

MUNICIPAL YEAR 2013/2014 REPORT NO. 97

MEETING TITLE AND DATE:

Cabinet 16/10/13

REPORT OF:

Director of Health, Housing
and Adult Social Care

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Agenda – Part: 1

Item: 10

Subject:

**EMPTY PROPERTY COMPULSORY
PURCHASE ORDER (CPO IX)**

Ward: Turkey Street KD 3789

Cabinet Members consulted:

Cllr Ahmet Oykenner, Cabinet Member for
Housing

1. EXECUTIVE SUMMARY

This report invites Cabinet to authorise Officers to make a Compulsory Purchase Order (CPO) in respect of 39 Aylands Road, Enfield, EN3 6PW, an empty residential property. The owner died in January 2006 and to date, the son of the late owner (believed to be sole beneficiary and referred to throughout this report as “the person in control”) has proved un-responsive to attempts by Officers to bring it back into residential use.

2. RECOMMENDATIONS

Cabinet are asked to **authorise**:

- 2.1 the making of a Compulsory Purchase Order (Order) in respect of 39 Aylands Road, Enfield, EN3 6PW, under Section 17 of the *Housing Act 1985* and the *Acquisition of Land Act 1981* (as amended by the *Planning and Compulsory Purchase Act 2004*) as shown on the plan (appendix 1) attached to the report;
- 2.2 the preparation of an Order, and supporting documentation and the taking of all necessary steps (including the conduct of a Public Inquiry if necessary) to obtain confirmation of the Order by the Secretary of State;
- 2.3
 - i) the acquisition of the property (compulsorily) following confirmation of the Order, the payment of compensation and statutory interest and the instituting or defending of proceedings where necessary; or
 - ii) the acquisition of the property by purchase by agreement, with terms for the acquisition to be delegated to the Assistant Director Community Housing Services (Housing) and the Assistant Director for Finance, Resources and Customer Services (Property); and
- 2.4 the disposal of the property in accordance with the Property Procedure Rules.

3.0 INTRODUCTION: AN ENABLEMENT AND ENFORCEMENT APPROACH

3.1. Enfield's Ongoing Commitment: The Borough implements its *Empty Property Strategy* to tackle the challenge of nearly 4,000 privately owned properties standing empty and wasted (as of 31 July 2013 there was a total of 3,171 registered empty properties). This figure includes all categories of empty properties as recorded by Enfield's Council Tax department. Meanwhile the number of households on the housing needs list currently stands at 2,155 (excluding transfers already in social housing). The Borough has an acute housing shortage. A housing market assessment completed in 2010 found that the total annual need is estimated to be 4,200 homes for the next five years. The annual supply is estimated at 2,120, leaving a net need of 2,100 homes per annum. An estimated 1,000 households, excluding transfers, require a three bedroom property or larger. At current levels of Council housing supply it would take 7 years to clear this existing backlog of demand. Adopted 16 years ago, the Council's strategy for dealing with private residential empty properties is being refreshed for 2013/14 and has been renamed the *Private Sector Empty Homes Policy*. Implementation of this revitalised policy is one of the borough's key priorities for 2012-2014 contained in Enfield's *Housing Strategy 2012-2027*. One of the five main aims of Enfield's *Homelessness Strategy (2008-2013)* is to ensure the private housing sector helps to meet the needs of homeless households by bringing empty private sector properties back into use. The Council's 2010 *Making Enfield Better* manifesto also pledged to employ compulsory purchase to return empty homes that "scar the environment" to use.

3.2. National and London Context of Enfield's Empty Property Strategy: The Government's housing strategy document *Laying the Foundations: A Housing Strategy for England* launched on 21 November 2011 states: "We are committed to bringing empty homes back into use, as a sustainable way of increasing the overall supply of housing and reducing the negative impact that neglected empty homes can have on communities." The strategy outlined five measures, including: "awarding the New Homes Bonus to empty homes brought back into use" and "investing £100 million funding to bring problematic empty homes back into use and announcing £50 million of further funding to tackle some of the worst concentrations of empty homes".

The Mayor of London's *The London Housing Strategy* published in February 2010 recognised that where encouragement measures fail to bring empty properties into use, "The Mayor encourages boroughs to use their powers of enforcement through legal sanctions, including the use of Compulsory Purchase Orders and EDMOs (Empty Dwelling Management Orders)." *The Revised London Housing Strategy* (December 2011, for consultation with the public) states that "The Mayor has agreed with DCLG (Department for Communities and Local Government) an indicative figure of £15 million of funding for London to bring empty homes back in use during 2011-15." This "£15 million of funding" is London's allocation of the £150 million announced in the Government's *Laying the Foundations: A Housing Strategy for England* document.

3.3. New Homes Bonus (NHB) Grant: Introduced by the Government in 2010, the NHB awards local authorities financially for housing growth by providing a

reward equivalent to six years' Council Tax for each net additional home from April 2011. The incentive also applies to long-term empty properties brought back into use. Each empty home brought back into occupation will generate a NHB grant award of around £1,400 per Band D annum. Based on 40 properties per year, this will generate over £50k per annum and more than £300k over the six years of the grant's life. Enfield was awarded a NHB grant of £527k for 2011/12. The *Budget 2012/13 and Medium Term Financial Plan (General Fund)* report endorsed by Cabinet on 08 February 2012 agreed that this £527k be set aside to fund the Council's Empty Property Programme, which is an Invest to Save proposal as empty properties brought back into use will generate additional NHB in future years. There was NHB balance of £467k as of 01 April 2013.

