

Housing and Community Engagement Scrutiny Commission

Thursday 28 January 2021

6.30 pm

Online/Virtual. Members of the public are welcome to attend the meeting.
Please contact FitzroyAntonio.williams@southwark.gov.uk for a link to
the meeting.

Supplemental 1 Agenda

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6.	EMPTY HOMES ACTION PLAN [CABINET REPORT] To receive the Empty Homes Action Plan report due to be considered by Cabinet on 2 February 2021. Note: The report will be circulated with the agenda following the cabinet agenda despatch scheduled for Monday 25 January 2021. Also attached to the main agenda is the interim scrutiny report of the Housing and Environment Scrutiny Commission noted by the commission in April 2019 with an intended further report later that year which did not happen. This item has been added to the agenda to enable the commission to revisit where the housing and environment scrutiny had reached with the scrutiny review into Empty Homes.	1 - 11

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Date: 26 January 2021

Item No. 13.	Classification: Open	Date: 2 February 2021	Meeting Name: Cabinet
Report title:		Empty Homes Action Plan	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Leo Pollak, Housing	

FOREWORD - COUNCILLOR LEO POLLAK, CABINET MEMBER FOR HOUSING

With 14,000 households on our council housing waiting list, private rents averaging over £20,000/annum, the council currently housing over 3,000 homeless households and house prices far exceeding Southwark residents' incomes, our efforts to build new council homes and securing affordable housing through the planning system need to be matched with similar efforts to bring empty homes in our borough back into use.

In spite of applying the maximum allowable premium on council tax and the investments made through our empty homes initiative, Southwark has continued to see a rise in long-term empty homes, each and every one of which representing a unacceptable wasted resource in the midst of a housing crisis, as well as often blighting neighbourhoods and attracting anti-social behaviour.

This report marks the beginning of a process of Southwark Council redoubling its effort to tackle the scourge of unused housing in our borough. It commits us to offering enhanced grants and proactive support for bringing private homes in disrepair back into use. It creates a new rolling fund for making compulsory purchases. It signals a further effort to bring forward the refurbishment of void council properties in blocks marked for redevelopment for use as temporary accommodation, further to the almost 1000 council homes we use to house homeless residents. It also seeks to draw more strongly on the intelligence of our communities, making it much easier for residents to initiate an investigation into a suspected empty home, and to improve our data on underutilised housing stock in the borough.

We are requesting a full resource and capacity review for the council to meaningfully assess what's needed to bring down the numbers of empty homes in the borough, as well as a further addendum in the coming weeks providing a broader evidence base showing the drivers of empty homes and the range of circumstances owners find themselves in, to support the development of our strategy.

Crucially, we will also work closely with community groups to make the case nationally for the powers and resources councils need to meaningfully tackle empty homes problems in their area – a simpler quicker and cheaper compulsory purchase process for long-term empty homes; lifting the caps of council tax premium placed on empty homes; new planning powers requiring occupation a given period after completion (or reversion to the council); and a review of the expansive definition of 'second homes' whose exemptions so often reveal investment properties, holiday homes and short-term lets.

I would urge all owners of empty homes in the borough – be they buy-to-leave investors, accidental owners, or developers and housing associations hesitating on what to do with their completed homes - to approach the council where many solutions can be found to meet the housing needs of our residents.

RECOMMENDATIONS

1. To instruct officers to review the resources required to deliver the Empty Homes Action Plan, including the capital requirement needed from the Housing Investment Programme.
2. To agree the following proposed actions, which will be included in a new Empty Homes Action Plan, to bring empty homes back in to use and increase the supply of homes for homeless households in Southwark: (see paragraphs 35-44 for further detail)
 - a. Maximise use of empty homes designated for redevelopment
 - b. Explore offering enhanced grants tied to long-term leasing
 - c. Plan proactive purchase and repair of empty homes
 - d. Further consider use of Empty Dwelling Management Orders
 - e. Improve the data on empty homes
 - f. Raise awareness and provide advice on options to bring properties back in to use
 - g. Incentivise property owners to let their homes through the council's social lettings agency to homeless families.
3. To make representations to government concerning the limitations of legal powers and national policy with regard to the ability of local authorities to take action to return empty properties to use.

