

Regeneration and Transport Select Committee

Review of Empty / Abandoned Properties



7 March 2013

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Select Committee – Membership

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ACKNOWLEDGEMENTS

The Committee thank the following contributors to this review:

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Stuart Wilson, Senior Planning Enforcement Officer

Foreword

On behalf of the Regeneration and Transport Select Committee we are pleased to introduce the final report of the Review of Empty/Abandoned Properties.

The overall objective and aims of the review were to identify options to bring approximately 2,700 empty properties back into use and provide substantial benefits by reducing anti-social behaviour, improving unsightly neighbourhoods, providing affordable housing to homeless people, reduction of the homeless list, improving on the quality of life and wellbeing including reduced costs for health and social care.

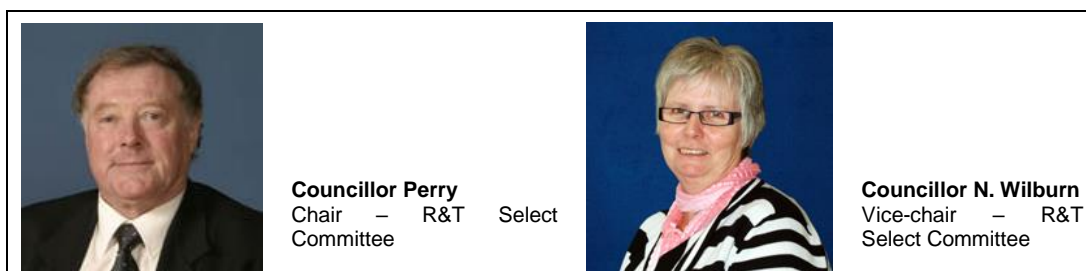
The Committee has considered the significant evidence presented during the course of the review especially Government policy and the important use of legislation to assist and aid our Housing Division to best facilitate the return of empty properties back into use.

The Committee also deliberated on a number of issues that would provide the opportunity to look at efficiencies and improvements that could be made within a number of recommendations such as availability of funding from increases in tax revenue with respect to an 'Invest to Save' programme, reprioritisation of empty properties that can be identified to be brought back into use sooner, increased publicity on the successes of empty properties brought back into use, funding for cost of works in default and the recommended use of an Enforced Sales Procedure.

As part of the review the Committee received a pre-consultation report regarding changes to discounts on certain empty properties. The Committee heard how the Local Government Finance Act now provides councils more flexibility over council tax charges that can be levied on certain empty properties. Implementing changes to council tax discounts would give positive opportunities to improve neighbourhoods, reduce the homeless list, and reduce the budget gap affecting Stockton Council. The Committee agreed the scheme as presented with certain caveats to be put in place.

On behalf of the Committee we would like to thank everyone involved in the scrutiny review, especially the officers, managers, and heads of service who attended meetings, provided information and supported the Committee throughout.

We commend our report and recommendations to you.



Original Brief

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|--|
| <p>Which of our strategic corporate objectives does this topic address?</p> <p>Environment and Housing – Meet the challenges of the housing market Economic Regeneration and Transport – Improve the quality of place within the Borough</p> |
| <p>What are the main issues and overall aim of this review?</p> <p>There are 2770 empty properties including 700 commercial and 1326 long-term empty properties (i.e. domestic properties empty for more than 6 months) which can have a negative impact on neighbourhoods. This can contribute to a shortage of available affordable housing and both residential and commercial areas could experience increased crime and anti-social behaviour.</p> <p>The Regeneration and Transport Select Committee will:</p> <ul style="list-style-type: none"> • Focus this review on domestic properties • Take evidence from the work being undertaken for Executive Scrutiny Committee regarding the "Regeneration of Local Shopping Parades" to inform on a commercial element for this review • Include individual empty commercial properties (e.g. shops, offices, pubs) that are in mainly domestic housing areas |
| <p>The Committee will undertake the following key lines of enquiry:</p> <ul style="list-style-type: none"> • New powers being introduced by the Government (i.e. Council Tax discounts and exemptions as an incentive to bring empty properties back into use) – Councils to decide future policy direction • The cost to the Council of empty properties • Role of corporate empty homes group • Link to New Homes Bonus and affordable housing |
| <p>Provide an initial view as to how this review could lead to efficiencies, improvements and/or transformation:</p> <p>Increased powers to bring non-decent properties back into use; Increase the Council Tax income and produce savings on temporary accommodation expenditure; Increase in New Homes Bonus to the Council</p> |

Key Responsibilities

| | |
|-------------------------------|---|
| Chair / Member Sponsor | Councillor Maurice Perry |
| Scrutiny Officer | Graham Birtle, Scrutiny Officer |
| Link Officers | Carol Straughan, Head of Planning Melanie Howard, Private Sector Housing Manager Debbie Hurwood, Head of Customer Services & Taxation |
| Finance Officer | Garry Cummings, Head of Finance and Assets |

1.0 Executive Summary and Recommendations

(The recommendations are submitted for approval, in principle, subject to a full assessment of both service and medium term financial planning implications.)

- 1.1 The Department for Communities and Local Government reports that empty homes account for 3% of the national housing stock that not only restrict housing supply but also detract from the quality of the local environment and can cause significant problems for local residents. The only effective answer is to get them back into occupation and in that way help to meet housing needs where appropriate.
 - 1.2 At the beginning of the Scrutiny Review, the Northern Echo reported on 14 May 2012 that...“Empty Homes across the region cost hard up town halls a staggering £30.4 million in ‘lost’ council tax every year.” In Stockton this amounted to £2.12m and at 31 December 2012 there were 2,609 empty residential properties of which 1,244 have been empty for more than 6 months. There were also 700 commercial long term empty properties.
 - 1.3 The Committee learned that there is no shortage of legislation to deal with empty properties. The difficulty is the practicality of putting it into action and the time it takes. The Private Sector Housing Division is the first contact point for complaints about problem sites and it works closely with other Council service areas through the Corporate Empty Home Group (Planning, Technical Services, Enforcement, Care For Your Area, Council Tax) to coordinate the approach required to gain cooperation with the owner or alternatively to take enforcement action.
 - 1.4 Those service areas who work towards returning empty properties to use do so with no funding provision for taking action following the failure or refusal of a property owner to comply with a statutory notice. This creates the situation where either no works are carried out by a service area and the property remains in the same condition or works are carried out and the service area covers the debt until it is repaid, if ever. However, Stockton Council has always been proactive in bidding for additional capital to return long term empty properties back into use.
 - 1.5 Currently, there is one Private Sector Housing Officer working full time on returning empty properties to use. The Enforcement Officer post had been frozen although the post was responsible for responding to requests for service relating to empty homes, risk assessing empty property, maintaining the empty property database and working informally with owners to help them return their properties to use. As a result this work was no longer carried out. One of the main roles of the Enforcement Officer was to take action to secure properties open to unauthorised access to prevent them from being a fire risk and a danger to public health. This work had now been allocated to other officers within the Private Sector Housing Division.
 - 1.6 The main focus for the Committee was the availability of funding and staffing for the Council, primarily the Private Sector Housing Division, to best facilitate the return of empty properties back into use.
- R1 The Committee recommend that a business case is explored from increases in Council Tax as an invest to save opportunity to tackle the problem of empty homes through proactive and reactive work across Private Sector Housing and Planning Enforcement.**