- 3.4. Funding Support from the North London Sub-Region (NLSR): In April 2012, the North London Sub-Region (NLSR) announced that Enfield had been allocated £182k for 2012/15 through the Homes and Communities Agency's (HCA) Empty Homes Programme. (This money, which is being held by Islington as the lead authority, is the Borough's share of the funding for London agreed by The Mayor with the DCLG referred to in 3.2.) This money will help fund the Borough's Grants and Nominations Scheme (GANS) referred to in paragraph 3.6. Previously, the NLSR awarded Enfield a total of £432k for the 23 CPOs approved between 2008 and 2011. However, this funding stream for CPO work ceased in March 2011. In anticipation of this, the Council authorised Officers on 26 January 2011 to identify and prioritise financial and staff resources in order to maintain the ongoing CPO programme (CPO V report).
- 3.5. Programme Delivery: Enfield's *Empty Property Strategy* is implemented by the Empty Property Team, comprising of the Empty Property Officer (EPO), Empty Property Enforcement Officer (EPEO), who is seconded from the North London Sub-Region (NLSR), and the Empty Property Grant Officer (EPGO). Enfield continues to work in partnership with its NLSR partners (Haringey, Islington, Camden, Barnet and Westminster) and Sub-Regional staff to tackle empty properties. Within Enfield, the EPO and EPEO oversee the day-to-day running of the strategy and meet on a monthly basis. They work in partnership with the representatives of Environmental Health, Legal, Property Services, Finance, Council Tax, Planning and RSL Enablement. Legal and Property Services, in particular, play a significant role in processing CPOs, acquisition and disposal.
- 3.6. Enablement: The EPO, targets advice, support and grant assistance by way of the GANS scheme at owners of empty accommodation, encouraging them to bring their properties back into use. The supporting funding Enfield received for the GANS scheme via partnership working with the NLSR ceased in March 2011. However, following the successful bid for NHB funding and HCA funding secured by the NLSR (see 3.3 and 3.4), the scheme was re-launched and a temporary Empty Property Grant Officer recruited to process grant applications.
- 3.7. Enforcement: The *Use of Compulsory Powers* report approved by Cabinet in 2003, states that where encouragement and assistance have been exhausted, enforcement action will be considered. Since 2007, 28 CPOs have been

approved by Enfield. A total of 18 CPOs have been confirmed by the Secretary of State to date and most of the remaining cases have been returned to use without the compulsory purchase process having to run its full course. Enfield has disposed of eight properties acquired by CPO; a ninth has been earmarked for auction in November 2013. Seven of these properties have been fully renovated to the “Decent Homes Standard” and are now fully occupied. The eighth CPO property was sold at auction on 14 March 2013 subject to Special Conditions obligating the new owner to fully renovate and return the property to residential use within 12 months. This proactive strategy has placed Enfield at the forefront of London’s campaign to reduce the blight of long term empty properties.

- 3.8. Sustaining the Enforcement Climate: There is ongoing evidence that a real threat of CPO motivates some previously intractable owners into action. Continuing the CPO programme together with ongoing publicity is expected to perpetuate this enforcement climate. Mirroring experience of CPO work elsewhere, Enfield Officers have found that when Orders are *actually* made on properties, most owners eventually belatedly offer to renovate and occupy their properties by doing works themselves or selling. To ensure that owners do not renege on 11th hour proposals, the Council uses legally enforceable cross-undertaking agreements which negate the need for public inquiries and the associated costs (see 3.10 for more information about undertakings). The upshot is that the Council does not have to take possession and disposal action in relation to *every* property subject to a confirmed CPO.

The Property Recommended for CPO: 39 Aylands Road, Enfield, EN3 6PW

- 3.9. Details of the property, including a case history, valuation, a plan and photographs, are contained in appendices 1 and 2. The property has been empty and neglected for over seven years since the registered owner’s death on 29 January 2006. The sole known beneficiary (hereafter referred to as the “person in control”) has to date (July 2013) failed to apply for probate.
- 3.10. A statutory notice has been served in respect of the property that still has effect. The purpose of this notice is to identify the works necessary to make the property free of category 1 hazards (what used to be described as “fit for habitation”). Although these works are unlikely to be carried out by the person currently in control, after compulsory acquisition and disposal, the future owner will be expected to carry out the required works.
- 3.11. If the person in control belatedly starts work, CPO action will continue until such time that works have been fully completed (meeting the Government’s “Decent Homes Standard”) and the property returned to *full continuous residential occupation* to the satisfaction of the Council. In addition, the person in control has the opportunity to enter into a legally enforceable cross-undertaking agreement with the Council to achieve a mutually satisfactory outcome. This means that the Council undertakes not to implement a confirmed CPO within the agreed time period, but if the person in control fails to complete probate, carry out works and return the property to use, then the CPO is executed without objection. This negates the need for a Public Local Inquiry and all the costs involved in the Inquiry process. Where owners enter

into a cross-undertaking, they will be expected to submit proposals of the works to be done and execute all works necessary to meet the “Decent Homes Standard”.