BACKGROUND INFORMATION

4. London is facing a housing crisis. At a time when tens of thousands of families across the capital are reliant on temporary accommodation or on waiting lists for a suitable home, it has never been more important to tackle the issue of empty homes. This is a London-wide challenge and Southwark Council is playing its part to address the issue, but national action is also needed to tackle the problem.
5. The number of empty homes is rising across the country and most local authorities have experienced increases in the number of empty homes. Bringing empty homes back into use won't solve the housing crisis by itself, but the council is committed to clamping down on empty homes which are a needless waste and a lost resource, particularly in an area where there is high demand and significant levels of housing need. Empty homes can also create a serious blight on a neighbourhood.
6. The council is committed to 'Take action to reduce the number of empty homes in our borough, so more local people can move into them', as set out in the

Borough Plan 2018-2022.

7. This report provides an update on the complex nature of returning empty homes to use, the current position in Southwark and the steps proposed to increase the number of homes returned to use.
8. The total number of empty homes will vary from day-to-day, as there will be homes that are going through the usual transactional process of being vacated, refurbished and re-let or sold. The focus of this report is on those longer-term homes, which have been empty for six months or more.
9. There are a number of means to bring empty homes back into use from informal measures to the use of enforcement powers, which includes Enforced Sales, Empty Dwelling Management Orders and Compulsory Purchase Orders.
10. Only a small number of owners willingly choose to leave their homes empty. The starting point with owners is to provide advice on guidance on how properties can be returned to use, the benefits of doing so and the support that is available for them to do so. The council provides a number of grants and loans to support owners returning their homes to use. Enforcement action is seen as a last resort if property owners are unwilling or unable to bring their homes back into use.

Empty Homes in Southwark

11. The number of empty homes has historically been derived from council tax records. This is not a completely reliable measure of empty homes.
12. The council will be undertaking research and evidence gathering to develop a more detailed understanding of empty homes in the borough, with the aim of improving and strengthening the approach to capturing and tracking information on empty homes.
13. As at the most recent reconciliation of records, completed in October 2020, there were 3,720 empty homes in Southwark, of which 2,358 were empty for 6 months or more. The proportion of empty homes in the borough is around 2.7%, which is in line with the average percentage of vacant homes in England, though higher than the London average of 2%.
14. The number of recorded longer-term empty properties, vacant for 6 months or more, has increased since last year. Homes can be left empty for a variety of reasons such as the high cost of repairs, issues that have arisen mid redevelopment, probate issues, poor pricing and marketing of the home, difficulty in finding tenants and so on. It is possible that this is, in part, linked to the pandemic; some people intending to move to the borough including students have not been able to move due to restrictions, and others will have moved out.

Private empty homes

15. Approximately 1,300 long-term empty homes are in the private sector. The council has taken action to tackle private empty homes, doing all we can with the levers available to us, but there are limits to the extent that local government can intervene in the private market.
16. From 2013 local authorities were empowered to charge a premium on longer-term empty homes – 200% for properties empty for 2 years and 300% for those empty for 5 years or more. Southwark campaigned for government to introduce this empty homes levy and has applied this discretionary power. 1,009 properties in the borough are subject to this premium.
17. The council already takes steps to work with landlords to encourage and support them to bring empty homes back into use. This includes providing a range of grants and support, including tenancy arrangements and administrative provision.
18. During the COVID-19 pandemic, the council wrote to all landlords in the borough to encourage them to consider using any empty properties to help rehouse key workers and vulnerable people.
19. While there are some options for enforcement of empty homes as set out below, there are significant limitations to local authorities' enforcement powers.

