

To: City Executive Board

Date: 9th October 2013

Report of: Head of Housing and Property
Service Manager Regeneration & Major Projects

Title of Report: COMPULSORY PURCHASE ORDER - LANHAM WAY,
LITTLEMORE, OXFORD

Summary and Recommendations

Purpose of report: To obtain approval to initiate compulsory purchase proceedings in relation to a long term empty property.

Key decision: No

Executive lead member: Councillor Scott Seamons

Policy Framework: Meeting Housing Needs

Recommendations: That the City Executive Board:

1. Authorise the Head of Housing and Property, in consultation with the Head of Law and Governance, the Head of Finance and the Regeneration and Major Projects Service Manager, to initiate compulsory purchase proceedings to acquire all interests in the property situated in Lanham Way, on the basis as set out in this report;
2. In the event that the decision is taken to initiate compulsory purchase proceedings, to authorise the Head of Law and Governance take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 including the publication and service of all notices and the presentation of the Council's case at any public inquiry;
3. Authorise the Service Manager of Regeneration and Major Projects to take all necessary action to acquire and obtain possession of the property either compulsorily or by agreement and to negotiate and agree all matters relating to compensation payments;
4. Authorise the Manager of Regeneration and Major Projects to dispose of the property in accordance with the Disposal Options set out in this report;

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| <p>5. Recommend to Council that provision is made in the 2013/14 budget for the Compulsory Purchase of the property as detailed in the confidential appendices.</p> |
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Appendices

- A Site Plan - Exempt from Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972
- B Correspondence in respect of the property - Exempt from Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972
- C Potential Cost of CPO process - Exempt from Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972
- D Risk register
- E CPO Process
- F Letters from proprietor's solicitor and builder. Exempt from Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972

Executive Summary

1. This report was intended to be presented at the 11th September 2013 CEB meeting but was withdrawn following receipt of a letter from Solicitors representing the owner of the property detailed within. The report has been amended in response to comments raised in the letter and subsequent letters advising of work recently carried out. See confidential Appendix F.
2. This report seeks authorisation to initiate compulsory purchase proceedings in relation to an empty dwelling situated on Lanham Way, Littlemore, Oxford, which has been unoccupied for approximately 10 years.
3. The aim of the Council's Empty Homes Strategy 2013-2018 is to encourage and persuade owners of empty properties to satisfactorily renovate them to facilitate re-occupation. Such actions help eliminate environmental nuisance and make a contribution towards meeting housing need in the City.
4. In the absence of an acceptable response and where there is a compelling case in the public interest the Council may ultimately use its compulsory purchase powers to ensure that this aim is achieved.
5. There are a number of disposal options available ranging from disposal as a single dwelling to forming part of a larger affordable homes scheme in partnership with a Registered Provider. These options will be explored fully if approval is forthcoming.
6. A budget will need to be allocated to cover the potential funds associated with this action and the cost envelope.

Background

7. The property was built around 1960 on a 630m² site accessed via Sandford Road, Littlemore. Lanham Way is predominantly a residential area which also leads to a County Council Depot and John Henry Newman secondary school. See site plan Appendix A.
8. Records held by Council Tax indicate that the property has been empty for approximately 10 years. The property is in a dilapidated condition and has been a target for vandalism. The owner is known to own and reside in another dwelling within the City.
9. The Subject property first came to the attention of the Council in 2005 when a complaint from a neighbour was received by Environmental Health concerning the condition of the property and that rats had been seen coming from the garden. The owner and her attorney assured Officers on numerous occasions that the property would be renovated, adapted for the owner's use, transferred to another person or placed on the market for disposal. The dwelling was subsequently boarded up by the owner in May 2011.
10. Since 2009 there has been intermittent improvement to the property but never enough to make it habitable or to improve its unsightliness. These minor works have principally been in response to the threat of a notice being served or a warrant application. The Council are in receipt of a letter from the owner's builder detailing recent work carried out as the result of a Prohibition Notice under the Housing Act 2004 having been served. The works are not sufficient enough to justify the Prohibition Notice to be withdrawn. A list representing the amount of communication between the Council, the owner and owners representatives, which included advice that the Council would consider compulsory purchase to ensure it would be brought back into use, is attached at Appendix B.
11. The Council has followed its adopted procedure in dealing with owners of empty properties but with a greater degree of flexibility in response to the owner's health issues. This is confirmed in written communication with the owner and is demonstrated by the number of years the Council has attempted to encourage the owner and the owner's attorney to bring the property back into use.
12. In July 2013 a Prohibition Notice was served and it is understood that some work has taken place including the replacement of the majority of the windows. The owner has made no approach to the Council to have the Prohibition Notice removed or to inform of any works to the property which would warrant the withdrawal of the notice. Officers consider that the Council should pursue a CPO approach, regardless of any works now undertaken, as sufficient time has elapsed.
13. A letter has been sent by Oxford City Council to the owner and her attorney offering to purchase the property. There has been correspondence, but no response in respect of this offer.