- 3.12. Compulsory purchase provides the only realistic prospect of this property being brought back into residential use in the foreseeable future. A quantitative and qualitative housing gain to the local authority will be achieved by putting the property into auction with a reputable auctioneer or through other acceptable disposal. Sale will be subject to Special Conditions to ensure that the property is fully renovated and occupied within a defined timescale. The Council has a proven track record of this approach, having successfully disposed of eight confirmed CPO cases at auction since April 2010.

Budget Implications of CPO Activity

- 3.13. The total value of 39 Aylands Road, EN1 3PY, is estimated at £240k based on a current indicative valuation (assuming a reasonable state of repair). Once the CPO is confirmed, title can be obtained after three months under a General Vesting Declaration (GVD). The Property will be re-valued at the time the Council takes possession. The property will be sold at auction or through other acceptable disposal. The compensation payable to a dispossessed owner is based on the market value of the property. An owner could make a claim on the Council for up to 90% of the Council's valuation immediately after the date of possession. This must be paid within three months of the claimant's written request.
- 3.14. Full Council on 26 January 2011 (CPO V report) agreed a revenue mechanism to address any interim costs incurred in the disposal process, i.e. an outstanding mortgage or early compensation claim (see 3.13). In practice, most properties subject to CPO are sold on prior to compensation being claimed. There should be minimal delay between acquisition and disposal and therefore the costs associated with this CPO are revenue since they do not provide any ongoing economic benefit to the Council. (See Financial Implications at 6.1.3.)
- 3.15. There is a statutory time limit of 12 years for dispossessed owners to claim compensation.
- 3.16. The *Planning and Compulsory Purchase Act 2004* introduced an entitlement for former owners to claim basic loss payments. The amount is 7.5% of the value of the person's interest in the land, subject to a maximum of £75,000. The Act provides that the entitlement to basic loss payment is lost if the following criteria are all met at the time the CPO is confirmed:
- a specified statutory notice/order has been served on the owner;
 - the statutory notice/order has effect or is operative; and
 - the owner has failed to comply with any requirement of the statutory notice/order.

If owners do not comply with the notices before the CPOs are confirmed, basic loss payments will not be payable. As the empty property enforcement programme progresses, it is anticipated that less properties will require the service of a statutory notice and the risk of having to make basic loss payments will consequently be higher. The Council is liable to make basic

loss payments. Basic loss payments are statutory entitlements payable to former owners for interest in land, subject to certain criteria being met and up to a maximum amount. There are currently on-going CPO cases that may be liable to make such payments in the future which will be met from central contingency as required. Cabinet approved this on 13 February 2013 as recognition of this risk. To date, it has not been necessary to draw on the contingency pot, and Officers will continue to make their best endeavours to avoid having to do so. (See Financial Implications at 6.1.2.)

Associated Non-Recoverable Revenue Costs

- 3.17 An Empty Property Enforcement Officer (EPEO) employed by the NLSR has been progressing the borough's empty property enforcement work. Annual salary cost is £26k.
- 3.18 Legal Services: The in-house legal costs for processing Orders are estimated at £4k per property. If there are objections and a Public Local Inquiry is required, a further cost of around £10k per property will be incurred.
- 3.19 Property Services: In-house property disposal costs (including inspection, valuation, insurance, liaison with legal services, negotiations with the owner / purchaser, security and maintenance) are estimated at £3,500 per property. This estimate does not allow for the possibility of a contested valuation, which could go to the Lands Tribunal. For disposal via auction, the auctioneer's fees are estimated at approx 1% per property inclusive.
- 3.20 Total estimated Legal and Property Services costs: The overall estimated Legal and Property Services costs per property (including possible Public Local Inquiry costs and an auction fee of around £2.5k) are £20k. It should be noted that so far only three out of the 28 approved CPOs have required a Public Local Inquiry. It should also be noted that the aforementioned costs exclude Admin expenses, Legal fees to evict unauthorised occupiers, etc.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 All attempts to negotiate with, and assist the person in control for the above property with returning it to use have been exhausted. An assessment of the most appropriate course of enforcement action was therefore carried out. All options were considered, namely, service of legal notices, enforced sale, EDMOs and compulsory acquisition. The latter was deemed the most appropriate under the circumstances and will achieve a permanent solution.
- 4.2 The other option the Council might pursue is to do nothing. This will avoid budgetary implications, but is not recommended in the light of Council's priorities and manifesto pledge with regard empty properties. By failing to take the proposed action, empty and eyesore properties remain untouched and residences with category 1 hazards remain (what used to be described as accommodation "unfit for habitation"). Enfield's regeneration strategy would also be impaired and the Council:
- ceases to recover any outstanding money it is owed on properties;
 - will fail to meet the serious housing need in Enfield by bringing empty properties back into use;

- sends out a signal that if owners ignore the Council, it will “go away”;
- will not attract the investment on building works that accompanies this programme;
- will not be able to achieve lasting change on empty properties; and
- will not maximise future NHB funding by decreasing the number of empty properties in Enfield and offset the risk of reductions in Formula Grant funding due to national top-slicing on NHB grant.

