

<b>REPORT FOR INFORMATION</b>
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<b>Agenda Item</b>	
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<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>19<sup>TH</sup> JULY 2011</b>
<b>SUBJECT:</b>	<b>BURY COUNCIL'S EMPTY PROPERTY STRATEGY</b>
<b>REPORT FROM:</b>	<b>ASSISTANT DIRECTOR (PLANNING, ENVIRONMENTAL &amp; REGULATORY SERVICES)</b>
<b>CONTACT OFFICER:</b>	<b>MRS LIZ GUDGEON – UNIT MANAGER (REGENERATION &amp; HOUSING STANDARDS)</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL (NON KEY DECISION)</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	The purpose of this report is to set out to Members the approaches the Planning, Environmental & Regulatory Services Division currently takes to address empty private sector residential properties that are having a detrimental effect on the Borough's environment.
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	Members are asked to note the report.
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	n/a
<b>Statement by Executive Director of Resources:</b>	n/a
<b>Equality/Diversity implications:</b>	No (see paragraph below)

<b>Considered by Monitoring Officer:</b>	n/a
<b>Wards Affected:</b>	All
<b>Scrutiny Interest:</b>	n/a

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

**1.0 INTRODUCTION**

1.1 At the April meeting, the Planning Committee requested a report on action taken to address the problem of vacant residential properties. This report therefore sets out what the Planning, Environmental and Regulatory Services Division (PERS) is currently doing about empty private sector residential properties (hereafter known as 'empty properties') that are having a detrimental effect on the Borough's environment.

1.2 This report will include:

- What approaches, with examples as appropriate PERS is currently taking to bring empty properties back into use and what mechanisms are available to the division
- Associated issues that may have an effect on the way empty properties are dealt with in the future

**2.0 Background**

2.1 The Executive approved the Council's Empty Property Strategy (EPS) in October 2008 including a risk assessment approach for bringing long-term (i.e. over 6 months) empty properties back into use. This approach assesses the impact of each empty property locally and this influences what action the Council will take to bring it back into use as well as taking into account the amount of resources required.

2.2 In relation to the above PERS works both reactively to address immediate issues and proactively to consider longer-term solutions as appropriate.

**3.0 Reactive Work**

3.1 Officers in PERS respond quickly to complaints which can result in enforcement action and this is dealt with by serving an appropriate notice. The table below shows this in more detail as well as highlighting achievements.

<b>Complaint</b>	<b>Notice</b>	<b>Achievement(s)</b>
Housing defect(s) potentially causing a nuisance to the neighbouring property e.g. damp, leaking roof, defective rainwater spout	s80, Environmental Protection Act 1990 where defect(s) classed as a statutory nuisance  s59, Building Act 1984	To remedy the statutory nuisance  To repair private drains or sewers
Open to unauthorised access i.e. open door(s) and/or window(s)	s29, Local Government (Miscellaneous Provisions) Act 1982 to secure an empty property	To prevent unauthorised entry or for the purpose of preventing the empty property becoming a danger to public health
Accumulations of rubbish in the front and/or rear gardens/yards	s80, Environmental Protection Act 1990 due to this being classed as a statutory nuisance  s4, Prevention of Damage by Pests Act 1949	To remove rubbish within the perimeter of the empty property  To remove rubbish (as above) where there may be rats but the nature of the rubbish is inert and not classed as a statutory nuisance
Dangerous condition	s78 and s79, Building Act 1984 to take immediate action where an empty property (or part of its structure) is dangerous	To remove the danger from the public e.g. slipping slates, damage from severe weather
Detrimental to the amenities of the area (the property and/or residential land)	s215, Town & Country Planning Act 1990	To tidy up the property/land to ensure no longer detrimental to the amenities of the area. This may involve installing new doors/windows, painting, new roof, tidying up garden, new boundary fencing etc

- 3.2 Action will be taken as appropriate regardless of what previous action may have been taken, what longer-term action is being considered or implemented and where they may sit with regards to prioritisation within the implementation of the EPS.
- 3.3 The complaints are normally dealt with as a service request which originates from either the Council's Contact Centre (from the public), are passed on by other officers or are raised directly by Members. It is expected that PERS will respond within 3 working days or sooner if the empty property is in a dangerous condition and/or presenting immediate danger to the public. Building Control also operate an out of hours service should the complaint be classed as an emergency.

- 3.4 An officer is assigned to investigate the complaint in more detail with the aim of bringing the complaint to a satisfactory close. However, in many cases a complaint will be made against an empty property where longer-term action is being considered. In these cases a short-term resolution will be applied e.g. serving a notice to secure a property whilst a longer-term solution is being developed.
- 3.5 The table below demonstrates the level of enforcement action over the last 2 years:

<b>Action – Notice Type</b>	<b>2009/10</b>	<b>2010/11</b>
s80, Environmental Protection Act 1990	127	103
s29, Local Government (Miscellaneous Provisions) Act 1982 *Note: The majority of cases required a notice	*51	*40
s78 and s79, Building Act 1984	24	31
s215, Town & Country Planning Act 1990	1	5

- 3.6 There have also been cases where a notice has been served for accumulations of rubbish but without investigating each individual record on the database APP/Flare it is difficult to determine which properties were actually empty.