14. In October 2012 the Council's dealings with the owner and her attorney became the subject of an Ombudsman inquiry. In February 2013 the Ombudsman's Final decision found in favour of the Council. The decision acknowledged the Council's efforts to encourage the owner and her attorney to bring the property back into use voluntarily and that through its Empty Property Strategy it is committed to ensuring empty dwellings are brought back into use.
15. The refreshed Empty Property Strategy 2013-2018 was approved at the March 2013 CEB meeting. Within the strategy there is particular emphasis on the use of Compulsory Purchase Powers to ensure properties like the subject property are brought back into use.
16. The site of the subject property is adjacent to a proposed Housing Association development site. There is an opportunity to combine sites to make more efficient use of the land for affordable home provision. The Housing Association have indicated a willingness to work with the Council to provide more affordable homes on this larger site.

Supporting Information

17. Housing shortages and increasing housing needs are problems both nationally and within Oxford City. The Council currently has over 5,000 households on its housing register.
18. Central Government is keen, with cross party agreement, that individual Local Authorities take strides to ensure the wasted asset of Empty Homes are returned to the useful housing stock. The Government expects all authorities to have its own Empty Property Strategy.
19. CEB on 22 March 2013 approved the Council's Empty Homes Strategy. This Strategy promotes the use of compulsory purchase powers in respect of long term empty properties and accords with the recommendations of The National Policy Planning Framework 2012.
20. The subject property not only represents a waste of a potentially good home but anti-social and criminal activities have necessitated attendance by the police. There are also associated health and safety risks to officers visiting the property and the general public.
21. Compulsory Purchase is considered a last resort. In the public interest it now remains the only reasonable path available to ensure re-occupation of the building or for the land to be used for housing.
22. Experience by other Local Authorities of the CPO process shows that there is the possibility of owners undertaking sufficient works to halt the process. The Council's view is that once Compulsory Purchase Order proceedings are instigated, even if progress by the owner becomes evident, it is likely to want to continue in order to assemble the site for further housing development. The Council will make provision for the cost of continuing with the procedure and eventually taking possession,

disposal and compensation. Costs can be mitigated in part by the income generated by the actions of the Empty Property Officer/Team.

Options

23. Do nothing

This is not considered an appropriate option. The property would continue to attract anti-social behaviour and remain a waste of potentially good housing accommodation. The continued absence of maintenance and proper management would allow it to become an increasing environmental blight on the neighbourhood.

24. Enforced sale

The Law of Property Act 1925 empowers a local authority to enforce the sale of a property where it holds a Local Land Charge against it. The Council has previously been proactive in the enforced sale procedure but in this instance no debt has been incurred or is likely to be.

25. Empty Dwelling Management Orders

Local Authorities can consider making Empty Dwelling Management Orders (EDMO) under the Housing Act 2004 to address the improvement and future use of empty dwellings. The maximum period for an EDMO is 7 years. An EDMO is not considered appropriate in this case as the anticipated costs of the required works exceed what could be recovered through rental income over 7 years.

