

## EXETER CITY COUNCIL

### EMPTY HOMES ENFORCEMENT POLICY

MARCH 2013

#### 1.0 Introduction

- 1.1 This policy sets out how the Council will work to bring empty properties back into use. This policy contributes to the [Exeter Empty Homes Strategy 2009-2014](#).

#### 2.0 Background

- 2.1 Long term empty properties are a wasted resource, particular in areas of high housing demand such as Exeter. Homes that are left unoccupied can quickly fall into disrepair and neglect, becoming a blight on the neighbourhood by attracting ASB, accumulating refuse, encouraging vandalism and reducing property values in the local area. Bringing empty properties back into use can benefit the individual owners, potential occupiers and the wider community.
- 2.2 Land for new residential development in Exeter is scarce and land that is available commands a premium price. By making the best use of existing resources such as empty properties and returning them into use will help to negate the need to build as many new build properties.

#### 3.0 Impact of empty properties

- 3.1 An empty home is not just the concern of the owner because a property left unoccupied and not maintained will over time impact on its surroundings. This can include neighbouring properties whose condition and value may also be severely affected. Empty properties also run the risk of attracting unwanted attention from vandals and squatters and in extreme cases become a target for arson.
- 3.2 Some of the above problems will require the local authority, the Police or the Fire Service to take action utilising valuable resources and causing costs that may not be recoverable from the owner of a property. Bringing an empty property back into use may assist in improving the general streetscape of an area and reduce anti-social behaviour as well as providing a valuable source of urgently needed accommodation.
- 3.3 Exeter City Council will take every step to assist owners of empty properties in bringing the property back into use. The details of this are set out within the Empty Homes Strategy. However, there are instances that, despite the best efforts on the part of the Council, properties remain empty for long periods of time.
- 3.4 These are the properties that are more likely to cause problems in the immediate neighbourhood. It is in these cases that, as a last resort, the Council will pursue enforcement action to return the property back into use. This policy outlines the processes that will be taken before, during and after enforcement action is approved.

## **4.0 Identifying empty properties**

### **4.1 The Council will:-**

- Take steps to identify empty properties throughout the City with the aid of [Section 237 of the Housing Act 2004](#), which allows for the identification of properties through the Council Tax system that are registered as empty, in order to take steps to bring them back into use.
- Ensure that when seeking to identify empty properties, all processing of personal data will be in accordance with the Council's data protection policy and the rights of the data subjects contained in Part 2 of the Data Protection Act 1988.
- Encourage a range of stakeholders to report an empty home, including:-
  - Housing Officers
  - Building Control surveyors
  - Planning Officers
  - Environmental Health Officers
  - Pest Control Officers
  - Conservation Officers
  - Councillors
  - The Fire Service
  - The Police service
  - Neighbours
- Investigate further and take action where properties are reported as empty but are not classified as empty through the Council Tax system. It is increasingly common to find empty properties where the owner pays full Council Tax and has never applied for an exemption. In addition, there are a number of properties registered as second homes under Council Tax but are not genuinely used as a second home but are "furnished empty" properties.

## **5.0 Advice and assistance to owners of empty properties**

5.1 The Council will offer advice, assistance and support to empty property owners to bring their properties back into use. The Council will work with owners to provide a tailored package of advice, assistance and incentives specific to the owners needs. Officers will encourage owners to work together with the Council to reach a solution in order to bring the property back into use.

5.2 Initiatives have been developed to support this including:

- Information on renting the property
- Information on selling the property
- Free schedule of works completed with a building surveyor
- Repayable grant to provide assistance to owners to bring their properties to a lettable standard for the Private Sector Leasing Scheme (PSL) and EXtraLet scheme
- Low cost loans to cover the cost of renovation for the sale of the property or to let privately through Wessex Home Improvement Loans
- Advice and assistance to obtain energy efficiency measures in line with the Council's Private Sector Housing Renewal Policy.

- 5.3 However, if the owner cannot be traced or is reluctant to take action to bring the property back into use, within a reasonable period, the Council will consider the use of enforcement action to both improve the condition of the property and to ultimately bring the property back into use.

