
Future Council Scrutiny Committee - 7th September 2022

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 Future Council Scrutiny Committee on the strategies being deployed 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 Future Council Scrutiny Committee:-
 - Acknowledge the 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 land owners to bring forward vacant and derelict sites for development.

Background

3. Following a report to Strategic Executive Board on 24th March 2021 and Informal Cabinet on 31st 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. This followed a series of ward walks undertaken by the Chief Executive and Deputy Chief Executive with local ward councillors across the borough.

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 Black Country Local Authorities 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 of time.

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 was recently updated to cover 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 results 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.

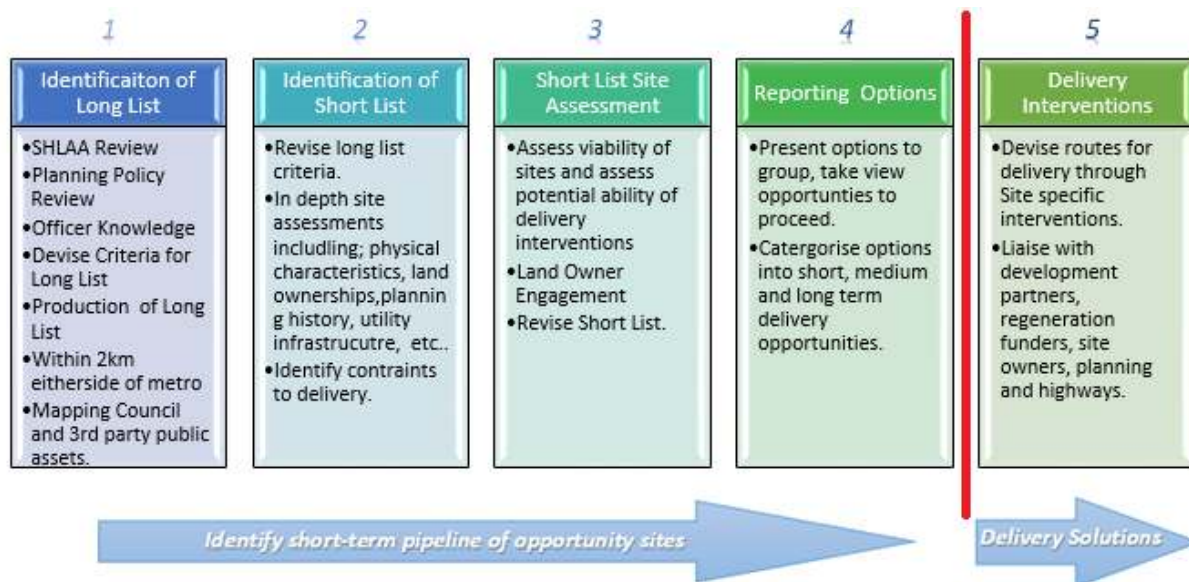
The compulsory purchase system is based on the general principle that any owner of land or rights compulsorily acquired or interfered with is entitled to compensation and should be no worse or better off in financial terms following the acquisition. Any property which is the subject of a CPO will be 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 has recently committed to using its CPO powers for the Dudley Interchange project as well a private sector led development in Colley Gate should acquisition through negotiation prove unsuccessful.

4. Prioritising sites

The stalled & derelict sites working group have over the past 18 months been developing a methodological approach to identify priority sites where public sector intervention has the greatest potential to bring stalled and derelict sites to market.



A five-stage approach to delivery has been developed with stages one through to four focussing on the review and assessment of sites, and Stage 5 focussing on future delivery and the site-specific interventions

An initial long list of 68 sites was developed by officers reflecting the above stage 1 methodology in addition to sites identified via ward walks as well as problem sites identified at a service level, many of which have live or historic enforcement cases.

Following the development of an initial long list, additional site level information was identified to include any potential site constraints as well as the latest position with regards to land ownership / planning history etc (where known).

A simple scoring methodology was then created to reduce the long list from 68 to 20 priority sites as this was felt a manageable number. The assessment criteria used a priority rating of 1- 3.

1 = Priority Site - proceed to short list for further assessment.

2 = Important site - remain on long list

3 = Not a priority site at this stage - site does not proceed any further

The group are now working through delivery interventions (stage 5) for each of the 20 priority sites in order to bring forward development. The case studies below include sites from within the priority list where positive action is already being seen.

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

75 Wolverhampton Street, Dudley

The redevelopment of 75 Wolverhampton Street, Dudley by the Council's Housing Directorate is an example of cross directorate working to bring forward a derelict site via a negotiated sale at what is a key entrance point to Dudley Town Centre.

Following the serving of a S215 notice by the LPA and continued dialogue with the site owner the eyesore property was purchased with vacant possession by the Housing Directorate for £175,000 in May 2017 for the purposes of regeneration. A housing need had already been identified for one-bedroom flats for rent in the area.

Working with colleagues in Regeneration and Legal and Finance a funding bid was submitted to Black Country LEP for gap funding to address land viability issues and was successful in securing a grant of £377,000.

A replacement scheme was subsequently developed for 12 x 1-bedroom apartments at a construction cost of circa £1.45 million.

From demolition to build out the scheme took two years to realise and was a fantastic example of cross directorate working to bring forward a Derelict site.

Before photo's



After photo's



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 Councils Housing and Communities department have recently taken a keen interest in the site for the development of affordable housing and a scheme has subsequently been developed for a 10-unit affordable scheme with public consultation being undertaken in February 2022 and a subsequent planning application (P22/0332) submitted in April 2022. A decision on the planning application is due imminently.

The cost of the scheme will be met from existing approved capital budgets within the public sector housing capital programme for delivery of new build council homes, and future maintenance from the Housing Revenue Account.

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 21st September 2016 subsequently approved entering into an agreement with Hortons for the regeneration of the Colley Gate site with the agreement dated 18th April 2019.

In May 2021 the Council were notified by Hortons, 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.

The cost of the scheme will be met from existing approved capital budgets within the public sector housing capital programme for delivery of new build council homes, and future maintenance from the Housing Revenue Account.

Proposed site layout of the scheme (P22/0220)



As the development site includes three properties currently in private ownership (122 -126 Colley Gate) the council has recently appointed Thomas Lister to support with the acquisition of the site which may include the council using its CPO powers in order to deliver the approved scheme.

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 or not 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; Legal Services will advise on a case by case basis.

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).

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. No equality impacts have been identified

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.

Council Priorities and Projects

14. 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.

15.

16. 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.



Helen Martin
Director of Regeneration & Enterprise

Report Author: Paul Mountford, Head of Economic Growth & Skills
Telephone: 01384 814186
Email: paul.mountford@dudley.gov.uk

Appendices

List of Background Documents

