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**Meeting of the Corporate and Economic Strategy Select Committee - 6<sup>th</sup> September 2023**

**Report of the Director of Regeneration and Enterprise**

**Stalled sites - strategies for bringing back into use privately owned vacant land and property**

**Purpose**

1. This report is to update the Corporate and Economic Strategy Select Committee on the strategies deployed in the last 12 months, by the local authority to bring back into use privately owned land and property which remains derelict or untidy or where development is stalled.

**Recommendations**

2. It is recommended that the Committee:-
  - Note the progress made since the report submitted to the Future Council Scrutiny Committee on 7<sup>th</sup> Sept 2022;
  - Acknowledge positive actions being undertaken by services in seeking to bring back into use privately owned land and property which remains vacant and derelict;
  - Recognise the limitations of statutory powers in requiring private landowners to bring forward vacant and derelict sites for development.

**Background**

3. Following a report to the Strategic Executive Board (SEB) on 24<sup>th</sup> March 2021 and Informal Cabinet on 31<sup>st</sup> March 2021, a Stalled & Derelict sites working group was established to co-ordinate work across multiple service areas regarding land and properties identified as “*problem or derelict sites*” by the local authority and communities or where development has stalled.

The Stalled & Derelict sites working group includes officers from the following service areas;

- Planning
- Housing
- Environmental Health & Trading Standards
- Legal Services
- New Heritage Regeneration
- Projects & Delivery
- Dudley Business First
- Corporate Landlord Services

In addition, the work of the stalled & derelict sites group will support the aspiration of the Council in seeking to maximise the redevelopment of brownfield sites specifically where housing sites remain vacant or derelict or development has been stalled for a significant period.

In order to support the work of the group the Council has at its disposal a range of strategies and interventions to support the re-use of vacant and derelict land and property

### Empty Homes Strategy

The Council's Housing Directorate has in place a range of strategies and policies for managing empty homes and properties and seeking their return to use for housing purposes.

The Empty Homes Strategy and Action Plan covers the period 2020-2024. The strategy sets out the key drivers for bringing back into use empty homes namely the New Homes Bonus policy which recognises that empty homes returned to use provide additional accommodation in the same way that new build properties do, with an empty home returned to use being rewarded in the same way that a new build property is via a payment of the equivalent council tax income to the local authority for four financial years following its return to use.

### Empty Homes Grant

An Empty Homes Grant is available to support owners of empty properties with grants of up to £10,000 to support essential repairs and improvements to bring back into use the properties which have been vacant for longer than 12 months.

## **Use of Enforcement Tools**

There are a range of enforcement tools that are utilised by the Council to support the re-use of empty homes as well addressing concerns relating to land and property that has become derelict or untidy.

Enforcement should only be used as a last resort where it has not been possible to resolve the matters through pro-active engagement with land and property owners and where there is a clear economic or environmental need to do so.

### **i.) Empty Dwelling Management Orders (EDMO)**

Introduced by the Housing Act 2004, EDMO's allow the Council to take over management & secure occupation of a dwelling that has been unoccupied for a period greater than two years. The EDMO provides for the undertaking of necessary repair works and the recovery of the associated costs through the rent received following the deduction of a management fee.

EDMO's can last for up to seven years and do not require a change in ownership of the dwelling.

### **ii.) Enforced Sale**

The Law of Property Act 1925 allows the Council to recover charges registered against a property (or land) through the sale of that property (or land). Such charges will generally come about through works carried out in default of a statutory notice such as the Housing Act, Building Act, Town and Country Planning Act, Environmental Protection Act or Prevention of Damage by Pests Act. This procedure will be considered where debts are in excess of £5000 and there has been no attempt to pay and a property has remained empty for a period greater than six months.

### **iii.) Section 215 Notice**

Local Planning Authorities (LPA's) have planning powers to deal with derelict/blighted land within Section 215 of the Town and Country Planning Act 1990. S215 gives LPAs the power to serve notice on land/buildings which it considers have an adverse impact upon the amenity of the neighbourhood.

When considering if a S215 is appropriate the LPA must consider the context. In the case of derelict land and buildings, it is necessary to consider whether the status of the land itself means the condition is as one would expect, and also whether the measures required in a notice will themselves resolve the issue.

