

**North East Derbyshire District Council**

**Cabinet**

**27 June 2018**

**Enforced Sale Procedure – Private Empty Properties**

**Report of Councillor E A Hill, Deputy Leader and Portfolio Holder for Housing Strategy**

This report is public

**Purpose of the Report**

- To implement a procedure for the current legislation of Enforced Sale, for the Council to use when carrying out this function on long term empty properties.

**1 Report Details**

- 1.1 Enforced sale is a process that is used to recover debts and charges that have been attached to an empty property, through work being carried out in default by the Council, where owners have failed to act. It can also help to bring long term problematic empty properties back into use and reduce the number of empty properties. The procedure can only be used when there is an outstanding debt attached to a property. Where properties are causing problems and there is no debt attached; the Council should consider other enforcement tools such as a Compulsory Purchase Order (CPO) or an Empty Dwelling Management Order (EDMO).
- 1.2 The Statutory Powers that enable a Local Authority to use Enforced Sale are:
- Public Health Act 1936
  - Local Government (Miscellaneous Provisions) Act 1976
  - Local Government (Miscellaneous Provisions) Act 1982
  - Building Act 1984
  - Housing Act 2004
  - Town & Country Planning Act 1990
  - Environmental Protection Act 1990
  - Prevention of Damage by Pests Act 1949
- 1.3 The Empty Property Officer will use a scoring matrix (see appendix 1 of the enforced sale procedure) to assess whether enforcement action is required and to determine what procedure should be used.

- 1.4 There are approximately 400 Long Term Empty (LTE) properties across North East Derbyshire District and the Council has set out its plan to deal with this problem in its Empty Property Strategy 2015 – 2020.
- 1.5 The Empty Property Officer is working with empty property owners and encouraging them to work with the Council and partners to bring the properties back into productive use.
- 1.6 Engagement with empty property owners has been through a number of routes including writing out to them and holding engagement events jointly with Bolsover District Council and expanding it to include Chesterfield Borough Council where 60 landlords attended.
- 1.7 There are however a number of empty property owners who have not responded or have responded but not taken the action they had promised.
- 1.8 Enforced Sale will be used when all other avenues to encourage the owner to voluntarily bring the property back into use have been exhausted.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 In conclusion, having an approved Enforced Sale Procedure will be a valuable tool for the Empty Property Officer and other Council Officers to use, when identifying suitable cases to take action against.
- 2.2 The procedure will ensure that Officers adhere to the guidance and that cases are dealt with appropriately and successfully, resulting in a reduction of empty properties and protecting the Council's reputation.
- 2.3 Having a clear procedure will help empty property owners know the procedure we will be undertaking and may encourage them to engage with the Council to take appropriate action with their property.
- 2.4 The wider general public will understand the Council are taking nuisance empty properties seriously and have an agreed procedure that the Council will follow.

## **3 Consultation and Equality Impact**

- 3.1 Consultation has been carried out with the following people:
  - Allison Westray-Chapman (Joint Head of Economic Development)
  - Kevin Shilitto (Principal Solicitor)
  - Gill Halliwell (Senior Environmental Health Officer)
  - Karl Apps (Housing Strategy and Growth Manager)
  - Councillor Elizabeth Hill (Portfolio Holder For Housing Strategy)
  - Strategic Alliance Management Team
  - Strategic Alliance Joint Committee

## **4 Alternative Options and Reasons for Rejection**

- 4.1 The alternative option of following enforced sale guidance from other Councils and government legislation, is not recommended in favour of having an adopted procedure that is clear to officers, members, empty property owners and the public.
- 4.2 The alternative option of using external legal firms to manage cases for enforced sale is also not recommended, as this would involve the Council paying them a fee (although it would be recoverable from the proceeds of the sale of the empty property). The Council has the necessary skills available in-house and the Council are better able to keep control of the process by doing it in-house.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 The financial costs of enforcing sales have been investigated and the introduction of an enforced sale is the most cost efficient method.
- 5.1.2 The procedure will help the Council to successfully carry out enforced sales, which will help to increase its revenue in terms of New Homes Bonus and recovering charges against properties.
- 5.1.3 Using the procedure will minimise the risk of errors when carrying out enforced sales as it will instruct officers within each stage of the process.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 The legal team have advised on the preparation of the Enforced Sale Procedure.
- 5.2.2 The legal implications are set out in section 1 of the report.
- 5.2.3 If no procedures are put in place and followed this would leave the Council open to challenges if the process is carried out incorrectly.

### **5.3 Human Resources Implications**

- 5.3.1 The procedure will help officers when dealing with enforced sale which should reduce time spent on cases, therefore at this stage it is expected that no extra resource should be required in terms of staff.

## **6 Recommendations**

- 6.1 That Cabinet agree to the introduction of the Enforced Sale Procedure for Private Empty Properties and that it be used when dealing with cases that are appropriate for this course of action.
- 6.2 That Cabinet agrees to delegate authority to the Chief Executive to use the Enforced Sale Procedure for properties that are appropriate for this course of action.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  BDC: Revenue - £75,000 <input type="checkbox"/>  Capital - £150,000 <input type="checkbox"/>  NEDDC: Revenue - £100,000 <input type="checkbox"/>  Capital - £250,000 <input type="checkbox"/>  <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	Unlocking Our Growth Potential

## 8 Document Information

Appendix No	Title
1	Enforced Sale Procedure – Private Empty Properties
<p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
<p> </p>	
Report Author	Contact Number
<p>Thomas Evans (Joint Empty Properties Officer)  Karl Apps (Joint Housing Strategy and Growth Manager)</p>	<p>01246 217834 or  01246 217289</p>