- 1.7 With the length of time it can take to reoccupy an empty property the Committee believed that refocusing attention to properties that had not long been unoccupied might achieve a higher occupancy level than the problems encountered with houses empty for some time.
- R2 The Committee recommend the reprioritisation of empty properties (empty just over 6 months) to identify those that can be brought back into use sooner.**
- 1.8 The Committee believe that increased publicity of successes when empty properties are returned to use should be sought to assist in tackling this issue. Stockton News can carry articles on empty homes and articles can continue to be submitted for the local press.
- R3 The Committee recommend increased publicity of successes when empty properties are brought back into use to assist tackling this issue.**
- 1.9 The Committee heard how the Local Government Finance Act now provides councils more flexibility over the Council Tax charges that can be levied on certain empty properties and as part of this review received a consultation report regarding the introduction of more flexibility over the Council Tax charges that can be levied on certain empty properties.
- 1.10 The Committee raised a number of issues and agreed the scheme as presented with caveats that require resolution by Cabinet.
- 1.11 This review provided an opportunity to look at the efficiencies and improvements that can be made with opportunities to invest to save in the future. The Committee understands that to ensure that the Council fully utilises all the legal powers available a one off contingency fund topped up each year would cover costs incurred for carrying out of works in default. Service areas would be able to actively pursue debtors to recover costs and the recovered monies would then be returned to the contingency fund for recycling to cover further actions. Additionally, recourse to prosecution for non-compliance would follow works in default where appropriate.
- R4 The Committee recommend a business case is explored for utilising one off funding allocation, with an annual top up, to cover the costs of works in default.**
- 1.12 An additional piece of legislation that the Private Sector Housing Division asked the Committee to consider was the Enforced Sales Procedure (ESP), an existing power carried out under Section 101 of the Law of Property Act 1925. It has been adopted by a number of local authorities as an effective way of dealing with long term empty properties where the owner cannot be traced or is unwilling to work with the local authority to bring the property back into occupation.
- R5 The Committee recommend the use of the Enforced Sale Procedure to take action to recover debts in excess of £1,000 through enforcing the sale of the empty property and ensuring its return to use.**

2.0 The National Context

- 2.1 The Department for Communities and Local Government reports that empty homes account for 3% of the national housing stock.
- 2.2 The Government acknowledges the importance of maximising the use of the existing housing stock so that this minimises the number of new homes that need to be built each year. Empty homes not only restrict housing supply, they also detract from the quality of the local environment and can cause significant problems for local residents. Poorly maintained empty properties attract vermin, cause damp and other problems to neighbouring properties and are magnets for vandals, squatters, drug dealers and arsonists. The Royal Institute of Chartered Surveyors estimate that properties adjoining poorly maintained empty properties can be devalued by 18%.
- 2.3 The Government believes that boarding up long term empty properties to prevent their being broken into is not a sustainable solution. The only effective answer is to get them back into occupation and in that way help to meet housing needs where appropriate.
- 2.4 In November 2011, the Government published “Laying the Foundations: A Housing Strategy for England” to outline its role in tackling empty homes. The Government’s stated aim was to increase the number of empty homes that are brought back into use as a sustainable way of increasing the overall supply of housing and to reduce blight on neighbourhoods. This means putting in place the right incentives and levers, both practical and financial, to support local authorities, housing providers and community and voluntary groups.
- 2.5 Local Authorities are increasingly engaging with owners to find the right solutions. This can take the form of offering incentives such as financial loans or advice on selling and leasing. Such approaches are dependant upon good will and cooperation from owners and when this is achieved the outcome can be highly effective. However, Local Authorities may also resort to enforcement action where it has not been proved possible to achieve reoccupation of empty properties through voluntary means. Local Authorities have been able to call upon statutory powers as a last resort to require the sale or renovation of empty properties through Enforced Sale or Compulsory Purchase.

3.0 The Local Context

3.1 In Stockton there were 2,609 empty residential properties of which 1,244 have been empty for more than 6 months (at 31 December 2012). There were also 700 commercial long term empty properties. The economic downturn has been a contributing factor in the increase of empty properties in the Borough, with house prices falling and unemployment levels rising.

3.2 Properties can become empty for a variety of reasons:

- High levels of disrepair especially in older houses and the costs of repairs
- Have been inherited
- Bought cheaply but with no means to carry out repairs
- Bought unseen and cheaply at auction and with no intention of renovating until house prices increase
- Remained unsold for a long period of time
- Fears about renting out the property
- Ownership disputes
- Delays or disputes in the administration of the estate when an owner has died
- The property becomes abandoned
- The occupier / owner moves into residential or nursing care.

3.3 The problem of derelict properties is multi faceted and is not just about the blight on the landscape. The properties attract anti social behaviour, fly tipping, fires and this can worsen the situation. There is the loss of assets in the community and the cost for the Council, Police and Fire Service to manage the situation.

3.4 At the beginning of the Scrutiny Review, the Northern Echo reported on 14 May 2012 that:

“Empty Homes across the region cost hard up town halls a staggering £30.4 million in ‘lost’ council tax every year, new figures reveal. Councils are left out of pocket because landlords enjoy generous discounts if properties are left vacant for a long period or if they are undergoing major alterations.

The biggest loss is suffered in County Durham (£7.83 million), followed by Gateshead (£3.45 million), Sunderland (£2.65 million) and Stockton (£2.12 million).”

3.5 It is with that in mind that the Regeneration and Transport Select Committee has attempted to address the problems faced by staff across several Council service areas but primarily within the Private Sector Housing Division of the Housing Department. In turn, the recommendations are meant to assist an increase in revenue for the Council to counteract the income loss identified above.