#### **4.0 Proactive Work**

- 4.1 An officer from Urban Renewal with the support of Council Tax has been and continues to collect baseline information on all empty properties from data provided by Council Tax, survey work, complaints, requests for service, queries raised by Members and officers etc. At present there are circa 1,500 long-term empty properties in the Borough.

- 4.2 This work considers how to deal with empty properties on a longer-term basis and the risk assessment approach (as previously mentioned) is used to consider the most appropriate mechanism(s) for bringing empty properties back into use. The mechanisms are:

- Information and advice
- Financial assistance (empty property grants)
- Compulsory Purchase Orders (CPOs)
- Leasing schemes
- Empty Dwelling Management Orders
- Enforced sale
- Voluntary acquisition (sale to the Council)
- Innovative approaches via partnering opportunities e.g. RSLs

- 4.3 It is important to note that some of the above mechanisms require further investigative and development work before they can be considered appropriate for Bury Council to use. Below are some examples of the above to demonstrate use of the mechanism and/or achievements:

- *Information and advice* – 232 packs were distributed in 2009/10 and are continuing to be distributed when initial contact is made with owners of empty properties

- *Financial assistance (empty property grants)* – There are currently 24 grants in the system of which 16 have been approved and 6 of those are on site. Ones currently on site include the very problematic empty properties 4, 8 & 14 Albion Street, Radcliffe with 6 Albion Street to follow; and; 39 & 41 Scholes Street, Bury which are working towards approval so that works can commence on site
- *CPOs* – 3 housing CPOs have been carried out over the past 5 years, namely 9 & 49 Shepherd Street, Mosses and 96B Ainsworth Road, Radcliffe. The former two have been sold under a building licence agreement and are occupied and the latter to follow.
- In 2010/11 5 s215 notices were served on empty residential properties by Planning Enforcement (as per the table above)
  - 204, 206 and 208 Walmersley Road - on-going bankruptcy issues are making dealing with these complex but nevertheless continued efforts are being made to address the properties
  - 48 Gardner Road, Prestwich – the property has been demolished as required by the notice
  - 59 Dudley Avenue, Whitefield – Legal are prosecuting the owner for non-compliance with the notice

## **5.0 The Future/Issues**

- 5.1 A targeted approach through the risk assessment approach is perhaps seen as the most appropriate way forward due to there being finite resources available to bring empty properties back into use.
- 5.2 There is 425k in the budget for 2011/12 which is made up of slippage from the EPS budget (over the past two financial years) in the capital programme, with currently no new capital funding to support bringing empty properties back into use 2012/13 onwards. Of this amount currently circa 200k is committed to empty property grants leaving the remaining budget for other activity.
- 5.3 The reactive enforcement action is funded from normal revenue costs and is not specifically identified in the budget and can involve significant staff time and effort. This work is undertaken as part of a broader enforcement action and is therefore subject to capacity of existing staff and other priorities.
- 5.4 Enforcement action can often result in the need to have to carry out works in default. In these cases there is a system in place to either recover the debt from the owner or place a local land charge on the property. It is important to note however that there is a risk that the charge may not be recovered if the owner challenged the works undertaken and the court overturned the action taken by the Council.
- 5.5 To be able to address problematic empty properties using the longer-term mechanisms the use of capital is unavoidable. Not having some form of capital will seriously restrict their usage with perhaps only leaving the option of enforcement available which doesn't always have the end result of actually bringing the empty property back into use. There may then be the reliance on the co-operation of the owner to address the property further.
- 5.6 Planning and Building Control rarely require capital funding to support their enforcement work i.e. Section 215s and Building Act notices that are not complied with will initially go to prosecution and in 95% of cases will then seek compliance. However, there may be cases such as 204, 206 & 208 Walmersley

Road, Bury where a longer-term solution is required in addition to the serving of a Section 215 notice. Compulsory purchase is currently being considered.

## **6.0 Conclusion/Recommendations**

- 6.1 Empty properties remain high on both the local and national Government agenda and there remains the expectation by both residents and Members alike that Bury Council should be continuing its efforts to bring them back into use, or at least address the adverse impact on the area.
- 6.2 Current financial issues around the capital programme will however seriously limit what longer-term mechanisms (if any) can be used to bring empty properties back into use. It will reduce the options available to the Council with enforcement action being one of the only mechanisms available to address problematic properties.

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### **List of Background Papers:**

- Empty Property Strategy
- Report to the Executive 29th October 2008 'Empty Property Strategy for Bury'

### **Contact Details:**

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