The failure to comply with a notice result in an offence for which the responsible party may be prosecuted. In cases where this does not resolve the matter, LPAs may use direct action to undertake measures prescribed in the notice and can then seek to recoup the costs from the responsible party either directly or via placing a charge on the land which can lead to enforced sale proceedings (see above)

#### iv.) Compulsory Purchase Order (CPO)

Compulsory purchase is intended as a last resort to secure the assembly of land and property needed for the proper implementation of a project or scheme, using powers set out in various Acts of Parliament. The main legislative context for compulsory purchase is found in these Acts:

- Land Compensation Act 1961
- Compulsory Purchase Act 1965
- Land Compensation Act 1973
- Housing Act 1985
- Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).

Before initiating a CPO, it must be demonstrated that the scheme for which the CPO is required is capable of being delivered. The Council must as a minimum demonstrate the fit within a policy context, that planning permission, if necessary, will be forthcoming and there is sufficient funding identified.

The Council will always seek a voluntary agreement on the acquisition of the land or property with the leaseholder or freeholder in the first instance. However, where appropriate to support and enable the proposed timetable for the project, the Council may start a compulsory purchase timetable, as a contingency measure and initiate formal procedures alongside the negotiations to come to a voluntary agreement to purchase.

The compulsory purchase system is based on the general principle that any owner of land or rights compulsorily acquired or interfered with is entitled to compensation and should be no worse or better off in financial terms following the acquisition. Any property which is the subject of a CPO will be compulsory purchased at market value.

CPO's may also allow the council to acquire properties for the better provision of housing accommodation or to make a quantitative or qualitative improvement to existing housing.

The Council is committed to using its CPO powers where necessary. Recent Orders at the Dudley Interchange project and housing led regeneration in Colley Gate, shows the Council's intent to see stalled and derelict sites be brought forward.

## 4. **Site Progress**

- Initial long list of 68 sites has been prioritised to a list of 20 sites for first tranche.
- 12 sites have progressed, with 8 sites having made little or no progress.
- Collectively the 8 sites are capable of accommodating approximately 115 homes.
- High level information has been established through commission of specialist property development and legal advice on the 8 remaining sites including, appraisals, site layouts and legal advice on statutory powers including CPO.

### **Working Group Progress**

- Secured Homes England revenue funding (£60K), to procure specialist property development and legal expertise to advise most appropriate course of action for each site including use of CPO powers.
- Appointed external advisors Thomas Lister surveyors Freeths solicitors and PCPT architects to consider and report on routes to bringing each site forward to include associated risks.
- Present report findings and run workshop to share learning.
- Engage with private sector developers and registered providers via soft market testing questionnaire and presentation to Dudley Housing Partnership. Early market engagement will consider the market appetite and the views of house builders and developers.

### **Next Steps**

- Establish Cross directorate multi-disciplinary task and finish working groups to oversee actions for 8 sites, in addition to Colley Gate site.
- Develop delivery options and work plans incorporating recommendations of commission into actionable steps to progress regeneration of sites.
- Continue to engage with private sector developers and registered providers via market testing following analysis of the questionnaire.
- Establish a high-level project plan, including spend profile for the programme.
- Review and update long list of (68) sites with any new sites identified since 2021 and begin to prioritise next tranche of priority .
- Investigate options to secure additional revenue funding to develop a core team of officers to progress priority sites given there is currently no full-time resource working on the stalled & derelict sites programme.

## 5. Case Studies - positive action on derelict sites

### Enville Street, Stourbridge



The council owned site has remained a long-term vacant site on the edge of Stourbridge ring road and is a key gateway site to the Town Centre. Having previously been terraced housing until the 1990's, the houses were subsequently demolished to facilitate the re-alignment of Enville Street (A458).

The site can support development of a housing led 10-unit scheme in line with planning application (P22/0332), planning approval was gained March 2022.

Previously aligned to HRA development pipeline, Housing Directorate strategic requirement to allocate resources to servicing and maintenance of existing stock now means new development partner is now required.

Corporate Landlord are progressing to bring this site to the open market disposal with benefit of planning permission, following an ongoing review of adjacent landownerships to establish if larger development more comprehensive site is viable.

### Proposed scheme site layout plan (P22/0322)



## 122 – 128 Colley Gate, Cradley



In 2013, Decision Sheet (DUE/37/2013) authorised the use of the Council owned land at Colley Gate as a basis for a potential site assembly with other land between 122 & 128 Colley Gate.