5. REASON FOR RECOMMENDATIONS

The compulsory purchase of the above property, and its subsequent onward sale, will produce a quantitative and qualitative gain to the borough’s housing stock, will assist in the achievement of the Council’s housing strategies and will turn an existing eyesore into a much needed home. They will address the Council’s strategic supply, regeneration and sustainability objectives, together with the Government and Mayor of London’s expectations cited above.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 This report seeks agreement to proceed with a Compulsory Purchase Order. The revenue cost of processing one CPO (based on using in-house Legal Services) is set at £20,000 and this will be funded from the balance of CPO funding received from the North London Sub-Region, which currently stands at £242k. The CPO expenditure details are outlined below:

Revenue implications 2013/14	Cost of CPO, £
In-house Legal Services costs	4,000
Property Services disposal costs	2,000
Security and maintenance costs	1,500
Auctioneer’s fees (approx 1% of property valuation)	2,500
Public Local Inquiry if there are objections	10,000
Cost of processing CPO	20,000
Funded from residue of income from Sub-Regional Funding	-20,000

- 6.1.2 There is a potential cost for basic loss payments as set out in paragraph 3.16 above. The Council is liable to make “basic loss payments”. Basic loss payments are statutory entitlements payable to former owners for interest in land, subject to certain criteria being met and up to a maximum amount. If this occurs, the payments will be met from central contingency, as approved in the Budget report to Cabinet on 13 February 2013. An Improvement Notice was served on the property and if the person in control fails to comply with this before the CPO is confirmed, no basic loss payment will apply.
- 6.1.3 Title can be obtained under a General Vesting Declaration. On acquisition, the property will be put in to auction with a reputable auctioneer. There may be a minor time delay between acquisition and disposal. If the property market falls between these two points in time there may be some loss of

capital. The acquisition of a property and the disposal should be almost simultaneous and therefore the costs associated with CPOs in this context are revenue and would not qualify as capital since they do not provide any ongoing economic benefit to the Council. Any time difference in the cash flows to the Council will be recognised as debtors or creditors at the year end and an assessment will be made based on the circumstances prevailing at 31 March 2014 of the extent to which the Council's costs are recoverable.

6.2 Legal Implications

The Council has the power under Section 17 of the *Housing Act 1985* to compulsorily acquire land, houses or other properties for the provision of housing accommodation.

In exercising this power, the Council would need to demonstrate that the acquisition of this property achieves a quantitative or qualitative housing gain. It would also have to confirm its proposals for the future disposal of the property to prove that such proposals will secure the return of the property to a habitable standard and back into use. Current practice is to dispose of such properties at auction with a contractual obligation to bring the premises up to a habitable standard within a defined timescale.

In order to acquire legal title to the property to facilitate its early disposal, the General Vesting Declaration procedure is recommended as the appropriate process to be adopted following confirmation of the Order rather than the Notice to Treat procedure.

Once the property has been vested in the Council, its disposal would need to be in accordance with the Council's Property Procedure Rules and the Transfer will be in a form approved by the Assistant Director (Legal Services).

In disposing of the property, it is unlikely that the full costs of the initiation and implementation of the entire CPO process will be recouped and therefore a budget has been identified to meet these additional costs.

In respect of Human Rights, the Convention rights applicable to making of the Order are Article 1: Protection of Property, Article 6: Right to a Fair Trial and Article 8: Right to Respect Private Life and Family. It is not anticipated that Human Rights issues will be successfully raised in relation to these proposals.

6.3 Property Implications

It cannot be guaranteed that the capital funding for acquisition will be replaced entirely on disposal. As stated, the costs of the CPO process will be met out of revenue and in-house costs have been estimated. However, claimants are entitled to seek payment of their own reasonable legal and surveyor's fees as part of the compensation. It should be noted that in the event of the necessity of a referral to the Lands Tribunal to determine CPO compensation, additional costs may be claimed by the dispossessed owner.

Disposal will be in accordance with the Council's current Property Procedure Rules, which requires that: Once the CPO has been confirmed by the

Secretary of State and the property has vested in the Council, the Council will put the property into auction with a reputable auctioneer. The auctioneer's fees will have to be taken into account, together with other relevant costs.

7. KEY RISKS

7.1 By taking the action proposed, the Council incurs the following risks:

- Refusal by the Secretary of State to confirm any CPO submitted.
- Although only likely to happen in the event of a sudden collapse in the property market, it is possible that a valuation may be higher than the resale value of the property. Any resulting shortfall would have to be funded from Council resources. (See Financial Implications under 6.1.3.)
- If the Council fails to deal with empty properties, it risks both a negative assessment of its strategic housing performance by Central Government and the Mayor of London and negative perception by residents of its ability to tackle the problems associated with empty properties.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The compulsory purchase of the above property, and its subsequent onward sale, will contribute towards the Council's strategic and manifesto commitment to return empty homes that scar the environment to use to meet the needs of each area.

8.2 Growth and Sustainability

Returning empty properties to use via compulsory purchase and onward sale:

- produces a quantitative and qualitative gain to the borough's housing stock;
- assists in the achievement of the corporate Housing Strategy. Bringing empty homes back into use is a priority in Enfield's *Housing Strategy 2012-2027*, thus addressing the Council's strategic regeneration and supply objectives, together with the Mayor of London's *Revised London Housing Strategy*.

In particular, tackling empty homes impacts on the local economy by attracting investment in building works (and associated employment opportunities) and generates revenue once vacant properties are reoccupied.

8.3 Strong Communities

Empty properties can have a serious negative effect on the local community. In June of 2003 a survey produced by *Hometrack*, showed that empty properties devalue neighbouring properties by as much as 18%. Typical neighbourhood complaints associated with empty properties include accumulations of rubbish, rodent infestations, overgrown gardens and unsecured premises (attracting anti-social behaviour such as vandalism, drug taking and arson), all issues that mar the street scene and impact on

saleability and property value. Bringing this property back into use will inspire confidence in the locality and be a positive step in regeneration.