26. Other Enforcement Powers

Various legal powers are available to a local authority to improve the condition of a neglected building, to deal with structural danger, nuisance or other environmental problems. These measures can only be viewed as piecemeal, reactive and relatively expensive short term approaches and do not provide the long term solution presented by the report proposal. A Prohibition Notice under the Housing Act 2004 has already been served. Further measures are not considered appropriate to this case.

27. A voluntary sale

A voluntary way forward is always the preferred option. It is clear in this instance that the Council has gone to great lengths to encourage and support the owner to deal with the situation. As previously mentioned the Council has offered to purchase the property. It is also known that a builder has offered to purchase the property directly from the owner.

28. Compulsory Purchase Order

The most appropriate way of securing continued housing use for this site is by the making of a Compulsory Purchase Order. The property will be subsequently acquired by the Council and then disposed of for

renovation/ redevelopment, or sold to a Registered Provider (RP) with a view to developing the site for further housing provision. This is the recommended option.

29. Throughout the Council's dealings with the owner and her attorney there has been repeated suggestions that works would be carried out and the property brought back into use. In response to this the Council have made requests for timescales and schedules of work to be provided but have had no information forwarded in respect of this. The latest letters advise of works carried out, and work to be undertaken (albeit at an unspecified date).

Should works actually be completed and the Prohibition Notice be withdrawn, a CPO would not be pursued due to disrepair. In such an event, under the delegated authority granted in the recommendations to this report, the Head of Housing and Property, would then consider pursuing a CPO for land assembly and the provision of additional housing, given the fact that the owner has another principal residence, and that there is an adjacent development site, as set out in para 34 of this report..

Disposal Options

30. Under s123 of the Local Government Act 1972, the Council is required to obtain the best price possible if it disposes of any interest in land.
31. Where it proves necessary for the Council to compulsorily acquire a house there are a number of options available to then deal with it. These include the following:
32. Disposal of the property at auction or on the open market

The Council would seek to sell the property as soon as reasonably practicable after its acquisition. The sale value would be expected to represent the market value, and this would be the sum expected to be paid in the compensation claim to the owner. This is an option for the Council should the preferred option not be pursued.

33. Property is retained by the Council

The Council could seek to retain the property as Council housing stock, or redevelop it itself for housing.

34. Sale of the property to an RP for housing development

The A2Dominion Group (a Registered Provider) is negotiating the sale of an adjacent site (a former County depot) for housing development. Three way discussions have taken place between Oxford City Council, Oxfordshire County Council, and A2Dominion in respect of the potential to combine the two sites. This will provide vehicular access to the Lanham Way plot, being considered for CPO. This is necessary for future development, and may enable the provision of 2-6 units of social housing. The A2Dominion Group would be expected to compensate the

Council for all the costs of assembling this site in addition to the agreed site value. The owner will receive the site value in the compensation claim. This is the preferred option as it is cost neutral for the Council and provides for the best long term use of the site, in accordance with the Council's objectives.

Equalities Implications

35. Not applicable as no adverse impacts are predicated.

Environmental Impact

36. The implementation of the Empty Property Strategy will result in a positive environmental impact due to reducing the number of empty properties that cause nuisance to neighbourhoods and attract anti-social behaviour. Ensuring previously empty properties and derelict land are brought back into productive use has a positive impact on Oxford City regeneration

Financial Implications

37. A guide to the potential cost of a CPO for an individual property is listed as Appendix B. An indicative valuation for the subject property is also included within this cost guide. The appendix presents costs of various options relating to the CPO process. This appendix is excluded from publication as it contains commercially sensitive information.
38. Currently, this scheme is not included in the Council's 2013/14 approved capital programme. As such CEB, as per the Council's financial regulations, are advised to request that full Council approves the inclusion of this project within the 2013/14 Capital Programme. The overall impact on capital budgets will be neutral.
39. Revenue costs are also required – detailed in Appendix B. These could range from being cost neutral (under the preferred disposal model) to a maximum amount of £50,000 should a CPO be obtained through the Public Inquiry route, with all possible compensations having to be paid. Costs can be contained within existing Housing and Property budget provision. For non-housing disposals there is a cap of 4% of the capital receipt being available for funding disposal costs. Therefore with a market value disposal of £350k, up to £14k of disposal costs may be funded out of the capital receipt with the remainder of the cost being financed from revenue.
40. In addition to bringing much needed accommodation back into use within the city the Councils Empty Homes Strategy has a positive financial effect on the council by:
- Increasing council tax income
 - Increasing the amount of New Homes Bonus

