

Executive

Funding provision for enforcement action in connection with Work-in-default and with bringing empty homes back into use.

2 September 2013

Report of Head of Regeneration and Housing

PURPOSE OF REPORT

To seek support in principle for the establishment, through the annual budget setting process, of a capital budget against which the Housing and Regeneration Service can draw when taking enforcement action to bring empty homes back into use, or when needing to undertake Works-in-Default following the failure of a notice recipient to comply with an enforcement notice requiring remedial works.

This report is public

Recommendations

The Executive is recommended:

- (1) To support the establishment of a capital budget, through the annual budget setting process for 2014-15, and in successive years, that will enable enforcement powers delegated to the Head of Regeneration to be utilised effectively, and without the need for the necessary funding to be sought separately in each particular case.

Executive Summary

Introduction

- 1.1 The Council's Constitution has delegated to the Head of Regeneration and Housing authority to:
 - *Exercise powers with respect to bringing private sector empty dwellings back into use; and*
 - *Exercise all powers under the Housing Act 2004*
- 1.2 Enforcement action to 1) bring empty homes back into use through the use of Empty Dwelling Management Orders and 2) undertake Works-in-default in cases where a notice recipient has failed to carry out specified remedial action, is only possible if the necessary funding for that action is available.
- 1.3 No such budget currently exist, which means that the Head of Regeneration of Housing is required to seek (ultimately recoverable) funding in each particular case, even though responsibility for making those enforcement

decisions is delegated to him. This situation not only delays enforcement action but casts doubt over its use, since the Head Regeneration and Housing cannot use his delegated powers effectively.

- 1.4 In order to facilitate effective enforcement, this report seeks to establish the principle that a capital budget needs to be put in place and that it should be set each year, at an appropriate level, through the annual budget setting process.
- 1.5 It is anticipated that a budget of £80k-£100k will be required to allow the expected level of enforcement activity.
- 1.6 The budget would not be set with particular cases in mind, but would be used to support enforcement action as and when cases arose, and in accordance with the Head of Regeneration and Housing's delegated authority.
- 1.6 If unspent in any particular year, the budget would be returned as an under-spend and then reset for the following year through the budget setting process.
- 1.7 Capital used for empty dwelling enforcement (ie the making of Empty Dwelling Management Orders) and for carrying out Work-in-default is recoverable in full¹, so the capital budget would receive periodic income (although this is unlikely to take place in the same year as the particular expenditure) and may therefore be able to contribute funds back in due course.

Proposal

- 1.8 That a capital budget should be established to finance housing enforcement action; specifically the use of Empty Dwelling Management Orders (EDMOs) and Work-in-default, and that it should be set on an annual basis through the budget setting process.

Conclusions

- 1.9 The Council is under statutory duties to ensure that housing standards are satisfactory and is required to take enforcement action in specified situations. The use of enforcement notices is underpinned by the Council's power to carry out the required remedial work in default of the notice recipient, and to recover its costs from him or her. This is called Work-in-default.
- 1.10 The Council also wants and expects to see long-term empty homes restored to use and is prepared to underpin that message through the use of its enforcement powers, particularly Empty Dwelling Management Orders.
- 1.11 In order to be effective the Council's enforcement action depends upon a clear and consistent message from the Council that it will see enforcement action through to a proper conclusion.
- 1.12 The need for enforcement funding to be sought on a case-by-case basis

¹ In the case of EDMOs the Council takes control and management (but not ownership) of the property for up to 7 years and can use the rental income it receives to recover its costs directly. When work-in-default is carried out the sum owed to the council is made a charge on the property and recovered, with interest, at the time of next sale or transfer.

compromises its effectiveness; whereas the establishment and availability of a dedicated capital budget will improve decision making and efficiency.