Options for Enforcement Action

20. Enforced Sale Procedure. Local Authorities can force the sale of homes, although there are complexities to this. The reasons for an enforced sale include:
 - Outstanding council tax debt; and
 - Other outstanding debt on the property due to works carried out in default.
21. Empty Dwelling Management Orders (EDMOs). EDMOs were introduced in the Housing Act 2004, and allow Local Authorities to take over management of empty properties without taking over ownership. However, formal approval for an EDMO must be obtained from the First Tier Tribunal, who will need to be assured that the property has been vacant for two years or more; and the property is the cause of nuisance to the community, or a cause of antisocial behaviour. There are number of other exclusions where an EDMO cannot be used.
22. The first step in the EDMO process is the granting of an interim EDMO for a 12 month period. During this time the Local Authority must work with the owner to agree a route to returning the property back into use. The Local Authority can then move to a final EDMO. This lasts for up to 7 years. This will allow for the local authority to carry out necessary works and take over management of the property. Rent can be charged and any costs accrued can be offset against this revenue.

23. The EDMO process is complex. National statistics are not published on the number of EDMOs that have been granted. The last published information indicated that there were very few EDMOs in place across the country.
24. Compulsory Purchase Order. Where it can be proven that no other means is available to a Local Authority which will result in the property being returned to use, the Local Authority can seek to use Compulsory Purchase Orders (CPO). The CPO powers are used as a final option and are governed by legislation and must be in accordance with Government guidance. Any CPO must be in the public interest and must be confirmed by the Secretary of State.

Council Void Properties

25. As the largest stock holding council in London with over 55,000 council homes, and one of the largest social landlords in the country, empty council homes will be a factor in the overall empty homes in the borough. At the point of writing there were 1,047 empty council homes, which equates to approximately 28% of the total empty homes in the borough. The majority of these empty homes are part of major redevelopment and refurbishment programmes, such as the Aylesbury estate, Ledbury and Maydew. A breakdown is provided below:
 - 569 homes are awaiting redevelopment, primarily as part of the Aylesbury regeneration scheme, with the Aylesbury currently hosting 317 households in temporary accommodation
 - 233 are part of significant refurbishment schemes (Ledbury Towers and Maydew House), with 103 void flats at the Ledbury currently being used as temporary accommodation, and Maydew House works have contractor appointed, pre-construction surveys currently progressing, with full works due to commence Spring/Summer 2021
 - 114 homes are having works carried out to so that they can be re-let
 - 31 homes are in the process of being let
 - 55 other properties including new build homes to be let, homes that have been decanted for major works.
26. 80% of empty council homes are either part of major regeneration / refurbishment programmes or designated for disposal. Where possible, suitable homes subject to longer-term regeneration plans are used to house our homeless families as temporary accommodation. The remaining routine 'churn' of council voids makes a small contribution to the proportion of empty homes in the borough.
27. The council's void disposal policy was amended in December 2020, raising the threshold for sales values, explicitly requiring the receipts to be earmarked for new housing investment, for a demonstrable net increase in habitable room space from reinvested sums, including like-for-like replacements.
28. In the development of the Temporary Accommodation Action Plan a review of supply options is underway to look at ways of providing more homes for homeless families. As part of this exercise a number of empty homes on the Aylesbury regeneration scheme will be considered in terms of whether they can

be brought back into use as temporary accommodation before redevelopment.

Housing Association Empty Homes

29. There are 306 housing association voids in Southwark of these 128 are long-term voids, empty for 6 months or more. These are relatively small numbers representing around 1.7% of housing association stock in the borough.

The Empty Homes Team

30. Private sector empty homes initiatives are managed within the Private Sector Housing and Adaptations Team within Asset Management.
31. The Empty Homes Initiative (EHI) works with owners of privately owned empty properties, helping them to find solutions to bringing their empty property back into residential use.
32. The EHI has typically focused on the longer-term empty properties, as these often cause the most nuisance, blight neighbourhoods and attract anti-social behaviour. Given the nature of these cases they often take considerable time to bring back into use and require the most resources. Southwark Council has some of the oldest private sector stock in London and a large number of heritage buildings, therefore the costs associated to bringing these types of long-term properties back into use is often very high. The EHI also deals with all empty properties as they are reported to us as a preventative measure to ensure that the property does not then become a long-term empty.
33. The work involves: tracing empty property owners where properties have been reported to the council and/or identified by the Empty Homes Project Officer, investigation to confirm the property is indeed empty and negotiations on how to bring about the property's reuse. Each stage can often be very lengthy due to a range of factors such as: owners not being resident within the borough or indeed the country; the complexity of the issues causing the properties to be empty; or the owner's unwillingness or resistance to make a decision on what to do.
34. The EHI promotes a range of grants and loans to help owners bring their properties back into use. These grants and loans act as a contribution towards the overall cost of works that property owners carry out and this is paid as a lump sum on satisfactory completion of the works.