Presently the subject property is exempt from Council Tax following a prohibition notice (Housing Act 2004) having been served in July 2013,

prohibiting occupation until necessary works are completed as detailed in the notice.

The property falls within Band E, equivalent to £1760.56 per annum. New homes bonus matches that of the yearly council tax value of a property and is paid over a six year period.

Calculation for the Council Tax value of the property in respect of the New Homes Bonus is;

- $1760.56 \times 6 = \text{£}10,563$ New Homes Bonus

In addition should the property be brought back into use Council Tax income would be £1760.56 per annum. The combined Council Tax and New Homes Bonus income over a 6 year period for the property would be £21.126

If additional housing arises from development of the site, further New Homes Bonus would be paid.

- For example, taking an average Council Tax Band D £1439.33 over a 6 year period = £8,635.98 per unit.

41. Officers have identified a number of similar properties within the City where the CPO option is believed to be the best option and as such a capital bid for the 2014/15 capital programme, to be considered by Members as part of the forthcoming budget exercise, will be prepared for discussion. The Empty Homes Strategy promotes the use of Compulsory Purchase Order (CPO) powers on a program of appropriate empty homes. Such a program would be linked to the resale of acquired property and balanced within a budget tolerance. If progressed, such a program would be the subject of a separate report with a recommendation to Council for an appropriate budget approval.

Risk Assessment

42. A risk assessment has been undertaken and the risk register is attached at Appendix C. All risks have been mitigated to an acceptable level.
43. Barriers to obtaining a CPO:

<i>Risk</i>	<i>Mitigation</i>
Works are undertaken to bring the property to an acceptable standard (as per the Prohibition Notice) and the property is re-occupied	The Council intends to pursue the CPO for the purposes of disrepair/empty homes, and also for site assembly for a housing development. Although the initial purpose of taking enforcement action was to bring the property back into use, at this stage, the approach outlined is considered reasonable

The Secretary of State refuses to grant a CPO	This risk is considered low if the Council follows all due process, however, in the event that this occurs, the estimated maximum Council financial loss that could be expected is under £20,000 and this is provided for in budget provision. Generally cost estimates have been set at the maximum expected value.
That the property valuations exceed the capital provision in this report	High valuations have been used as the basis for financial considerations in this report to mitigate this risk.

44. Barriers to disposing of the site (after acquisition) to A2Dominion:

Risk	Mitigation
A2Dominion are unable to enter into agreement as they consider the development to be unviable	This risk is considered low and full plans have been developed for the combined site, however legal agreement still needs to be reached with the County Council and access issues need to be fully resolved
Planning constraints limit the use of the site for housing development	This risk is considered low. Consideration must be given by the developer to existing trees on the site. Dialogue with planners has already happened to take this forward.

Legal Implications

45. The Council has the power under s226 (1) (a) of the Town and Country Planning Act 1990 to acquire land and buildings to secure their improvement, development or redevelopment, provided that this will bring about environmental, economic or social benefits. The property in its current state is in need of improvement and it may be required for the purpose of a larger redevelopment scheme. If the property is brought back into residential use, or is part of a housing development scheme, this will bring environmental and social benefits to the area (and possibly economic benefits too). The main supporting legislation includes the Acquisition of Land Act 1981 (compulsory purchase procedure), the Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation). Appendix D shows the process that needs to be followed for a CPO. The test the Secretary of State applies in deciding if a CPO should be confirmed is that of a compelling case in the public interest. It is considered that such a case is made out here. A CPO interferes with the human rights of the landowner. However if the “compelling case” test is met, so too will interference with human rights be considered to be proportionate.