Following marketing and detailed negotiations Hortons were chosen as the preferred development partner by the local authority and a report to Cabinet on 21<sup>st</sup> September 2016 subsequently approved entering into an agreement with Hortons for the regeneration of the Colley Gate site with the agreement dated 18<sup>th</sup> April 2019.

In May 2021, Hortons notified the Council, that they no longer wished to pursue their interests in the site at Colley Gate and that they were terminating the development agreement in line with the termination conditions.

With the redevelopment of the site being a priority for the council, officers from Housing and Communities have subsequently developed a residential led scheme for the redevelopment of 122 to 128 Colley Gate which includes the council owned property at 128 Colley Gate, for an 8-unit affordable housing scheme, and a planning application (P22/0220) has subsequently been approved with conditions in May 2022.

Previously aligned to HRA development pipeline, Housing Directorate strategic requirement to allocate resources to servicing and maintenance of existing stock now means new development partner is now required.

Proposed site layout of the scheme  
(P22/0220)





As the development site included three properties currently in private ownership (122 -126 Colley Gate) the Council appointed Thomas Lister to support with the acquisition of the site. Terms have been agreed, with completion anticipated in August 2023. In seeking to acquire all the land, in tandem with negotiations, the council decided to use its CPO powers in order to deliver the approved scheme. This process has brought forward an objector to the scheme, and the Council via Thomas Lister are seeking to resolve the objector's issues and a withdrawal of the objection, without compromising the scheme unduly. However, if this cannot be achieved the matter will proceed to a Public Enquiry.

## **Finance**

6. A £1 million budget was approved by the Council in February 2022 to support the work of the stalled & derelict sites working group, with a specific focus to facilitate the acquisitions of properties by the council to bring forward development. The £1million will be funded by prudential borrowing, the debt charges for which are to be built into the Council's base budget.

## **Law**

7. Section 111 of the Local Government Act 1972 provides the Council with power to do anything (whether involving the expenditure, borrowing, or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate or is conducive or incidental to, the discharge of any of their functions.

Pursuant to Section 1 of the Localism Act 2011 a local authority has a general power of competence to do anything that individuals generally may do.

Section 123 Local Government Act 1972 provides that the Council receives best consideration in respect of disposals of land.

There are a number of statutory authorities for intervention but to summarise they include the following:

Housing and Planning Act 2016

Law of Property Act 1925

Compulsory Purchase Act 1965

Land Compensation Act 1973

Housing Act 1985 & 2004

Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).

Legal Services will advise on a case-by-case basis



## **Risk Management**

8. There are no identified material risks to the Council resulting from the report. As part of the proposed delivery plan for each priority site a detailed risk register will be developed that captures any key risks. Where the council is taking a lead role in the development of sites key risks are likely to include the ongoing effect of inflation on construction projects and the impact this has on budget allocations.

## **Equality Impact**

9. There will be no negative impact on people with protected characteristics as a result of this report. The development of regeneration projects is undertaken with full regard to the requirement for equality impact assessment

The Council's Equality and Diversity policies will be applied throughout the delivery of this project.

10. Equality impact assessments will be developed for individual schemes where the need to is identified by the site working group.
11. There are no specific impacts that will affect children / young people.

## **Human Resources/Organisational Development**

12. There are no direct HR/OD impacts associated with this report. Where additional specialist support is required to support the activity of the working group this will be procured in line with the Council's standing orders.

## **Commercial/Procurement**

13. There are no direct commercial implications associated with this report. Where additional specialist support is required to support the activity of the working group this will be procured in line with the Council's standing orders.

## **Environment & Climate Change**

14. The establishment of the Stalled and Derelict site programme, with the aim to promote and support the redevelopment of former brownfield sites for commercial development accords with the United Nations Sustainable Development Goal 8 (Decent Work and Economic Growth), Goal 9 (Industry, Innovation and Infrastructure) and Goal 11 (Sustainable Cities and Communities)

## Council Priorities and Projects

15. Bringing back into use vacant and derelict sites will have a positive impact on the health and wellbeing of Dudley residents through improved residential amenity and a reduction of anti-social behaviour which is often associated with derelict sites.

It will also work towards providing access to a range of housing offers that are affordable, accessible, and attractive, meeting the needs of our diverse communities.



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