## **6.0 Prioritising properties for enforcement action**

- 6.1 Potentially, any privately owned vacant dwelling could be subject to enforcement action including those not classified as Class C long term empty through the Council Tax system. This will include properties such as second homes which are empty, that are not used as a holiday homes and are unlikely to become occupied in the immediate future. However, in the context of the Council's priorities, a means of prioritising empty properties is needed. This gives accountability to the choice of property which could proceed with enforcement action and ensures that such choices reflect the Council's policies and procedures.

- 6.2 Properties will be prioritised and ranked using the following criteria:

- Length of time empty
- Condition of property
- Causing a detrimental environmental impact
- Subject to enforcement action by other departments
- Affect stability or cause harm to neighbouring properties

- 6.3 In addition, the following criteria may also prioritise those that are pursued with most urgency:

- Squatted properties
- Properties causing a nuisance to neighbours
- Properties identified by the police, fire service as causing particular problems in terms of crime

## **7.0 Action on empty properties**

### Properties empty less than 1 year

- 7.1 Most properties are usually occupied within one year and are considered "transactional" properties. For this reason, it is proposed that the Council do not take action on properties empty less than one year unless the condition of the property dictates that enforcement action is a necessity (e.g causing statutory nuisance to a neighbouring property)

### Properties empty for more than 1 year

- 7.2 The Council will concentrate enforcement action on properties that have been prioritised, which are ones that would continue to remain empty without enforcement action.

## **8.0 Achieving the improvement of empty properties**

- 8.1 There are a number of enforcement powers such as statutory notices available to the Council to take action on properties to address the poor condition of the property especially where there may be health and safety concerns or where it negatively impacts on neighbours and their properties. These powers are listed below:

Problem	Legislation	Power Granted
Dangerous or dilapidated buildings or structures.	<p><i>Building Act 1984, ss77 &amp; 78.</i></p> <p><i>Housing Act 2004, Part 1.</i></p>	<p>To require the owner to make the property safe (Section 77) or enable the Local Authority to take emergency action to make the building safe (Section 78).</p> <p>Under the Housing Health and Safety Rating System local authorities can evaluate the potential risks to health and safety arising from deficiencies within properties and take appropriate enforcement action.</p>
Unsecured properties (where it poses the risk that it may be entered or suffer vandalism, arson or similar).	<p><i>Building Act 1984, s78.</i></p> <p><i>Local Government (Miscellaneous Provisions) Act 1982, s29.</i></p>	<p>To allow the Local Authority to fence off the property.</p> <p>To require the owner to take steps to secure a property or allow the Local Authority to board it up in an emergency.</p>
Blocked or defective drainage or private sewers.	<p><i>Local Government (Miscellaneous Provisions) Act 1976, s35.</i></p> <p><i>Building Act 1984, s59.</i></p> <p><i>Public Health Act 1961, s17.</i></p>	<p>To require the owner to address obstructed private sewers.</p> <p>To require the owner to address blocked or defective drainage.</p> <p>To require the owner to address defective drainage or private sewers.</p>
Vermin (where it is either present or there is a risk of attracting vermin that may detrimentally affect people's health).	<p><i>Public Health Act 1961, s34.</i></p> <p><i>Prevention of Damage by Pests Act 1949, s4.</i></p> <p><i>Public Health Act 1936, s83.</i></p> <p><i>Environmental Protection Act 1990, s80.</i></p> <p><i>Building Act 1984, s76.</i></p>	<p>To require the owner to remove waste so that vermin is not attracted to the site, to destroy an infestation and to remove any accumulation prejudicial to health.</p>
Unightly land and property affecting the amenity of an area.	<p><i>Public Health Act 1961, s34 (see above).</i></p> <p><i>Town and Country Planning Act 1990, s215.</i></p> <p><i>Building Act 1984, s79.</i></p>	<p>To require the owner to remove waste from the property (see above).</p> <p>To require the owner to take steps to address a property adversely affecting the amenity of an area through its disrepair.</p> <p>To require the owner to address unsightly land or the external appearance of a property.</p>

8.2 Although the enforcement action listed above will not ultimately return a property back into use, it will improve the condition of the property and impact upon the immediate neighbourhood in the short term. The Council will then seek to encourage the owner to bring the property back into use.