4.0 Evidence

4.1 During the Review, members were informed of the Stockton approach towards dealing with long term empty and abandoned properties. Members found that:

- The Council has in place a Council Plan 2012 – 2015 and a Housing Strategy 2012 – 2015 that highlights the significance of dealing with Empty Properties.
- The responsibility to keep property and land in good repair and condition lies with the property owner or land owner. It only becomes a problem when owners fail to carry out their responsibilities, have no resources to do so or the identity of the owner is unknown.
- There is no shortage of legislation to deal with empty properties – the difficulty is the practicality of putting it into action and the time it takes. It can be difficult to get owners to cooperate and comply without more assertive actions.
- The Private Sector Housing Division is the first contact point for complaints about problem sites. Where the owner is known, dialogue is commenced with the owner to try and encourage cooperation to bring the property back into use.
- The Private Sector Housing Division works closely with other Council service areas through the Corporate Empty Home Group (Planning, Technical Services, Enforcement, Care For Your Area, Council Tax) to coordinate the approach required to gain cooperation with the owner or alternatively to take enforcement action.
- The Private Sector Housing Division acts as a hub for responding to complaints about empty properties and, after carrying out a risk assessment, will prioritise empty property for action by all relevant service areas.
- The Private Sector Housing Division bids regularly for funding to return empty properties back into use. There is a current partnership with the Homes and Communities Agency (with funding of £1.5million) to bring 99 properties back into use over the three year period to March 2012 and a further 100 properties by March 2020 through the recycling of loans.

4.2 There has in the past been recognition that a lack of action has been driven by concern of the cost – the use of certain legislation could incur a financial penalty or carrying out works in the default of the owner. The Council has been adverse to risk, cases have become long, drawn out affairs and some of the statutory powers available have not been used.

4.3 A change in approach by being more proactive by tackling property owners who blatantly refuse to work with the Council would not necessarily create excessive expenditure but would need to be funded to allow effective action to be taken by officers. The full costs of each action would need to be assessed but the risk would be worth taking. Where statutory powers are used sensibly and in accordance with procedures, the Council would be able to recoup costs increased through the debt recovery process or through the enforced sale procedure (for cumulative debts in excess of £1,000).

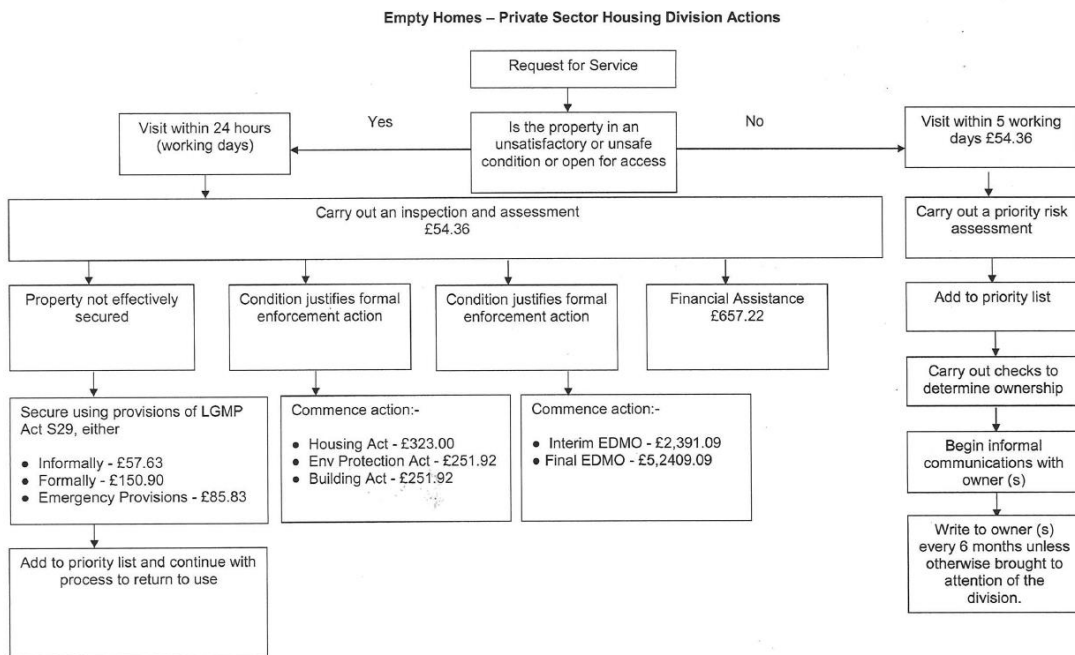
4.4 The Local Government Act 2003 amended the Local Government Finance Act 1992, to allow a billing authority to use information it has obtained for the purpose of carrying out its Council Tax function. This information can be used

to identify vacant dwellings and thereby assist in the actions taken to return the empty property back to use.

- 4.5 At the outset of the Review, the Council Tax database identified 2781 empty properties, equal to the size of the Grangefield Ward, at a cost of £2.12million to the Council in 'lost' Council Tax income. The Council Plan 2012 – 2015 details that 55 properties will be returned to use in 2012 – 2013 through proactive and reactive work, both informally through the provision of advice and support and formally, through the use of a range of statutory enforcement powers. This target is restricted by the availability of staffing resources.
- 4.6 An example case study of work carried out on an empty property is detailed at Appendix 1.

Costs of Dealing With Empty Properties

- 4.7 The Flow Chart below shows how empty properties are dealt with by the Private Sector Housing Division and the indicative costs incurred for each type of informal and formal action, per property.



- 4.8 There are other service areas that incur costs for dealing with empty properties. Examples are detailed below:

Planning Division (per property)

Town and Country Planning Act (Section 215) - 15hrs 15 mins = £236.01

Security and Surveillance Division (per property)

Patrolling and Enforcement Work - 10hrs = £173.25

Services with costs per year

Technical Services = £5,000

Environmental Services = £1,400

Current Legislative Framework

- 4.9 The Council has in place its recently updated Housing Strategy 2012 – 2015 which includes details of how the issues of empty properties are tackled.
- 4.10 There is a raft of legislation available to Councils to deal with long term empty properties. This is summarised at Appendix 2.
- 4.11 As detailed above, each request for service received in relation to an empty property is recorded, the property visited and a risk assessment undertaken to determine how the Council will deal with the property depending on assessment score. The Private Sector Housing Department maintain an Empty Property Priority database (currently 169 properties) of which the Top 15 are the priorities to tackle.
- 4.12 The most frequently used legislation is detailed below:
- **Local Government (Miscellaneous Provisions) Act 1982**
Gives the Local Authority the power to undertake works in connection with the building for the purpose of preventing unauthorised entry to it or to prevent it becoming a danger to public health.
 - **Housing Act 2004**
Makes provision for Local Authorities to take over the management of properties that have been empty for at least 2 years (until 2012, the property only had to have been empty for 6 months) through Empty Dwelling Management Orders.
 - **Town and Country Planning Act 1990**
Makes provisions for the maintenance and improvement of the environment and under section 215 provide the Local Authority with the power to take steps where the condition of property or land adversely affects the amenity of the area.
 - **Building Act 1984**
Makes provision for the Local Authority to take action where a building, because of its condition, is liable to cause damage or be a nuisance to the amenities of the area. The Local Authority can require the owner to carry out the necessary repairs and restoration or demolition the building.
 - **Law Of Property Act 1925**
This is an effective but draconian way to recover debts owed to the Local Authority. The sale of the property is enforced once the owner has declined or refused to pay their debts. Once the property has been sold all debts are cleared from the proceeds of the sale, allowing the Local Authority to recover the costs of any works previously carried out and any remaining proceeds would be paid to the owner.
- 4.13 Those service areas who work towards returning empty properties to use do so with no funding provision for taking action following the failure or refusal of a property owner to comply with a statutory notice. This creates the situation where either no works are carried out by a service area and the property remains in the same condition or works are carried out and the service area covers the debt until it is repaid, if ever.