KEY ISSUES FOR CONSIDERATION

35. To help further reduce the number of vacant homes in the borough the council is developing this new Empty Homes Action Plan as set out below:
36. Maximise use of empty homes designated for redevelopment. As part of the Temporary Accommodation Supply Action Plan a review of empty homes awaiting redevelopment will be carried out to maximise the number of homes available for homeless households.

37. We will also work with other landlords and developers to lease empty homes at local housing allowance levels, to increase the supply of affordable homes for homeless and key worker households. A generic time-limited template lease is being developed as part of the Temporary Accommodation Supply action plan.
38. Explore offering enhanced grants tied to long-term leasing. Councils have provided enhanced levels of grant and cheap loans to bring empty homes back into use to be used as temporary accommodation to house homeless families. This in turn could reduce reliance on expensive and unsuitable forms of temporary accommodation. This will remain part of our action plan but may require additional funding.
39. Plan proactive purchase and repair of empty homes. The council will make provision in its capital programme to purchase homes where the owner is unable to make an empty home suitable for occupation.
40. Further consider use of Empty Dwelling Management Orders. EDMOs can be used to bring in long-term empty properties back into use and to take over control of that home. The council can carry out essential work and then let the home. Refurbishment and management costs can be recouped from the rental stream. EDMOs can only be used for properties that have been empty for more than 2 years. As explained in paragraph 21, EDMOs are complex tools to use and there are many restrictions and requirements to consider. They can be expensive to bring into effect. Few councils have managed to deliver EDMOs successfully. Nevertheless, we will consider how we can make these work as it is one of the few enforcement tools available to the council.
41. Improve the data on empty homes. We will establish an empty homes reporting line through the council's switchboard. We will improve the information available online, including online reporting, as well as through email. This data will help inform future actions.
42. Raise awareness and provide advice on options to bring properties back in to use. The council will organise a vacant homes publicity campaign to encourage owners to work with the council to bring properties back into use.
43. Incentivise property owners to let their homes through the council's social lettings agency to homeless families. The council will be consulting on a new zero cost private rented sector license fee as part of the refreshed Private Rented Sector Licensing Scheme. The new Platinum standard, will be for landlords letting their homes at Local Housing Allowance rate through the council's lettings agency with a guaranteed income stream, full insurance cover and repairs coverage, and assurances their property will be returned to the landlord in equal or superior condition
44. Campaigning for changes to legislation and national policy. Legislation and policy limit the effectiveness of local action to return empty homes to occupancy. It is clear that the current system does not go far enough to dissuade owners of empty properties. The council will lobby national

government for the following powers and resources, and encourage community partners to add their voice.

- Simpler, swifter and more cost effective enforcement powers. The enforcement powers that local authorities have are limited, are complex and costly to use. Compulsory Purchase Orders on empty homes can be expensive, with often abortive costs associated with them, and will typically take many years to secure. The rules governing how and when Empty Dwelling Management Orders can be used are far too restrictive and in need of reform if they are to become a viable tool for local authorities to return homes to use.
- Use of planning powers to revert property to local authority's affordable housing supply where vacant. Current planning powers do not allow for planning consent to require homes to be occupied.
- Greater flexibility over council tax premiums on empty homes. The council has fully applied the current discretionary maximum of 300% to apply council tax premiums for long term empty homes. Government should allow unlimited council tax premiums on empty homes and greater flexibility to enable local authorities to charge the premium on homes empty for less than 2 years. We will also seek further flexibilities to charge premiums on second homes.
- Resources – the council's housing revenue account (HRA) is historically under-resourced and rent restrictions including a forced rent reduction for four years have significantly reduced the amount of money available to repair and maintain homes, leading to more properties needing major works in order to ensure they are safe to return to occupancy. In the private sector, resources are also stretched and a targeted government grant or loan to help owners of empty homes return them to use would provide a source of funding to enable repairs to bring property up to lettable standard.

