

**To:** City Executive Board  
**Date:** 15 September 2016  
**Report of:** Head of Housing & Property  
**Title of Report:** Compulsory Purchase Order-Spencer Crescent, Rose Hill

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	To obtain approval to initiate compulsory purchase proceedings in relation to a long term empty property.
<b>Key decision:</b>	No
<b>Executive Board Member:</b>	Cllr Mike Rowley, Housing
<b>Corporate Priority:</b>	Meeting Housing Needs
<b>Policy Framework:</b>	Housing Strategy 2015-18.
<b>Recommendations:</b> That the City Executive Board resolves to:	
<ol style="list-style-type: none"> <li>1. <b>Delegate authority</b> to the Head of Housing and Property, in consultation with the Head of Law and Governance and the Head of Financial Services, to initiate compulsory purchase proceedings to acquire all interests in the property situated in Spencer Crescent, Oxford (full address provided in Appendix A)</li> <li>2. <b>Delegate authority</b> to the Head of Law and Governance to take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order, including the publication and service of all Notices and the presentation of the Council's case at any public inquiry;</li> <li>3. <b>Delegate authority</b> to the Regeneration &amp; Major Projects Service Manager 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;</li> <li>4. <b>Delegate authority</b> to the Regeneration &amp; Major Projects Service Manager to dispose of the property in accordance with the Disposal Options set out in this report.</li> </ol>	
<b>Appendices</b>	
A. Site Plan Exempt from Publication by virtue of Paragraph 3 of Part 1 of	

Schedule 12A of the Local Government Act 1972

- B. Chronology of Contacts Exempt from Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972
- C. CPO Costs Exempt from Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972
- D. Risk Register

## Introduction

1. This report seeks authorisation to initiate compulsory purchase proceedings in relation to an empty dwelling in Spencer Crescent, Oxford, which has been empty since 1989 (site plan attached at Appendix A).
2. The Council have an approved Empty Homes Strategy 2013-2018 which states that it is 'unacceptable for a dwelling to be unoccupied unless for good reason'. The Strategy advises that 'The Council will make every effort to encourage owners of empty properties to bring them back into use however, where an owner is unwilling or unable to bring an empty dwelling back into use, the Council will take formal action to ensure it is occupied'.
3. Compulsory purchase of dwellings is included within the Strategy as an option where negotiation has failed. Such actions make a contribution towards meeting Housing Need in the City; reduce the risk of, or eliminate environmental nuisance, assist in reducing time spent by Council officers and emergency services in dealing with issues relating to empty dwellings.

## Background

4. The subject property is a 3-bed ex-local authority family home on Rose Hill, which was purchased by the owner under the Right to Buy legislation in 1988. The following year, the owner died. The property is exempt from Council Tax under Exemption 'F' where the property is recorded as having been unoccupied 'since the death of the owner in March 1989'. The loss in Council Tax Revenue since that time is approximately £24,000.
5. Council records provide information on a son who declared himself Executor of the deceased's estate. Neither the Will nor the Estate has been presented for probate purposes. The Council are aware that he has two sisters but attempts to trace them have been unsuccessful.
6. The Council have been in contact with the son of the deceased owner since at least 1990 principally by letter, and latterly by telephone. The latest letter sent on the 22 June 2016 by Law and Governance to the son has not been responded to. Efforts have been made to trace the whereabouts of any other siblings but to no avail and the son has not been forthcoming with specific information on his sister's whereabouts. Appendix B provides a chronological list of contacts and letters with regard to this property.
7. On 11 November 2015 OCC officers sent a Notice seeking to require information under Section 235 of the Housing Act 2004. It was sent to the deceased owner's son. The Notice requested that the Will be presented to the Council so that proof

of Executor(s) identity could be established. A letter dated the 26 January 2016 was received from the son. The Will was not enclosed and to date the Will of the deceased owner has not been presented to the Council or for probate. The dwelling is classed as being in unknown ownership because the owner is deceased.

### **Options:**

#### **Do nothing**

8. This is not considered an appropriate option. The need for housing within the city and the potential for the property to impact adversely from an amenity issue support the pursuance of a CPO.

#### **EDMO Housing Act 2004**

9. This property is exempt from an application being made for an Empty Dwelling Management Order under The Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006 para (j).