Best Practice

4.14 Select Committees often research other Local Authorities or agencies to identify best practice or alternative working arrangements. For this review Kent County Council and a group of Councils in the west of England were contracted as they had been nationally recognised as providing above average performance.

4.15 The table below compares the activities of these Local Authorities and Stockton.

Review of Empty and Abandoned Properties – No use empty

| Kent County Council | Stockton Borough Council |
|---|--|
| Develop a loan scheme for renovation £6m, recycling the funds increases pot to £12m | HCA loan scheme of £4m, recycling the funds increases the pot to £15m |
| Managing the fund – dedicated manager | Funds managed in partnership with Registered Provider partners |
| Overseeing the PR Strategy | Loan scheme PR policy with Registered Providers and HCA. PR company support through Vela Homes. Press releases forwarded to Communications Team. |
| Liaising with all relevant parties | Strategic and operational groups, links with Planning, Housing Options, Technical Services, Fire Brigade and the Police. |
| Training and developing skills | In house training and external training |
| Celebrating success and letting residents know about development | Gazette and Stockton News – all PR through DMT |
| Expert knowledge – consultant procured | No consultants procured |
| Legal knowledge – consultants procured | In house legal services |
| Joint working – collection and sharing of data | Strategic and operational meetings for HCA scheme, Tees Valley Private Sector Housing group exists but rarely meets. |

| West of England Councils | Stockton Borough Council |
|---|--|
| Bristol – Loans, 6 months empty and owned for 6 months (owner manages property) | HCA Loan Scheme, 6 month empty and owned for 6 months (previous Tees Valley Empty Homes Scheme in 2009 - £3.2 million) |
| North Somerset – nomination rights a condition of loan (owner manages property) | HCA Scheme – work with Housing Options Division and property managed by Registered Providers for period of lease |
| Bath and North East Somerset – No loans on offer | |
| South Gloucestershire - Loan through local loans scheme | |
| Bristol – 6.5 staff, provision of advice, biannual newsletter; once property empty more than 2 years a more targeted approach is taken. | 1 Private Sector Housing Officer, previously - provision of advice and support, 6 monthly letters; more proactive the longer the property is |

| | |
|--|--|
| | empty with enforcement action. Currently – targeted work on HCA Empty Homes Project. Enforced Sale Procedure to be introduced. |
| Compulsory Purchase Orders (6 to target in next 10 years) | CPO (1) Last resort action (resource intensive and costly to SBC) |
| Empty Dwelling Management Order (1 for a property empty >18 years) | EDMO (2) |

Achievements in Stockton

- 4.16 Currently, there is one Private Sector Housing Officer working full time on returning empty properties to use. From July 2008 to October 2012 there was an Enforcement Officer in post but this post has currently been frozen when the post holder took up another post. The Enforcement Officer was responsible for responding to requests for service relating to empty homes, risk assessing empty property, maintaining the empty property database and working informally with owners to help them return their properties to use. This work is no longer carried out. One of the main roles of the Enforcement Officer was to take action to secure properties open to unauthorised access to prevent them from being a fire risk and a danger to public health. This work has now been allocated to other officers within the Private Sector Housing Division.
- 4.17 From April 2009, 185 properties have been returned to use providing 242 units of affordable housing accommodation.
- 4.18 Funding Schemes to return properties to use. Stockton has always been proactive in bidding for additional capital to return long term empty properties back into use.
- In 2009, a sub regional partnership with Accent Regeneration with funding from the Single Housing Investment Pot (SHIP) brought back to use 29 properties through an acquisition and rental scheme.
 - In 2011, Stockton worked in partnership with Coast and Country Housing to return long term empty properties back into use. Stockton provided no funding for this scheme but worked successfully and effectively with Coast and Country Housing to turn around 7 properties.
 - In March 2012, a sub regional bid to the Homes and Communities Agencies allocated £1m to Stockton and this was topped up with £500,000 from the Council. 99 properties will be brought back into use in the three years to March 2015. Property owners are offered a loan to fund the renovation and improvement of their property, which will then be managed by our partners Coast and Country Housing and Vela for a period of up to 7 years. The funding will be recycled and by March 2020 a further 100 properties will be returned to use. This project is a top priority for the Council and will be the main thrust of the Private Sector Housing Division's empty homes work for the next 7 years.
 - This current scheme is partnership with the HCA will generate additional income for the Council of £1.3million in Council Tax income and £1.7million in New Homes Bonus allocation.

- 4.19 In the past, Stockton Council has successfully led on sub regional empty homes work with the Tees Valley. There is currently no appetite for sub regional working with the Local Authorities partly due to diminishing staffing resources and other priority work areas.
- 4.20 Stockton Council is recognised in both the sub regional and the region as a leading authority in empty homes. We are one of only 2 North East Local Authorities to have applied for Final Empty Dwelling Management Orders. In 2011, the National Empty Homes Agency awarded the Council's Empty Homes Officer the runner up in the National Empty Homes Practitioner of the Year award.

Findings of the Review and the Current Position

- 4.21 The main focus for the Committee was the availability of funding and staffing for the Council, primarily the Private Sector Housing Division, to best facilitate the return of empty properties back into use. The Committee believe that due diligence should be given to an examination of the business case that invest to save opportunities could provide the Council as:
- a) With the current staffing level of 1 Private Sector Housing Officer, the work carried out will be reprioritised. The Private Sector Housing Officer will concentrate primarily on the capital funded scheme with the HCA to return properties to use. This is an extremely labour intensive area of work. No other proactive work will be carried out.
 - b) The Council has been successful in gaining approval for 2 Empty Dwelling Management Orders. These projects will now be allocated to the Private Sector Housing Division's Team Leader to manage and oversee for the next 5-7 years. No further work in relation to Empty Dwelling Management Orders will be carried out.
 - c) Proactive work in relation to the Priority Top 15 – no further work will be carried out.
 - d) Proactive work in relation to the Empty Homes database – there are 169 properties on the database and in previous years, owners have been contracted twice a year for updates on the properties and advice and information has been provided. The bulk of this work will now cease, with the exception of the 6 monthly update letters, their will be no visits to properties or risk assessments made.
 - e) Reactive work in relation to empty properties open for access or a danger to public health – minimal action will be taken to secure properties or to make them safe but no support or advice will be give to property owners, again no risk assessments will be made of the properties.
 - f) It is unlikely that works in default will be carried out, unless the risk to public safety is justified, as there is no budget to fund these works.