46. The Compulsory Purchase Order must be advertised locally and copies served on all owners and qualifying parties. An objection can be raised by any statutory objector during the stipulated period. If such an objection is received and not withdrawn during the stipulated period the Secretary of State may cause a public local inquiry to be held. This affords the objector an opportunity to be heard and appear before a person appointed by the Secretary of State.
47. Alternatively the objector may opt for the written representations procedure. The Secretary of State would then consider his findings before determining whether or not to confirm, quash or modify the Order.
48. In the event that there is no objection, the Secretary of State may, in certain circumstances, permit the Council to confirm the Order. The confirmation of the Order may be challenged on a point of law within 6 weeks of the publication of such confirmation. Any dispute as to the amount of compensation to be paid is referred for determination by the Upper Tribunal (Lands Chamber).
49. The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. A number of other local authorities regularly utilise their CPO powers in a similar fashion and the issue has been extensively tested through the courts.

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Background papers:

None

Appendix D CEB Report Risk Register **Compulsory Purchase**

Risk Score **Impact Score:** 1 =Insignificant; 2 = Minor; 3 = Moderate; 4 = Major; 5 = Catastrophic **Probability Score:** 1 = Rare; 2 = Unlikely; 3 = Possible; 4 = Likely; 5 = Almost Certain

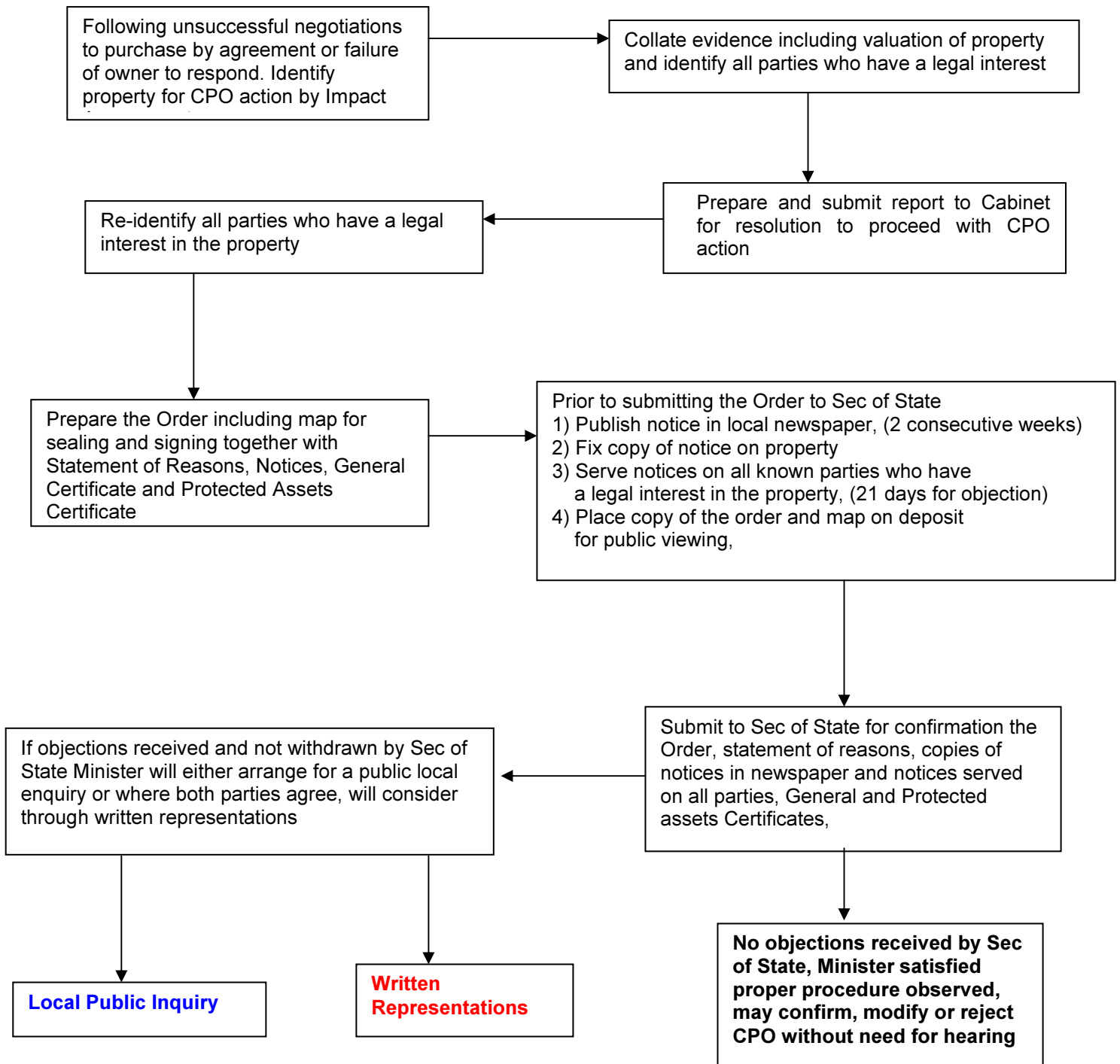
No.	Risk Description Link to Corporate Obj	Gross Risk		Cause of Risk	Mitigation	Net Risk		Further Management of Risk: Transfer/Accept/Reduce/Avoid		Monitoring Effectiveness				Current Risk	
		I	P			I	P			Q 1	Q 2	Q 3	Q 4	I	P
					Mitigating Control: Level of Effectiveness: (HML)			Action: Action Owner: Mitigating Control: Control Owner:	Outcome required: Milestone Date:	⊗	⊗	⊗	⊗	⊗	⊗