*(j) the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.*

#### **Voluntary Sale**

10. The Legal view is that the property is currently in 'unknown ownership' due to the lack of probate. If property is in unknown or reputed to be in unknown ownership, acquisition by agreement is impossible since there is no party the Council can negotiate with and no party who could execute a deed to transfer title.

#### **Compulsory Purchase Order**

11. The most appropriate way of securing continued housing use for this site is by the making of a Compulsory Purchase Order. Upon the approval of the CPO the property will be presented for disposal by either agent or auction. Alternatively, the Council may decide that once acquired the property is transferred at open market value to the Council's Housing Company.

#### **Financial implications**

12. A budget will need to be allocated to cover the costs associated with acquisition of the subject property by CPO, or by agreement. The actual acquisition costs are expected to be recovered from the proceeds of the property disposal.
13. A guide to the potential cost of a CPO for an individual property is listed (Appendix C). An indicative valuation for the subject property is also included within this cost guide as provided by the Valuation Office. The Appendix presents costs of various options relating to the CPO process. This Appendix is excluded from publication as it contains commercially sensitive information.

14. The Council has sufficient funding for the asset purchase and incidental costs of acquisition, of this property, allocated in the 2016/17 approved capital programme.
15. Revenue costs are also required. These costs 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.
16. In addition to bringing much needed accommodation back into use within the city the Council's Empty Homes Strategy has a positive financial effect on the council.
17. Council tax would become payable which for a band C property such as this would be around £1,542 per annum subject to any occupational discounts that may apply. Additionally, New Homes Bonus would be paid by the Government (currently for a period of 6 years) but equating to a contribution of £6,168 in the four years of the current Medium Term Financial Plan.

### **Disposal Options**

18. Under the Local Government Act 1972 section 123 requires the Council to obtain the best price possible if it disposes of any interest in land or property. Where it proves necessary for the Council to compulsorily acquire a dwelling house there are a number of options available to then deal with it. These include the following:

#### Disposal of the property at auction or on the open market

19. The Council would seek to sell the property as soon as reasonably practicable. 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.

#### Housing Company

20. The Council may also consider financially modelling the option whereby the Council's new housing company receives approval to take ownership of the property in question at an appropriate price that allows the necessary work to be carried out to the property so that it can be brought back into use, and let or sold. All options under the Housing Company proposal should ensure associated borrowing, management, supervision costs, and incidental costs of acquisition and disposal are covered.

### **Legal issues**

#### **Housing Act 1985 Section 17**

21. A local authority can acquire: A house or houses for the provision of improvement of housing accommodation (whether by itself or someone else); Land to be developed by the provision of housing (whether by itself or someone else) The CPO must achieve a quantitative or qualitative housing gain or the assembly of housing land/bringing empty homes back into use or improving sub-standard housing.

22. The Council has the power for Compulsory Purchase Orders to be created pursuant to the Housing Act 1985 section 17, which permits the Council to acquire empty dwellings for the purpose of housing provision under a CPO. 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). The Secretary of State applies a 'Test' in deciding if a CPO should be confirmed: in that of a compelling case in the public interest. It is considered that such a case is made here for the subject property. 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. In this case of course the property owner is unknown following the death of the former owner.
23. The Compulsory Purchase Order must be advertised locally and copies served on 'qualifying parties' and the 'unknown owner' at the subject property. 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. Alternatively the objector may opt for the written representation's procedure. The Secretary of State would then consider his findings before determining whether or not to confirm, quash or modify the Order.
24. 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).
25. 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.
26. Whilst the property is in unknown ownership, the proceeds of sale if unclaimed under the compulsory purchase compensation code will be paid/deposited in court in accordance with the code and generally, if there is no claim within the six year statutory limitation period the monies are returned to the Council.
27. There is a distinct possibility during the CPO process, for the deceased owner's son to present his late mother's estate for probate. Ownership of the dwelling will be apparent following completion of probate. The Council will continue its pursuance of the order to ensure that the property is ultimately occupied although the option of voluntary sale will be explored in this eventuality.

### **Level of risk**

28. A risk assessment has been undertaken and the risk register is attached at Appendix D. All risks have been mitigated to an acceptable level.

## Equalities impact

29. Not applicable as no adverse impacts are predicated.

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**Background Papers:** None