R1 The Committee recommend that a business case is explored from increases in Council Tax as an invest to save opportunity to tackle the problem of empty homes through proactive and reactive work across Private Sector Housing and Planning Enforcement.

- 4.22 The anticipated target of properties to be returned to use from 2012–13 is 47 this will provide 68 units of affordable housing accommodation. For example, with 2 additional posts, the number of properties to be returned to use would increase. From 2013-15 a further 220 properties would be returned to use, in addition to 102 properties through the HCA Empty Homes Project. This would be through proactive and reactive work, both informally and formally. In total, 322 properties would be returned to use rather than just the 102 through the HCA Project. The funding from the HCA ends in March 2015 but the Project operates on the basis of recyclable loans and will continue until March 2020.
- 4.23 The proactive and reactive work, both informal and formal, carried out by 2 additional officers over a 12 month period would return to use 110 empty properties. The properties would be returned to use through a range of interventions
- Letters to owners and visits to properties – occasionally just one letter may encourage an owner to return their property to use.
 - Letters to letting agents, mortgage companies and insolvency companies.
 - Work with tracing agents to locate absent owners.
 - Offer of financial assistance to acquire property
 - Offer of financial assistance to refurbish and lease the property
 - Threat of formal enforcement action
 - Formal enforcement action (Empty Dwelling Management Orders, Compulsory Purchase Orders)
 - Enforced Sale Procedure (to be introduced in April 2013)
- 4.24 Returning 110 properties to use a year generates £106,000 NHB income per year for 6 years. This is in addition to the projected £1.7m expected from returning 199 properties to use through the ongoing Empty Homes Scheme (from 2012 – 2025).
- 4.25 By 2019-20, a further 550 properties would be returned to use through empty homes work along with 90 through the recycled funds from the HCA Project. A total of 1052 over the 7 years, rather than 192 through the HCA Project that would be achieved with 1 officer in post.
- 4.26 The Committee requested the reprioritisation of properties empty for just over 6 months to identify those that can be brought back into use sooner than those currently targeted on the Top 15 Priority Database. This option needs to be balanced against the break in ongoing continuity of working to encourage property owners to bring their property back into use as documented evidence of contact with owners is required for the enforcement action that the Council can take. To follow this request, information has been obtained from the Council Tax of all properties that have been empty for 6-11 months and each owner has been contacted and offered financial assistance through the HCA Empty Homes Project to renovate and lease their properties. 350 letters have been sent since December 2012 and to date 57 responses have been received with 4 positive responses showing an expression of interest in the Project. A full review of this approach will be carried out in March 2013.
- R2 The Committee recommend the reprioritisation of empty properties (empty just over 6 months) to identify those that can be brought back into use sooner.**

- 4.27 The Committee asked about financing/ recouping the cost of work using a third party, such as the Community Payback Team to carry out remedial/making safe works to empty properties. Evidence suggests that this could be an option but there are certain restrictions i.e. getting an owners consent as Community Payback are unable to enter private land; the work is not always free and any costs are non recoverable and the safety concerns of the Teams working on empty properties that could be potentially unsafe. The time spent in exploring these options is likely to outweigh the benefits and other areas of work would not be carried out.
- 4.28 The Committee believe that increased publicity of successes when empty properties are returned to use should be sought to assist in tackling this issue. Stockton News can carry articles on empty homes and articles can continue to be submitted for the local press.
- R3 The Committee recommend increased publicity of successes when empty properties are brought back into use to assist tackling this issue.**

Council Tax and Empty Properties

- 4.29 Empty properties affect the level of income for Stockton Council. Dwellings that are unoccupied and substantially unfurnished are currently exempt from Council Tax for up to six months (Appendix 3 – Unoccupied residential hot spots). Dwellings that are unoccupied, substantially unfurnished and either require or are undergoing (or undergone) major repair work or structural alteration within the previous six months to make them habitable, are exempt from Council Tax for up to 12 months. Up until 31 March 2004 a 50% Council Tax discount applied when these exempt periods expired but now local billing authorities have discretion to reduce or remove this discount. The effect of this, where applied, may be to reduce the incentive to keep properties empty.
- 4.30 The Committee heard how the Local Government Finance Act now provides councils more flexibility over the Council Tax charges that can be levied on certain empty properties. The changes will support councils' strategies to bring empty dwellings back into use and offer the potential to raise additional Council Tax revenue. A draft scheme was developed to provide a starting point for discussion and a period of consultation designed to gather feedback and gauge the potential impact, to inform the final scheme design that would be presented to Cabinet in February 2013.
- 4.31 The changes included in the Local Government Finance Act allow councils to:
- Reduce the discount for second homes to 0% (currently this can be set between 10% and 50%)
 - Give a discount of between 0% and 100% for up to 12 months whilst a property is uninhabitable/undergoing major repairs (currently these properties are exempt from Council Tax for up to 12 months)
 - Give a discount of between 0% and 100% for up to 6 months on properties that have become empty and unfurnished (currently these properties are exempt for up to 6 months)
 - Charge an "empty homes premium" of up to 50% on top of the full charge after a dwelling has been empty for more than 2 years (currently these properties pay councils' normal long-term empty charges)

4.32 Councils already have powers to reduce the standard 50% discount that applies after a property has been empty for 6 months, down to 0%, or any percentage between 0% and 50%.

4.33 The Council is seeking to identify ways of:

- Bringing empty properties back into use in order to improve neighbourhoods and reduce homelessness lists; and
- Reducing a budget gap, currently forecast at £11.6m in 2016/2017.