1	Financial Costs	2	1	Cost incurred as a result of Compulsory purchase process. Abortive costs if CPO application rejected. Rapid movement in housing prices.	Mitigating Control: Early and full involvement of Legal. Sound justification for taking formal action. Level of Effectiveness: Swift turnaround and disposal of property			Action: Regular and full involvement with legal, services, incl external advocacy. Action Owner: Empty Property Officer Mitigating Control: Regular meetings with legal, finance, Regen & Major Projects. Control Owner: Empty Property Officer	Outcome required: Cost effectiveness Milestone Date: Throughout the CPO process. The successful use of an empty dwelling and its land for the purpose of housing provision within the City.						
2	CPO request denied			An objector raises issues that persuade the Secretary of State to reject or modify the Order Owner fully complies with works detailed in Prohibition Notice	The adherence to the correct procedures and adoption of best practice at all stages. Owner has track record on non-compliance but would rely on SoS being persuaded by submission.			Close liaison with Legal Services or consultants at all stages. Control Owner EPO for EHS element and SAM for CPO element.	SoS grants CPO.						
3	Adverse Publicity			Use of formal action to bring about the re-occupation/use of an empty property and associated land.	Mitigating Control: Provide transparent and clear explanation of the reasons for taking formal action. Encourage positive press through contact with local media. Level of Effectiveness: H			Action: Regular updates provided to media on empty properties brought back into use and action taken to bring them back into use. Action Owner: Empty Property Officer Mitigating Control: Working with press office. Control Owner: EP Officer.	Outcome required: Positive Press Milestone Date: As appropriate.						

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4	No Sale/Delayed Sale			Market conditions become depressed. Availability of finance restricted. Sale to A2Dominon does not occur.	Mitigating Control Close and effective working relationship with the City Council's Legal, Regeneration and Major Projects and Finance officers. Any such costs can be contained within budgets		Action/Mitigating Control Regular meetings with legal services, finance, Regeneration and Major Projects Service. Control Owner: Senior Asset Manager.	Timely disposal of the property.						
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Appendix E

COMPULSORY PURCHASE PROCESS



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