition which adversely affects the amenity of an area. This could lead to the use of enforced sales or compulsory purchase powers if this action has been taken and is therefore an important tool for empty homes work.
- 11.4 There is no longer a separate Empty Homes Strategy. Regulatory Services private rented sector housing work including empty homes will be reflected in the Council's Housing Strategy.
- 11.5 A redesign of Public Protection services in 2016 was carried out to deliver the financial savings set out in the Council's financial strategy 2016/17-2018/19 and

this resulted in a change in role for the two officers involved in the Empty Property function. The current resource for this function is 0.9fte and that resource is drawn into other housing functions such as the recent expansion of compulsory House in Multiple Occupation (HMO) licensing into two storey properties.

- 11.6 The Financial Strategy, including a section on New Homes Bonus Allocation, was considered by Cabinet on 9 November 2016 and it was agreed that £250,000 New Homes Bonus would be allocated for Empty Properties work in 2016/17 and 2017/18. The NHB funding for this function stopped on 31st March 2018.
- 11.7 It was agreed at Council on 15th December 2016 that Public Protection be allowed to use the existing allocated funding for both capital and revenue purposes to achieve the best outcome of reducing the number of empty properties and maximising income from new homes bonus”.
- 11.8 A temporary officer was appointed between April and August 2017 to assist the empty homes function with data cleansing, tracing and contacting owners to proactively engage and encourage them to return their properties to use through advice and signposting. We attempted to continue this work through other admin posts within the service but did not have the capacity to continue this additional work beyond December 2017. The Regulatory Services Admin team do continue to update the information shared by Council Tax to ensure our data is accurate.
- 11.9 The New Homes Bonus funding provided for the Empty Property Incentive Grants scheme until 2018. Across Shropshire this returned 19 empty properties to use and created 16 new dwellings. An example of this work at 16 High Street in Market Drayton is available in Appendix 1.

12.0 Future Challenges

- 12.1 Regulatory Services has not previously used the enforced sales, compulsory purchase or EDMO powers. However, cases are currently being prepared to consider the use of these “last resort” enforcement powers for the first time. Whilst we will continue to seek to secure compliance by using the most appropriate level of action, officers will be able to escalate this in cases where compliance has not been achieved in line with the Better Regulation and Enforcement Policy.
- 12.2 The extent to which the full use of these powers can be made is tempered by the limited capacity within the service as a result of financial savings.
- 12.3 Partnership working across the organisation and externally is vital for effective action in tackling empty homes. The Housing Strategy should provide the vision and direction to support work across the organisation which will include services such as Planning, Legal, Council Tax and the new Housing Company as well as Regulatory Services. To use all the powers available, input from these key services will be essential.
- 12.4 Place Plans are also a mechanism where communities can raise and discuss the infrastructure requirements in a place plan area. Going forward through place plan conversations, infrastructure required to help support this can be discussed and if appropriate highlighted in the documents.

12.5 The Future Oswestry Group have conducted a High Street Survey and want to explore the options which can be utilised to bring empty properties back into use particularly empty shops and their upper floors for residential use. The temporary officer would support the return to use of empty properties prioritised against corporate priorities to include supporting funding bids such as Heritage Action Zone, Future High Streets and to prioritise problematic properties due to their detrimental impact on a locality or to respond to particular housing needs. The Right Home Right Place affordable housing surveys are also highlighting empty homes.

12.6 High street surveys are being undertaken in each of the key market towns to help inform discussions and provide a baseline in the towns of the uses and mix with the town centres.

13.0 Conclusion

13.1 The Empty Homes function involves a long and slow process. A partnership approach and perseverance are essential qualities to achieving success.

13.2 With limited resources, Regulatory Services is responding to the most serious of risks created by empty properties and are scoping out longer term actions to secure their return to use.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet 29 July 2015 Report of Empty Homes Strategy Task & Finish Group (Item 6)
Minutes of Cabinet meeting on 29 July 2015
Cabinet 9 November 2016 Revenue Monitoring Report Quarter 2 2016/17
Minutes of Cabinet meeting on 9 November 2016
Minutes of Council meeting on 15 December 2016
People Overview Committee 5 June 2019 Empty Homes Report (Item 10)

Cabinet Member (Portfolio Holder)

Councillor Gwilym Butler, Portfolio Holder - Communities, Place Planning and Regulatory Services

Local Member

N/A

Appendices

Appendix 1: Example of Empty Homes Incentive Grant – 16 High Street, Market Drayton

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16 High Street in Market Drayton is a large former bank and nightclub which had stood empty for 13 years and fallen into a serious state of disrepair. During its time as a nightclub it was a focus for late night anti-social behaviour and throughout the 13 years it stood empty was highlighted by the local community as having a significant negative impact on the Town.

In April 2012 Shropshire Housing Alliance and Wrekin Housing Trust, in partnership with Shropshire Council, Market Drayton Town Council and the local community were successful in a bid to the Empty Homes Community Grants Programme run by the Department for Communities and Local Government. This bid contributed £114,000 towards the renovation of the building to create six new affordable one and two bed-roomed flats.

As Market Drayton is an Empty Homes Action Zone, Shropshire Council contributed £120,000 of Empty Property Incentive Grants to the project and Market Drayton Town Council contributed £20,000 from its Market Towns Revitalisation fund.

The project set out to provide good quality affordable homes for local people and to act as a catalyst for the regeneration of the Town Centre and it has been successful in this. The building is no longer a blight on the surrounding area, helping Market Drayton become a more attractive place to live, work and visit.