9.0 EQUALITIES IMPACT IMPLICATIONS

9.1 An Equality Impact Assessment (EQIA) has been carried out in relation to the *Enfield's Housing Strategy 2012-2027* that shows how the Strategy will support disadvantaged groups, eliminate discrimination and promote equality of opportunity. This Strategy supports fairness for all by promoting accessible and individual housing advice, options and choices for all, and addressing housing need to tackle inequality. Furthermore, the Community Housing Services Strategic Development Team received confirmation from the Council's Equalities Officer in October 2012 that a predictive EQIA will not be required for the proposed *Private Sector Empty Homes Policy* (referred to in paragraph 3.1) "as it is considered not to be relevant or proportionate to complete one for this document."

10.0 PERFORMANCE MANAGEMENT IMPLICATIONS OF THE CPO PROGRAMME

- Enforcement action to tackle vacant private housing where owners are unwilling or unable to return them to use, contributes towards regeneration, building sustainable communities and meeting local needs.
- Properties returned to use can minimise demand for Council resources, enabling these to be focused on other priorities. For instance, there will be a reduction in service requests as empty properties attract a disproportionate number of complaints to Members and Council services such as Environmental Health.
- Sufficient resourcing together with effective corporate and partnership working are imperative to sustain the delivery of CPO activity.

11.0 HEALTH AND SAFETY IMPLICATIONS

11.1 As indicated above and in the appendix, empty residential properties can pose a health and safety risk to Officers, owners and the public. Therefore all due diligence has and will continue be taken by Officers to uphold health and safety standards in relation to the compulsory acquisition and subsequent onward disposal of the properties subject to this report.

12.0 PUBLIC HEALTH IMPLICATIONS

12.1 As pointed out in paragraph 8.3, empty residential properties typically attract neighbourhood complaints about matters such as accumulations of rubbish, rodent infestations, overgrown gardens and unsecured premises (attracting anti-social behaviour such as vandalism, drug taking and arson), all issues that can potentially impact upon the health and well-being of the public. Bringing this property back into use will help towards improving the environment and amenity of the area.

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**LONDON BOROUGH OF ENFIELD
COMPULSORY PURCHASE ORDER 2013
39 Aylands Road, Enfield, EN3 6PW
Section 17 Housing Act 1985 and the Acquisition of Land Act 1981**

**STATEMENT OF REASONS
(Addressing the requirements of *ODPM Circular 06/2004*)**

1.0 Description Of The Order Land, Summary Of History And Valuation

1.1 The Order area comprises of 39 Aylands Road, a vacant mid-terrace house and the associated land (shaded on the accompanying map). The property has been empty and neglected for over seven years since the registered owner's death on 29 January 2006. The sole known beneficiary (hereafter referred to as the "person in control") has to date (July 2013) failed to apply for probate. It has in that time proved to be a detriment to the amenity of the area, with a history of complaints about accumulations of rubbish, the overgrown and neglected state of the rear garden, rats and foxes.

1.2 The property is a two-storey, three-bedroom, mid-terrace house built in the 1930s with a single storey rear extension.

1.3 The Empty Property Team, comprising of the Empty Property Officer, Empty Property Enforcement Officer (employed by the North London Sub-Region) and Empty Property Grant Officer, became involved in September 2012 following a referral from the Council's Environmental Crime Unit. Despite repeated attempts to encourage the person in control to renovate and enable the occupation of the property, to date they have failed to do so.

1.4 Following an external inspection, Property Services prepared an indicative valuation on 21 August 2013 of £240k (no allowance has been made for the state of repair of the property and reasonable condition has been assumed).

2.0 Purpose for Seeking This Compulsory Purchase Order And Explanation Of Proposed Use

2.1 The purpose of seeking this Compulsory Purchase Order (CPO) is to facilitate the return of the property to residential use, and therefore achieve a quantitative and qualitative housing gain to the local authority via onward sale by putting the property into auction with a reputable auctioneer. Sale will be subject to Special Conditions to ensure the property is fully renovated and occupied within a defined timescale. The Council has a proven track record of this approach, having successfully disposed of eight confirmed CPO cases via this method since April 2010. The local authority believes that there is no realistic possibility of this property returning to residential use without the use of a CPO and subsequent resale. However, the Council will continue in its endeavours to encourage the person in control to take steps to bring the property back to use.

2.2 In March 1997 the London Borough of Enfield adopted an *Empty Property Strategy*. This scheme, renamed the *Private Sector Empty Homes Policy*, is being refreshed for 2013/14 and its implementation is one of the borough's key priorities for 2011-2013 contained in *Enfield's Housing Strategy 2012-2027*. Its aim is to tackle the challenge of nearly 4,000 privately owned properties standing empty and wasted. This figure includes all categories of empty properties as recorded by Enfield's Council Tax department. Meanwhile the number of applicants on Enfield's current Housing Register stands at 2,155 (as at 29 July 2013). Enfield Members agreed a new Scheme for allocating council and housing association homes in November 2012 which was implemented from 4 February 2013. The new Allocations Scheme was developed in the context of:

- Changes in housing legislation governing the allocation of Council and housing associations;
- a severe shortage of Council and housing association homes, particularly homes with 3 or more bedrooms; and
- Members' priority for the regeneration of Council-owned estates in the borough.