## 9.0 Principles for enforcement to bring empty properties back into use

9.1 This policy is aimed at returning long term empty properties back into use. Enforcement action to ensure properties are brought back into use will be based on the Government's Enforcement Concordat which 'aims to protect the public, the environment and groups such as consumers and workers'. The following principles will be adhered to:-

- **Proportionality** This means relating enforcement action to the risks.
- **Consistency** of approach. Taking a similar approach in similar circumstances to achieve similar ends.
- **Transparency** about how the Service operates in order to maintain public confidence and what those regulated may expect from the service.
- **Targeting** of enforcement action towards those properties that give rise to the most serious risk.

9.2 Officers will consider the use of enforcement action in the following circumstances:

- The Council has made numerous attempts to engage with the owner, all reasonable offers of assistance have been made to the owner and these offers have not been acted upon; and
- There is no prospect of the house being brought back into use by the owner within a reasonable timescale
- The property is causing a significant problem in the local neighbourhood

9.3 The Council will not use enforcement action until all other avenues to encourage the owner to bring the property back into use have been exhausted. The Council will use enforcement action where the owner is not engaging with the Council in finding a solution to bring the property back into use or where all avenues to find an absent owner have been explored.

9.4 The Council will use the most appropriate enforcement action to bring the property back into use. The Council will communicate its intentions in plain English or in the appropriate language or method in accordance with the needs of the owner. The owner of the property will be made aware of the advice and support that the council can provide to assist the owner to bring the property back into use and the enforcement powers it may use, including the relevant timescales and processes.

9.5 The decision to take enforcement action such as the enforced sale of the property, an Empty Dwelling Management Order or Compulsory Purchase Order will be made under delegated authority to the Assistant Director of Housing & Contracts in consultation with the Portfolio Holder for Housing. This will ensure that approval is only granted in circumstances where it is considered appropriate to undertake enforcement action.

9.6 Once made aware of the intention to use enforcement action, the owner will be given a period to consider their options and appeal against the proposed action. Details of the Council's complaints and appeals processes will be

provided at the outset. The enforcement process will be open to review at any time during the process if circumstances change.

- 9.7 The Council will undertake enforcement action as promptly and efficiently as possible in order to minimise delays. The Council will seek to ensure that cases are dealt with in a consistent manner. All officers undertaking enforcement action to return empty properties back into use will be suitably trained, qualified and authorised to ensure that they are fully competent to undertake enforcement duties.

## 10.0 Enforcement Powers

- 10.2 **Enforced Sale** – The Enforced Sale procedure permits the Council to serve a notice on the property owner to request payment of all outstanding charges such as Council Tax and any works carried out in default following action taken under the legislation detailed in 8.1. If payment remains outstanding after 3 months after the notice expires, it allows the Council to proceed with enforcing the sale of the property to recover the charge(s).

The criteria for using an Enforced Sale would be:

- The total debt on the property should exceed £500
- The property is vacant

The Enforced Sale procedure may be halted prior to its sale by the owner of the property by paying any outstanding debt owed to the Council. It is not guaranteed that any long term empty property will be returned to use as a result of Enforced Sale procedure. However, it is likely that anyone purchasing such a property intends to return it to use.

- 10.3 **Empty Dwelling Management Orders (EDMO)** – Under the Housing Act 2004, the Council can apply to the Residential Property Tribunal for an EDMO to be made if a dwelling has been empty for two years or more. An EDMO allows the Council to take over the management of badly let or vacant properties for initially a 12 month period, followed by a 7 year period. Any costs incurred in improving the property to the Decent Homes Standard are recovered from the rent. Ownership is not removed and there can be no charge against the property for repairs. Once let repair costs and management fees could be recouped from the rental payments. This option should be used where the costs incurred to bring the property to a habitable standard could be recovered from the rental income from the property.
- 10.4 **Compulsory Purchase Order (CPO)** – Under either S17 Housing Act 1985 (if in good appearance) or S226(1)(a) Town and Country Planning Act 1990 (if the property is in a poor condition), the Council can take this action to purchase the property from the owner and then sell the property. A condition on the sale contract can be added to ensure that the property is brought back into use within an agreed timescale. This would action would only be used as a last resort when all other options have been exhausted and have failed to convince the owner of a long term empty property to return it to use voluntarily, or where a charge against the property has been paid halting Enforced Sale proceedings.