4.34 Implementing changes to Council Tax discounts and exemptions to maximum effect would make a positive contribution to both of these priorities and, at this stage, it is being proposed that, subject to the publication of the enabling legislation and the outcome of consultation, the discount amounts/charges shown in the final column of the table below be applied from 1 April 2013.

| Description | | Discount awarded in 2012/2013 | Discount Amount for 2013/2014 |
|---|----------------------|--|------------------------------------|
| <i>Uninhabitable</i> - Dwellings that are empty, unfurnished and require or are undergoing major structural work to make them habitable (<i>exact definition will be prescribed in Regulations</i>) | | Exempt for 12 months (legislative requirement) | 0% |
| <i>Empty</i> - Dwellings that are no-one's sole or main residence, are unfurnished and do not fall into one of the classes of dwellings that are exempt from Council Tax | Up to 6 months | Exempt for 6 months (legislative requirement) | 0% |
| | 6 months to 2 years | 50% | 0% |
| | In excess of 2 years | 50% | Charge empty homes premium at 150% |
| <i>Second Homes</i> – Dwellings that are furnished but are no-one's sole or main residence | | 10% | 0% |

4.35 Bringing about the above changes provides Stockton Council with the following possible additional income.

| <u>Discount change</u> | <u>Additional amount billed in 2012/2013 inc Police & Fire</u> | <u>Additional amount billed in 2012/2013 (SBC Share)</u> | <u>Estimated additional income for SBC (assumes 70% collection)</u> |
|---|--|--|---|
| Reduce 2 nd homes discount to 0% | £50,700 | £42,000 | £29,400 |
| No discount for uninhabited/properties undergoing major repairs | £81,300 | £67,400 | £47,200 |

| | | | |
|--|------------|------------|-------------------|
| No discount where empty < 6 months | £1,285,800 | £1,065,800 | £746,100 |
| No discount where empty > 6 months < 2 years | £338,600 | £280,600 | £196,400 |
| Charge 150% empty homes prem where empty > 2 years | £442,600 | £366,800 | £201,700 |
| Total | | | £1,275,800 |

4.36 The Regeneration and Transport Select Committee, as part of this review received a pre-consultation report regarding the introduction of more flexibility over the Council Tax charges that can be levied on certain empty properties. The draft scheme was shown to represent a starting point for discussion and a period of consultation designed to gather feedback and gauge the potential impact, so as to inform the final scheme design for presentation to Cabinet in February 2013.

4.37 The Committee raised the following for consideration:

- An example of impacts on Council Tax payers highlighted inheritance of a property and probate. The Committee was reassured that an exemption would continue to applied until probate had been reached.
- An example of uninhabitable property prompted the Committee to request that 'genuine' reasons for the uninhabitable nature could still attract some support / relief for a short period of time and that officers research this matter.
- The purpose of consultation was questioned when a negative response was considered likely but the Committee accepted the legal opinion that carrying out a consultation exercise could protect the Council in the event of any challenge to the decision making process and would provide further information to help understand the potential impact of the proposals.
- More financial information was requested as the process of consultation is developed as concern was raised about the costs possibly outweighing the amount collected.
- Will a hardship fund be developed for people without sufficient funds as some protection measures should be in place?
- The Committee recognise the speculative figures shown especially with regard to the 150% premium being considered for properties empty more than 2 years due to the ease in which to adequately furnish a property and thereby remove the premium. With only one external investigator at the present time the workload could become excessive.
- It is recognised that certain empty properties (depending on their circumstances) will still be exempt from Council Tax, as a number of existing exemption categories have not been included in the Government's review. The availability of these exemptions should continue to be promoted.

In conclusion, the Committee agreed the scheme as presented with the above caveats and reserved the right to further review the scheme, if necessary, when additional information about the consultation feedback and responses to the above issues was available prior to Cabinet in February 2013.

4.38 The following additional information was available at the conclusion of the consultation.

4.39 The Committee requested that officers research whether “genuine” reasons for properties being uninhabitable might still attract some support/relief for a short period of time.

The way that the Local Government Finance Act is worded would allow the Council to specify certain “descriptions” of uninhabitable property (for example properties that have become uninhabitable due to flooding or fire) that could be excluded from the new uninhabitable charges, or could pay a lower percentage than other uninhabitable properties. But this would have to be for a period of 12 months as long as the conditions continued to be met. It could be difficult to accurately define “genuine” and maintain a fair approach when considering some of the reasons that properties are uninhabitable, indeed most owners would probably feel their cases were genuine and this could result in a number of appeals. It is therefore recommended that, initially, a full charge for all uninhabitable properties be introduced from day one. Any cases where the charges cause hardship could be considered for reduction or remission under the hardship scheme outlined above. It is intended that the impact of all the changes to empty homes charges be monitored during the first year of the scheme and if any unforeseen outcomes or adverse impacts emerge, then the Committee’s request could be considered again and the scheme could be revised for future years to alleviate the effects.

4.40 Might the costs/workload associated with collecting the new charges outweigh the amount collected?

The new scheme would generate additional Council Tax income estimated at £1.22m minimum, however there will be more enforcement action and some difficulties monitoring dwellings and obtaining information to raise the correct charge. This will come at the same time as additional workload for the Taxation team associated with billing, collection and enforcement of Local Council Tax Support. The resource implications of all of these changes have been estimated as £100,000 and will be built into the review of the Medium Term Financial Plan. This amount is less than 10% of the revenue raised by the new charges.

4.41 It is recognised that certain empty properties will still be exempt from Council Tax as a number of existing exemption categories have not been included in the Government’s review. The availability of these exemptions should continue to be promoted.

All the available Council Tax discounts and exemptions will continue to be promoted on bills, on-line and when members of the Customer Services / Taxation teams recognise potential new cases through their interactions with Council Tax payers.

4.42 During the consultation period, several owners of empty properties contacted Council Tax Services explaining concern regarding the potential increase to the payments that would be demanded of them. Subsequent close working

between Council Tax Services and Private Sector Housing enabled the property owners to be advised of the options for returning the properties to use and to be signposted to partner agencies to assist owners in returning the properties to use. It is expected that in the future, more property owners will be assisted in this way. The services offered by the Empty Property Team would be promoted through Council Tax publicity.

Challenges, Efficiencies and Improvements

4.43 The Committee learned of the challenges faced by the service areas and how these limit the work that is carried out to return long term empty properties to use. These include:

- Ownership - owners are difficult to find or resistant to have their property returned to use even with the offer of financial assistance.
- Personal Factors – owners taken into care, property inheritance, unresolved ownership matters and properties bought as investments with limited chance of them being returned to use. Dealing with these personal factors is time consuming and does not always bring about the return of the properties to use.
- Property Turnover – problems experienced with properties changing ownership on several occasions in a small space of time.
- Work in Default – many properties are in an unsafe, unsecure and unsightly condition. Enforcement action is carried out by the Council and works have to be carried out in default of the owner. However, there is no budget for works in default and often the works are not carried out and the condition remains the same at the property.
- Debt Recovery – in situations where works in default are carried out, rigorous action is taken to pursue the debts. However, payment plans agreed through the Magistrates Court are only token gestures towards the repayment of the debt - some debtors pay £10 a month for 3 years.
- Prosecution – formal action can be taken and is taken for non compliance with statutory notices. The work involved in prosecution is very intensive and requires officers to work solely on the case; hence full consideration has to be given to decisions to prosecute.