Background Information

Empty property enforcement

- 2.1 In February 2012, following consideration of a report from the Head of Regeneration and Housing, the Lead Member for Housing approved four principles² as the basis for the Council's approach to securing re-use of empty property. The fourth of those principles was that the Council would be prepared to take enforcement action to secure re-use of long-term empty homes where a business case could be established. The Head of Regeneration and Housing, in consultation with the Lead Member for Housing, was made responsible for determining whether or not a business case for enforcement intervention could be made.
- 2.2 The Council's Private Sector Housing Team is applying the Council's Principles as the basis of a proactive work programme and is seeking to engage with the owners of longer-term empty property. This work was most recently reported to Overview and Scrutiny Committee on 12 March 2013.
- 2.3 If informal measures fail to persuade or encourage an owner to re-use an empty home, there are 2 possible enforcement routes available to the Council: Compulsory Purchase using the powers provided by the Housing Act 1985 (section 17); or the use of an Empty Dwelling Management Order under the Housing Act 2004, which empowers the Council to take charge of a property and to repair and let it for a period of up to 7 years (ownership is not changed). Neither course of action has yet been employed by the Council in relation to empty dwellings but a number of long-term empty properties have been identified and EDMO action is being evaluated.
- 2.4 Compulsory Purchase is a process by means of which the Council takes ownership of a property and compensates the owner at market-value. Appeal provisions exist in relation to both the Compulsory Purchase Order (CPO) itself (which generates a public enquiry) and in relation to the compensation payable. Decisions regarding Compulsory Purchase are reserved to Full-Council. It is not intended that the proposed budget will be used in connection with CPO action.

Work-in-default

- 2.5 In order to ensure that enforcement involving remedial notices³ is effective, the Council is given the power to undertake the work itself and to recover its costs (with interest) if the notice recipient fails to take the required action. This is an important power because it allows the Council to ensure that its notices are concluded. The possibility that Work-in-default may be required is an implicit assumption each time a notice is served, even though it only proves necessary in a few cases. Once the time period allowed for completion of the required works has passed, the Council needs to take

² The four principles are: 1) The Council wants empty homes to be used; 2) The Council will encourage and facilitate their re-use (eg by providing advice, grants and loans); 3) The Council will take action to resolve specific issues caused by empty homes (where powers permit) and 4) The Council will take action to secure re-use of empty homes where a business case exists.

³ ie notices requiring their recipient to undertake works

prompt action both for the sake of its credibility and also to ensure that health-risks inherent in unsatisfactory housing are resolved before harm or further harm is caused.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 Members' concern about the waste represented by long-term empty homes, and their desire to get them back into use is underpinned and ultimately dependent upon the Council's preparedness to take enforcement action in appropriate cases. It is effectively a last resort, but one that will not only get specific properties back into use, but also demonstrate very clearly to other owners of empty property that the Council is serious about reducing the number of empty home in the district. Without recourse to enforcement, where appropriate, the Council could appear toothless.
- 3.2 The Council is responsible for taking action to address unsatisfactory housing conditions and uses a variety of enforcement notices to achieve that. In cases where those notices are ignored the Council needs to be able to undertake Work-in default to ensure compliance.
- 3.3 The Head of Regeneration and Housing is authorised to take empty-dwelling enforcement action (EDMOs), to serve notices to remedy unsatisfactory housing and to undertake Work-in-default action arising, but requires funding to be available it that is to happen.
- 3.4 The most efficient and effective means of providing the necessary funding is by establishing a specific budget and having funds in place at the beginning of each year.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

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| Option One | Support the principle that a capital budget should be established so as to facilitate and enable effective housing enforcement action; and also support the principle that this budget should be determined, on an annual basis, through the budget setting process. |
| Option Two | Decline to support this approach and require the Head of Regeneration and Housing to seek funding, on a case by case basis, by means of reports to the Executive (as is currently the situation). |
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Consultations

None

Implications

Financial: Since this report seeks support in principle, it raises no financial implications. The proposed budget can be considered at the budget setting stage for 2014-15

Comments checked by Karen Curtin, Head of Finance and Procurement 01295 221634

Legal: There are no legal implications associated with this report or in connection with the proposed budget should it be established.

Comments checked by Richard Hawtin, Team Leader Property and Contracts 01295 221695

Wards Affected

Implications for all Wards.

Corporate Plan Themes

Cherwell: A district of opportunity
Cherwell: An accessible, value for money Council

Lead Member

Councillor Pickford
Lead Member for Housing

Document Information

Appendix No	Title
None	
Background Papers	
None	
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