Under Enfield's previous Allocations Scheme anyone who applied was placed on the Housing Register regardless of whether they had a realistic chance of being made an offer of a Council or housing association home. Under Enfield's new Allocations Scheme only applications with a housing need as defined by the Scheme are recorded on the Housing Register. As a result the number of applications on the Housing Register has reduced significantly from around 7,000 under the previous Allocations Scheme to its current level of 2,155 (excluding existing social tenants wishing to transfer). Within the current Housing Register there is a very large demand for homes with three or more bedrooms numbering 1,004 applicants. The Council has calculated that the time to clear the backlog of applicants needing homes with 3 or more bedrooms will take around 7 years. This is a reduction from the backlog of 26 years cited in the previous CPO report (CPO VIII report approved by Cabinet on 24 April 2013) which was based on rules under Enfield's previous Allocations Scheme.

2.3 The Empty Property Officer targets advice, support and limited grant assistance towards owners of empty accommodation, encouraging them to bring their properties back into use. The strategy, supplemented by the policy and methodology framework outlined in the 2003 *Use of Compulsory Powers* report, envisions that in circumstances where encouragement, facilitation and empowerment have been exhausted, enforcement action in the form of compulsory purchase will have to be considered.

2.4 On 23 January 2008 Council resolved to authorise Officers to make CPOs on three empty residential properties to pilot the policy detailed in the *Use of Compulsory Powers* report endorsed by Cabinet on 15 October 2003. Between September 2008 and April 2013, the Council resolved to authorise Officers to make CPOs on a further 25 empty residential properties. Council on 26 January 2011 authorised Officers to identify and prioritise financial and staff resources in order to maintain the ongoing CPO programme in the event that funding from the North London Sub-Region is reduced or ceases in 2011/12 and thereafter (*Empty Property Compulsory Purchase Orders [CPO V]* report). Subsequently, a successful bid for New Homes Bonus funding has

ensured that dedicated resources are in place to lead this function. It is in line with aforementioned strategy, policy and resourcing framework, commitment and practice that the authority is seeking to compulsorily purchase 39 Aylands Road.

3.0 **The Authority's Justification For Compulsory Purchase**

3.1 The authority's need for the provision of further housing accommodation:

Enfield has a total of 99,670 private sector dwellings, of which 2,148 are vacant (this figure excludes furnished empty properties); 2.0% of the private housing sector. 1,274 of these private empty properties have been vacant for longer than six months. (Stock and empty home figures from 31 July 2013.) Currently there are 2,155 households (excluding Council transfers) on the housing waiting list (housing needs register). This includes 1,888 households living in temporary accommodation.

3.2 Justification for the compulsory acquisition of an empty property for housing use:

39 Aylands Road is a two-storey, three-bedroom, mid-terrace house built in the 1930s that has been vacant for seven years. A memorandum dated 17 April 2009 on Enfield's Council Tax database states that the sole known beneficiary (the "person in control") informed them that "probate had still not been granted but that they are nearing to a conclusion which should take 2-3 months." As aforementioned, to date (July 2013) the person in control has failed to apply for probate. From September 2008, the Council's Environmental Crime Unit has investigated complaints about accumulations of rubbish, the overgrown and neglected state of the rear garden, rats and foxes. The Empty Property Team's involvement began in September 2012 following a referral from the Council's Environmental Crime Unit and is summarised as follows:

Case History

3.2.1 05 September 2012: The Empty Property Officer and Empty Property Enforcement Officer visited 39 Aylands Road. They noted the property was un-modernised and much neglected in appearance with peeled paintwork; rotted / weathered timberwork to the casement windows; an untended front garden and the original roof tiles. The Officer's spoke to a neighbour who advised that the son of the late owner briefly visited the previous weekend regarding a damp problem and confirmed that he is not often seen.

3.2.2 30 October 2012: The Empty Property Officer wrote to the person in control at 39 Aylands Road and their correspondence address to advise that the property had been identified as being unoccupied. The letter pointed out that the Council is working closely with the North London Sub-Region to bring empty properties back into use and outlined various approaches to assist with returning the property to housing use. The letter warned that the Council, together with other boroughs in the Sub-Region, have an active policy to compulsorily purchase property left vacant for a significant period of time. The letter concluded by urging the person in control to get in contact before 29 November 2012, when it was hoped they would be able to provide a full and concise plan of action within realistic timescales. No reply was received.