4.44 This review provided an opportunity to look at the efficiencies and improvements that can be made. There is an invest to save opportunity – an increase in revenue to create a further two posts that will ensure an effective and programmed approach to dealing with empty properties across the two main service areas – Private Sector Housing and Planning Enforcement. With the current staffing structure the main focus of work will be on the delivery of the HCA Empty Homes Project, securing Properties open for access and dealing with properties that have a detrimental effect on the neighbourhood. Additional resources will ensure that those areas detailed in 4.21 (a-f) will be carried out. Returning empty properties to use – will generate New Homes Bonus of £1,444 for each property over a period of 5 years. This is income that would not otherwise be available to the Council.

4.45 The Committee understands that to ensure that the Council fully utilises all the legal powers available a one off contingency fund topped up each year would cover costs incurred for carrying out of works in default. Service areas would be able to actively pursue debtors to recover costs and the recovered

monies would then be returned to the contingency fund for recycling to cover further actions. Additionally, recourse to prosecution for non-compliance would follow works in default where appropriate.

- 4.46 The funding will be used to carry out works in the default of a property owner who fails to comply with a statutory notice that has been served to remedy unsafe structures, secure properties that are open for access, clear overgrown gardens, improvement works to run down and dilapidated buildings.

Examples include:-

- Local Government (Miscellaneous Provisions) Act
- Securing property costs ranging from £100 - £750
- Town and Country Planning Act - clearing overgrown gardens costs ranging from £2 - £4000. Refurbishment works to improve dilapidated buildings costs ranging from £3500 (replacement windows), £2000 (replacement rainwater pipes and eaves gutters with scaffolding requirements), up to £10,000 (renewal of roof)
- Building Act - Works to make the property safe, costs range from £3,800 to £7,000

- 4.47 Whilst carrying out certain works in default will not automatically return the property to use, the costs incurred will be recovered from the owner. Should owners fail to repay the debt, charges are placed on the Local Land Charges Register. The introduction of the Enforced Sales Procedure in April 2013 will give services the power to take action to recover unpaid debts by enforcing the sale of these properties.

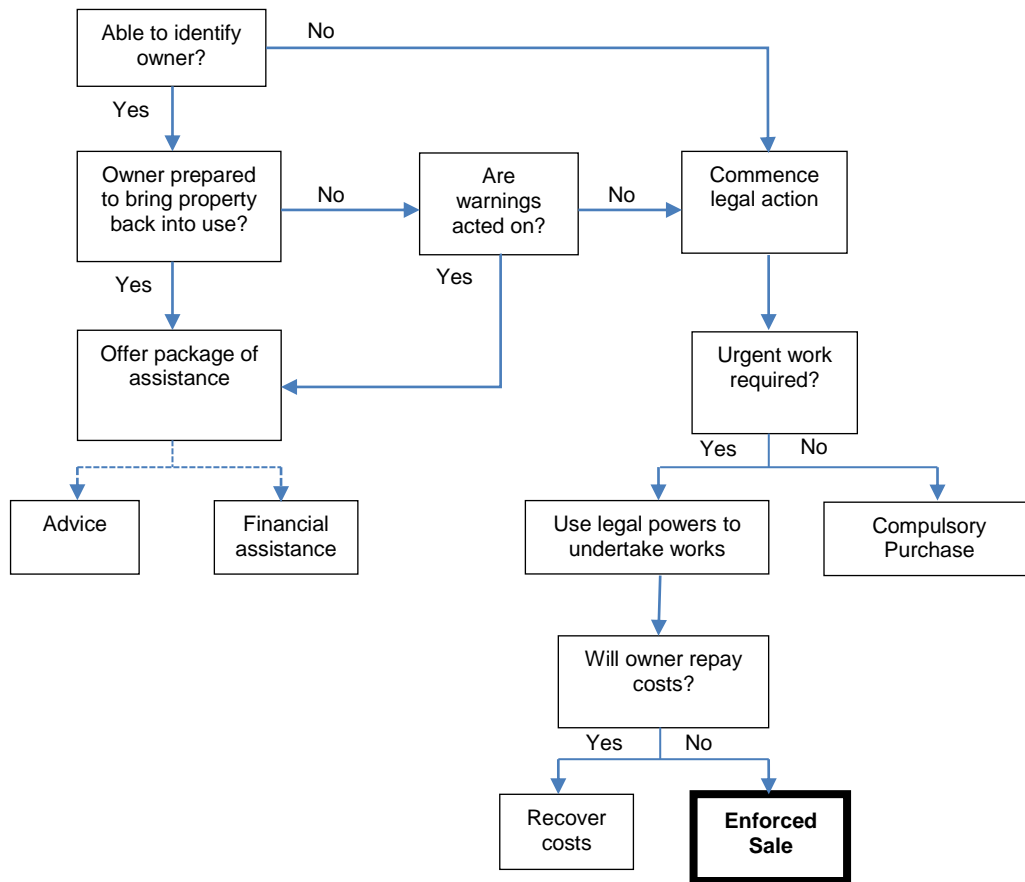
R4 The Committee recommend a business case is explored for utilising one off funding allocation, with an annual top up, to cover the costs of works in default.

- 4.48 An additional piece of legislation that the Private Sector Housing Division asked the Committee to consider was the Enforced Sales Procedure (ESP), an existing power carried out under Section 101 of the Law of Property Act 1925. It has been adopted by a number of local authorities as an effective way of dealing with long term empty properties where the owner cannot be traced or is unwilling to work with the local authority to bring the property back into occupation.

- 4.49 An enforced sale can only be carried out where the local authority has placed a local land charge on the property. This would be carried out if the local authority has undertaken Works in Default action (where the local authority has paid for works to be done in lieu of the owner who is unwilling to act or is untraceable).

- 4.50 The owner is given the opportunity to repay the debt prior to sale. If the monies are not paid within a specified period of time the local authority can take action to bring the property to sale on the open market at an auction or to a preferred buyer. All charges on the property would be cleared from the proceeds of the sale, allowing the Council to recover the cost of the works previously carried out. All costs incurred throughout the actual sale of the property will be recovered provided there is sufficient equity in the property. The remainder would be paid to the owner.

4.51 To reach the need for an ESP the Council Divisions will have followed a prescribed route. The following flowchart provides a visual route to how an ESP is reached.



4.52 An ESP can be used to recoup outstanding land charge debts owed to the Council as well as bring empty properties back into use. There are, therefore, a number of benefits to adopting an ESP which include:

- Financial Benefits - Debts owed to the Council which could otherwise prove impossible to recover can be discharged out of the proceeds of sale. The prospect of the property being sold, in itself, may bring about payment of the debt by the owner/mortgagee.
- Social Benefits - By selling a property that is in a derelict condition to a new owner, there is a strong possibility that it will become inhabited after being refurbished.
- Good Housekeeping - As owners of empty properties become aware of the Council's initiative they may become more readily willing to discharge future debts, carry out works pursuant to statutory notices served and maintain their properties in a reasonable state of repair, thereby, reducing the amount of time spent by the Council dealing with such problems.
- Debt Recovery Period Lapsed - Debt recovery action must be brought within 6 years of the cause of action arising whereas the limitation period for the ESP is 12 years.