Next steps

45. Officers will develop a standalone Empty Homes Action Plan, using the actions agreed in this report, which will be published on the council's website.
46. Officers will review the resources required to deliver the Empty Homes Action Plan, including identifying a capital fund for the compulsory purchase and refurbishment of long-term empty homes. We will seek to support the efforts to supply homes for homeless households in Southwark.
47. The council will make representations to government concerning the limitations of legal powers and national policy with regard to the ability of local authorities to take action to return empty properties to use.

Policy implications

48. In December 2020 Southwark Council agreed the new Southwark Housing Strategy 2020. This contained a commitment to tackling empty homes and making better use of existing properties. This included an action to develop an empty homes action plan.

Community impact statement

49. The Empty Homes Action Plan should benefit all communities through reducing the number of vacant homes in the borough and therefore ensuring more homes are used to house our local residents. The action plan should not have any negative impacts in relation to any of the protected characteristics under the Equality Act.

Resource implications

50. There are many teams that will contribute to the delivery of the action plan including:
- The Council Tax team that produce the empty homes returns
 - The Private Sector Housing and Adaptations Team within Asset Management leading on initiatives and enforcement
 - The Regeneration Team, Resident Services and Housing Solutions working together on use of vacant council homes awaiting redevelopment for use as temporary accommodation
 - External Affairs in supporting the lobbying campaign; and
 - The Private Sector Enforcement team in Environment and Leisure.
51. There are no immediate resource implications from this report. Where possible the council will reduce any resource implications from the action plan through use of its own communications tools, and use of existing staff.

Legal implications

52. There are no direct legal implications arising from this report. There may be further work required to fully understand the legal implications if the council decides to use enforcement powers such as Empty Dwelling Management Orders to address issues with particular properties. This would be covered in a separate report as required.

Financial implications

53. As stated in the next steps section of the report, officers will review the resources required to deliver the Empty Homes Action Plan, including identifying a capital fund for the compulsory purchase and refurbishment of long-term empty homes.

Consultation

54. The council consulted on the Southwark Housing Strategy 2020 as set out in

the Cabinet report to agree the Housing Strategy in December 2020. The Empty Homes Action Plan will assist in part with the delivery of the housing strategy. There are no plans for further consultation at this stage.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

55. The report summarises the limited 'last resort' legal powers available to a local authority to deal with empty properties in its area. Legal advice should be sought from the director of law and governance and her team at an early stage on the development of any policies or strategies to support the action plan involving the use of legal powers and on legal action contemplated on specific properties.
56. Cabinet members, when making a decision on the recommendations in this report are required to have due regard to the public sector equality duty (PSED) in section 149 of the Equality Act 2010. This duty requires the council to consider all individuals when carrying out its functions. Specifically, to have due regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct; advance equality of opportunity and foster good relations between people with protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Cabinet members are referred to the Community Impact statement in paragraph 49.

Strategic Director of Finance and Governance (H&M 20/125)

57. This report is seeking cabinet approval to agree the proposals set out in this report to deliver the empty homes action plan. Implementing and delivering the action plan to bring empty homes back into occupation will require both revenue and capital resources and a review is now necessary to determine the level of resources that are needed. These will be reflected in the respective revenue and capital budgets once identified, considered and approved.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark's Borough Plan 2020 - 2022		
Link: please copy and paste into browser: http://moderngov.southwark.gov.uk/documents/s92006/Appendix%20A%20Southwarks%20Borough%20Plan%202020.pdf		
Southwark Housing Strategy 2020		
Link: please copy and paste into browser: http://moderngov.southwark.gov.uk/documents/s92380/Appendix%20A%20-%20Southwark%20Housing%20Strategy%202020.pdf		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollak, Housing	
Lead Officer	Michael Scorer, Strategic Director of Housing and Modernisation	
Report Author	Perry Singh, Strategy & Business Support Manager,	
Version	Final	
Dated	21 January 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member		
Date final report sent to Constitutional Team	21 January 2021	