- 3.2.3 04 December 2012: The Empty Property Officer wrote to the person in control at 39 Aylands Road and their correspondence address reminding them that he had written on 30 October 2012 and had not received a response. The Empty Property Officer pointed out that his previous letter explained why the Council is trying to bring empty properties back into use, and how he may be able to assist them. He emphasised that it was very important that they contact him to discuss his plans for the property. A requisition for information questionnaire under section 16 of the *Local Government (Miscellaneous Provisions) Act 1976* was enclosed and the person in control was reminded that the Council, together with the other boroughs in the North London Sub-Region, have an active policy to compulsorily purchase property left vacant for a significant period of time. The letter concluded by urging the person in control to get in contact before 03 January 2013. The Empty Property Officer also emailed a copy of his letter dated 04 December 2012 and the questionnaire to the person in control on 05 December 2012. No reply was received.
- 3.2.4 08 January 2013: The Empty Property Officer wrote to the person in control at 39 Aylands Road and their correspondence address reminding them of his letters of 30 October 2012 and 04 December 2012. The Empty Property Officer also reminded the person in control that if the Council is unable to bring empty properties back into use, then there is no alternative but to consider the use of compulsory purchase powers to achieve this purpose. The Empty Property Officer stated that it was proposed to refer this case with a recommendation that the Council resolve to make a CPO. The person in control was urged to finalise their proposals and submit detailed written schedules of work for completion of the renovation of the property with estimates where appropriate; together with detailed written timescales for all of the work, outlining when they intended to complete each stage and a time when the house would actually be available for full time occupation. The person in control was further urged to make contact as soon as possible, but certainly no later than 07 February 2013. The Empty Property Officer also emailed a copy of his letter dated 08 January 2013 to the person in control on 09 January 2013. No reply was received.
- 3.2.5 18 February 2013: The Empty Property Enforcement Officer wrote to the person in control at 39 Aylands Road and their correspondence address enclosing a notice of intended entry under the *Local Government (Miscellaneous Provisions) Act 1976* advising of a proposed survey on 26 February 2013.
- 3.2.6 26 February 2013: The Empty Property Enforcement Officer and the Empty Property Officer attended 39 Aylands Road to execute the notice of intended entry; no access was gained. The Officers spoke to neighbours; one provided another correspondence address for the person in control. The Officers were informed that there had been a flood in No. 39 during December 2012 that had affected No. 37.
- 3.2.7 25 March 2013: As the person in control failed to provide access on 26 February 2013, the Empty Property Enforcement Officer wrote to the person in control at 39 Aylands Road and the new correspondence address enclosing another notice of intended entry under the *Local Government (Miscellaneous*

Provisions) Act 1976 advising of a proposed survey on 03 April 2013. The letter sent to the new correspondence address also included copies of all the previous correspondence sent by the Empty Property Officer and Empty Property Enforcement Officer. The Empty Property Enforcement Officer's letter of 25 March 2013 warned that he would be accompanied by a locksmith to provide access and re-secure the property against unauthorised entry after the survey.

- 3.2.8 03 April 2013: The Empty Property Enforcement Officer and the Empty Property Officer conducted a survey. The Officers took extensive photographs of the property. As the person in control failed to attend to provide access, it was necessary for the locksmith to change the lock to the front door. The premises was re-secured against unauthorised entry after the survey. A notice was affixed to the door explaining the action taken and providing the Empty Property Officer's contact details.
- 3.2.9 10 April 2013: The person in control telephoned the Empty Property Officer. It was confirmed that probate had not yet been obtained. The person in control confirmed that they had not yet obtained probate in relation to 39 Aylands Road; and despite having a solicitor and being an only child, they admitted that there was no real reason why they had not done so. It was agreed that the person in control would take steps to recommence concluding probate. The person in control stated that they intended to either let the house to a family member or sell. The Empty Property Officer explained that the Council's Grants and Nominations Scheme (GANS) was also an option and sent some information via email. The person in control confirmed that the new correspondence address provided by a neighbour was his main residence for correspondence and also provided a new email address. He undertook to collect the keys during following week or so, but failed to do so. The Empty Property Officer also advised that he would be receiving an Improvement Notice during the next 7-10 days.
- 3.2.10 17 April 2013: An Improvement Notice under section 11 of the *Housing Act 2004* was served on the person in control at their correspondence address requiring works to remedy category 1 hazards identified at the property. The Empty Property Officer's letter accompanying the notice confirmed his telephone conversation with the person in control on 10 April 2013, during which the person in control gave an undertaking to recommence the process of concluding probate. The accompanying letter also reminded the person in control that the Empty Property Officer's letter of 08 January 2013 had warned of the intention to make a recommendation that the Council resolve to make a Compulsory Purchase Order (CPO) because of their failure to renovate and return the house to full residential use. The letter emphasised that despite the Council's proposal to take compulsory purchase action, there was still an opportunity for them to finalise and submit proposals for bringing the property back into use and pointed out that the works specified in the Improvement Notice should be addressed as part of the refurbishment scheme for returning the property to use. No reply was received.
- 3.2.11 18 April 2013 and 21 May 2013: The Empty Property Officer received telephone calls from the neighbours on either side of 39 Aylands Road about the alleged flood damage caused to No. 37. The Empty Property Officer

subsequently received a letter dated 21 May 2013 from the local MP about the matter on 23 May 2013.