4.53 The introduction of the Enforced Sale Procedure would give the Council a further power to deal with empty properties. Where there are debts over £1,000 registered on the property the Council can instigate action to enforce

the sale of the property to recover its debts. This is a last resort measure once all other courses of action have been exhausted.

R5 The Committee recommend the use of the Enforced Sale Procedure to take action to recover debts in excess of £1,000 through enforcing the sale of the empty property and ensuring its return to use.

5.0 Conclusion

5.1 The Committee see the benefits of returning empty properties back into use as being:

- Neighbourhoods – reduced numbers of unsightly and detrimental empty properties, reduced anti-social behaviour and arson.
- New Homes Bonus – received for each empty property returned to use, 200 through HCA Empty Homes Scheme over 8 years = £1.7m
- Affordable Housing for homeless people, improving their quality of life and wellbeing, reduced costs for health and social care.
- Reduction in Homelessness list – use of bed and breakfast accommodation. There has been a 200% increase in numbers requiring this accommodation since 2009 - now 15,336 bed spaces per year compared with 2009 when there were 7,291 bed spaces.

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Appendix 1

Case Study of Work on an Empty Property

August 2006

The Private Sector Housing Division commenced an informal process of undertaking visits to Property 'A' and began corresponding with the owner who initially showed signs of co-operating and undertook some work but this did not continue and work was sporadically undertaken.

April 2010

When the Division had taken the informal process as far as it could it sought authorisation from the Residential Property Tribunal (RPT) to make an Interim Empty Dwelling Management Order (EDMO).

September 2010

Having gathered the required evidence the owner vacated his last known address leaving it empty. The Division placed a notice in the local press and utilised the services of Tracing Agent, in an attempt to trace the owner's whereabouts.

March 2011

The application was submitted to the RPT.

June 2011

RPT hearing was held before a decision was made several weeks later to authorise the EDMO.

November 2011

The Division served the Interim EDMO after the owner failed to complete work on the property.

The Division was then required to obtain costs for the work needed to return the property back into a habitable condition and seek a written agreement with the owner to undertake the work before finding tenants. A series of appointments, meetings and exchanges of correspondence followed (including attending Teesside Magistrates Court to obtain a warrant to enter). Several of the appointments and meetings were not kept by the owner but the Division was required to show that prior to making a Final EDMO that it had taken 'appropriate steps' in accordance with the legislation to have the property occupied.

August 2012

The Division gave the owner notice of its intention to make a Final EDMO. (If a Final EDMO is made the Division do not need the owner's agreement to carry out work or to install a tenant).

October 2012

The Division made the Final EDMO and served notification on the owner who had 28 days in which to appeal to the RPT. The Final EDMO came in to effect and the Division took control of the property for a period of up to 7 years.

The Division arranged for work to be undertaken to make it habitable and is using the rental income to pay for the cost of work.

Appendix 2 Legislation Available to Deal with Empty Properties

Enforcement Powers

| Action Against | Legislation | Action Available | Explanation | Department |
|---|---|---|--|---|
| Unsatisfactory housing conditions. (e.g. where a category 1 or 2 hazard has been identified under the Housing Health and Safety Rating System). | Housing Act 2004 | Serve an Improvement Notice. Declare a clearance area. Emergency Remedial Action. Emergency Prohibition Order. | Council have a duty to eliminate Category 1 hazards and a power to reduce category 2 hazards to an acceptable level. This is done by the service of various notices. | Private Sector Housing Division. |
| Property to be in such a state as to be a nuisance. (e.g. leaking roof or gutters causing dampness to neighbouring property). | Environmental Protection Act 1990 | Serve an abatement notice | The Council has a duty to take steps to abate a statutory nuisance. | Private Sector Housing Division. |
| Property open for unauthorised access or likely to suffer from vandalism, arson or similar. | Local Government Miscellaneous Provisions Act 1982. | Serve Notice | Requirement for the owner to secure the property or allows the Council to secure in an emergency. | Private Sector Housing Division. Environmental Services. |
| Accumulations of rubbish deemed to be a statutory nuisance. | Environmental Protection Act 1990 | Serve an abatement notice | The Council has a duty to take steps to abate a statutory nuisance. | Environmental Services. |
| Buildings or structures that are dangerous, seriously detrimental to the neighbourhood because of their ruinous and dilapidated nature. | Building Act 1984 | Serve Notice | Requirement for the owner to undertake works to make safe, to repair or works of restoration or demolition. In an emergency the Council can make safe. | Private Sector Housing Division Technical Services |

| Action Against | Legislation | Action Available | Explanation | Department |
|--|--|---------------------------------|--|--|
| Long-term vacant properties where the owner is unwilling to co-operate in bringing the property back in to use or where the owner is absent. | Housing Act 1985 | Compulsory Purchase Order | Allows the Council to acquire the property so that the property can be returned to use. | Private Sector Housing Division. |
| | Housing Act 2004 | Empty Dwelling Management Order | Allows the Council to take over the management of the property so that it can be returned to use. | Private Sector Housing Division. |
| Long-term vacant properties where the owner is unwilling to co-operate in bringing the property back in to use or where the owner is absent. | Law of Property Act 1925 | | Allows the Council to enforce the sale of a property to recover costs placed as charges against a property. | Private Sector Housing Division. |
| Unightly land or property adversely affecting the amenity of the area. | Town & Country Planning Act 1990 | Serve Notice | Requirement for the owner to take action against the unsightly external appearance of the property or the land. | Planning Services. |
| | Building Act 1984 | Serve Notice | Requirement for the owner to undertake works of restoration or demolition. | Private Sector Housing Division. Technical Services |
| Vermin present or there is a risk of the attracting of vermin which may detrimentally affect peoples health. | Prevention of Damage by Pests Act 1949 | Serve Notice | Requirement for the owner to take steps in respect of the prevention and eradication of vermin and works to prevent vermin harbourage where there is evidence of infestations. | Environmental Services. Private Sector Housing Division |

| Action Against | Legislation | Action Available | Explanation | Department |
|--|---|------------------|---|-------------------------|
| Blocked or defective drains or sewers. | Building Act 1984 | Serve Notice | Requirement for the owner to remedy blocked or defective drains. | Environmental Services. |
| | Public Health Act 1961 | Serve Notice | Requirement for the owner to remedy defective drains or private sewers. | Environmental Services. |
| | Local Government Miscellaneous Provisions Act 1976. | Serve Notice | Requirement for the owner to remedy blocked private sewers. | Environmental Services. |

APPENDIX 3

Unoccupied Residential Hotspots