- 3.2.12 03 June 2013: The Empty Property Officer telephoned the person in control of 39 Aylands Road to obtain an update on any progress they had made with the property following their previous conversation on 10 April 2013. The person in control explained that they had been “away” for a few weeks and had also suffered an injury to their toe which had prevented their ability to drive. The Empty Property Officer mentioned that there were on-going complaints about a possible water leak emanating from No. 39. The person in control stated that they were of the opinion that it was extremely unlikely any leak could still be coming from the property but agreed to investigate.
- 3.2.13 03 June 2013: The Empty Property Officer sent a reply to the local MP’s letter dated 21 May 2013 outlining his involvement with regard the complaint of alleged flood damage caused to No. 37. The letter explained that following the original leak in December 2012, the person in control of No. 39 had supplied a dehumidifier to the owner of No. 37 and offered to pay for the electrical supply costs needed to run it. The letter concluded by stating that if the owner of No. 37 was not satisfied with this arrangement and believed that further negotiation with the owner of No. 39 was futile; then she could ask the Council’s Public Health Team to investigate for a possible statutory nuisance under the Environmental Protection Act 1990.
- 3.2.14 20 June 2013: The Empty Property Officer and Empty Property Grant Officer visited the neighbours at No. 37 following further complaints regarding water ingress. The Officers explained to the neighbours at No. 37 that the fact their dehumidifier was still collecting water on a daily basis was likely to be due to their own mode of living rather than due to any water coming from No. 39. The Officers therefore suggested that they stop using the dehumidifier and report back to them if their carpet or walls become wet again.
- 3.2.15 23 July 2013: The Empty Property Officer wrote to the person in control at their correspondence address reminding them of previous correspondence dated 30 October 2012, 04 December 2012 and 08 January 2013 and summarising their telephone conversations of 10 April 2013 and 03 June 2013. The letter reminded the person in control that the Empty Property Officer’s letter of 08 January 2013 had warned of the intention to make a recommendation that the Council resolve to make a CPO because of their failure to renovate and return the house to full residential use. However, this action was deferred in view of explanations given on 10 April 2013 and 03 June 2013. The Empty Property Officer stated that he was very disappointed that the person in control had failed on the following counts: to contact him following their last conversation on 03 June 2013; collect the keys (held by the Council since 03 April 2013); and meet previous requests to finalise and submit proposals for bringing the property back into use as a matter of priority. Consequently, the person in control was warned that a report was being prepared seeking authorisation from a forthcoming Cabinet meeting to make a CPO. The letter concluded by urging the person in control to get in contact before 20 August 2013.

The Property remains vacant and neglected. The person in control has been given ample opportunity and time to comply with the Authority's Improvement Notice and bring the property back in to use. However, they have failed to do so. Therefore, the Authority seeks a Compulsory Purchase Order to ensure the return of the property to full continuous residential use.

3.3 Human Rights Considerations

3.3.1 In recommending the compulsory purchase of this property, regard has been given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights, namely, no one should be deprived of his possessions except in the public interest, and Article 8 relating to the right to full and proper compensation.

4.0 Proposals For The Use Of The Land

4.1 In the event that the Order is confirmed, it is proposed that the property is vested in the Council and put into auction with a reputable auctioneer. Sale will be subject to a covenant to ensure the property is fully renovated and occupied within a defined timescale.

5.0 Statement Of Planning Position

5.1 Prior to it becoming vacant, the property was in residential use. In this instance, no change of use is anticipated. The premises, once returned to residential use, will remain in residential use.

5.3 It is inappropriate for the authority to submit a planning application prior to disposal of the premises, however the onward purchaser will be expected to make such an application as necessary.

5.4 There are no specific proposals in the Borough's Core Strategy, adopted by the Council in November 2010, or the emerging Development Management Document, which affect this property. Core Policy 4: Housing Quality, states that "the Council will use its development management powers to prevent the loss of all homes, including affordable homes and will work with partners to seek to reduce the level of vacant homes".

6.0 Information Required In The Light Of Government Policy Statements

6.1 Not applicable.

7.0 Any Special Considerations Affecting The Order Site

7.1 None are known.

8.0 Details Of How The Acquiring Authority Seeks To Overcome Any Obstacle Or Prior Consent Needed Before The Order Scheme Can Be Implemented

8.1 No obstacle or required prior consent applicable.

9.0 Details Of How The Acquiring Authority Seeks To Overcome Any Obstacle Or Prior Consent Needed Before The Order Scheme Can Be Implemented

9.1 No obstacle or required prior consent applicable.

10.0 Details Of Any Views That May Have Been Expressed By A Government Department About The Proposed Development Of The Order Site

10.0 Not applicable.

11.0 Any Other Information That Would Be Of Interest To Persons Affected By The Order

11.1 The officer leading on this case is the Empty Property Officer, Dave Carter, Health and Adult Social Services, London Borough of Enfield, PO Box 59, Civic Centre, Silver Street, Enfield, Middlesex, EN1 3XL; email: dave.carter@enfield.gov.uk; phone: 020 8379 4314, from whom further information can be obtained.

12.0 Details Of Any Related Order, Application Or Appeal Which May Require A Coordinated Decision When Confirming The Order

12.1 There are no current related orders, applications or appeals.

13.0 List Of Documents Likely To Be Used In An Inquiry

13.1 Enfield's *Empty Property Strategy*, agreed by Council on 26 March 1997.

13.2 Enfield's *Use of Compulsory Powers* report, 15 October 2003.

13.3 Enfield's *Compulsory Purchase Orders* reports I-VIII, agreed by Cabinet and Council between November 2007 and April 2013.

13.4 *Making Enfield Better by Delivering Fairness, Growth, Sustainability*, Labour manifesto 2010.

13.5 *Enfield's Housing Strategy 2012-2027*.

13.6 *The Revised London Housing Strategy*, December 2011 (for consultation with the public).

13.7 *Laying the Foundations: A Housing Strategy for England*, November 2011.

13.8 Empty Property Officer's case file on 39 Aylands Road, including letters to the person in control, etc.

13.9 *Enfield's Private Sector Empty Homes Policy 2013/14*.

The office copies of the above documents are all available for inspection at any reasonable time at the Civic Centre, Silver Street, Enfield, Middlesex, EN1 3XL.



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**LONDON BOROUGH OF ENFIELD
COMPULSORY PURCHASE ORDER 2013
Photographs of 39 Aylands Road, Enfield, EN3 6PW**

