



**JOINT SCRUTINY COMMITTEE
(ENVIRONMENT & SUSTAINABILITY SCRUTINY AND
HOUSING & REGENERATION SCRUTINY COMMITTEES)
– 15TH DECEMBER 2020**

SUBJECT: ENFORCED SALE POLICY

REPORT BY: INTERIM CORPORATE DIRECTOR - COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To seek the views of the Scrutiny Committee on a proposed Enforced Sale Policy, prior to its presentation to Cabinet for approval. This is a mechanism by which problematic, long-term empty private sector dwellings, derelict commercial properties and land are brought back into beneficial use where Council debts have been registered against the property but not discharged."

2. SUMMARY

- 2.1 The purpose of this policy is to set out a framework for Caerphilly County Borough Council to use statutory powers under the Enforced Sale Procedure with a view of targeting long-term problematic empty properties, and to bring these properties back into use where possible.
- 2.2 Caerphilly County Borough Council recognises the importance of bringing problematic empty properties back into use, as they can be a source of many problems and are a wasted resource. Long-term empty properties can have a negative impact on the visual amenity in the immediate neighbourhood and cause nuisance to adjacent occupiers. They can also lead to increased fly-tipping, vandalism, arson, potential squatting and other anti-social behaviour.
- 2.3 An Enforced Sale Policy will aim to free up public sector resources, recoup debts owed to the Authority, improve local communities and may increase the supply of affordable housing.

3. RECOMMENDATIONS

- 3.1 That Members recommend to Cabinet the adoption of an Enforced Sale Policy as an enforcement tool for Caerphilly County Borough Council's use.
- 3.2 That Members recommend to Cabinet that a figure of £500 be adopted as the level of debt at which this policy can be implemented.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 Implementation of this policy has the potential to bring problematic empty properties back into beneficial use, recoup debts owed to the Authority, improve local communities and increase the County Borough's affordable housing supply. However, each individual property needs to be considered on its own merits and financial viability.

5. THE REPORT

- 5.1 The purpose of this policy is to set out a framework for Caerphilly County Borough Council to use the Enforced Sale Procedure utilising relevant statutory powers with a view of targeting long-term problematic empty properties, and to bring these properties back into use where possible.
- 5.2 Caerphilly County Borough Council recognises the importance of bringing empty properties back into use, as they are a wasted resource and can be a source of many problems. Long-term empty properties can have a negative impact on the visual amenity in the immediate neighbourhood and cause nuisance to adjacent occupiers. They can also lead to increased fly-tipping, vandalism, arson, potential squatting and other anti-social behaviour.
- 5.3 As a result of problems caused by empty properties, the Authority has to increasingly resort to enforcement activity to deal with them. Such enforcement usually consists of the Authority having to undertake works to the property in default of a notice with a view to recharging the owner the cost of these works. However, such debts are not always paid and become a Charge on the property. Such Charges are only retrievable when the property is sold, which may not be for many years, resulting in a long-term outstanding debt. Enforced Sale is a power contained in Statute, which triggers sale under the Law of Property Act 1925 (Section 103), which allows Local Authorities to act as mortgagors in possession and sell the problematic property to retrieve monies owed.
- 5.4 Whilst there are various actions a Local Authority can take in respect of an empty property, a change in ownership brought about by use of the Enforced Sale Policy is intended to introduce a new owner who it is anticipated will be more able and willing to invest in the property, ensure its occupation and maintain its upkeep in order to bring such properties back into use.
- 5.5 A full copy of the proposed Enforced Sale Policy is included at Appendix One.
- 5.6 In order to utilise the Enforced Sale procedure, a minimum level of debt must be specified. Any debts above this limit will allow utilisation of the Enforced Sale Policy. It is proposed that this level is set at £500, which is comparable with the level set by other Local Authorities in the region who utilise such a procedure.
- 5.7 In addition to the agreed debt threshold, the following criteria must also be met in order to consider an Enforced Sale:
- The debt must not be statute barred (generally under 12-years-old);
 - The debt must be more than 2 months old to give a property owner adequate time to redeem it;
 - The property must be vacant with no prospect of it becoming occupied in the next 6 months;

- If the owner can be traced, they must have demonstrated wilful non-compliance with legislation and compliance with legal notices served in relation to the property;
 - No response has been received to letters regarding the Enforced Sale and non-compliance with legal notices.
- 5.8 Enforced Sale will be considered as a last resort and Officers will attempt to work with the property's owner, if they can be traced and contacted, to provide advice and support in relation to bringing the property back into beneficial use. This can include:
- Informing the owner about the problems being caused by the property being empty, together with its impact upon the wider community;
 - Offering potential financial solutions, including the availability of loans/grants or negotiate the private sale of the property;
 - Highlighting the consequences of allowing the property to fall into further disrepair, including its market value depreciation and risk of enforcement action;
 - Inspecting the property to identify if it is suitable for letting and inform the owner of the works required to bring it up to current standards;
 - Guiding the existing and future owners through the legal requirements of Rent Smart Wales registration and licensing when applicable.
- 5.9 Where an owner cannot be traced or a property is unregistered, the Enforced Sale Policy can still be utilised but it will not be possible to work with the owner prior to action.
- 5.10 Marketing and sale of the property where the Enforced Sale Policy is utilised will differ from a traditional property sale. For example, there is no right of entry for prospective purchasers to view the property and there is no power to put up a 'For Sale' sign.
- 5.11 The Council has a duty to secure the best possible price on a sale. In the first instance, sale will be offered to a preferred bidder. Following a valuation of the property by a suitably qualified surveyor, closed tenders will be invited from all Registered Social Landlords zoned to develop in the County Borough and Caerphilly Homes, with the property being offered to the highest bidder, only if the valuation is met or bettered. Sales to a preferred purchaser or sale at auction must be approved by the relevant Director.
- 5.12 A sale through public auction will be considered if:
- No closed tenders were received for the property;
 - The valuation was not met.
- 5.13 Upon completion of the sale, a bank account will be setup to hold the proceeds of sale (less all costs and charges). Where the owner is known, they will be advised of the sale. Where the owner is not known, the proceeds of sale will be held. In both instances, if the money is not claimed within 12 years the Council is free to allocate such money as it pleases.
- 5.14 It should be noted that if, at any stage prior to sale, the owner should pay all outstanding debt, Enforced Sale is no longer an option.
- 5.15 As the legal process of Enforced Sale is complex, consultation with Legal Services will be carried out in each instance of Enforced Sale.
- 5.16 **Conclusion**

The adoption of an Enforced Sale Policy has the potential to bring many benefits to our local communities by reducing the issues associated with long-term empty properties. It can also increase the housing supply in the County Borough. Such a policy also reduces outstanding debts to the Authority.

6. ASSUMPTIONS

- 6.1 There are no assumptions made in this report.

7. LINKS TO RELEVANT COUNCIL POLICIES

- 7.1 The contents of the report links with *A Foundation for Success (Regeneration Strategy 2018-2023)* objectives in relation to “Supporting Quality of Life”:
- Improve the quality of the existing housing stock through targeted intervention – The utilisation of an Enforced Sale Policy can bring unutilised dwellings back into beneficial use to increase the amount of good quality rental housing in the County Borough.
- 7.2 The report supports the *Corporate Plan 2018-2023* under well-being objective 3 of addressing the supply, condition and sustainability of homes throughout the County Borough by increasing the supply and improving the condition of rental housing.
- 7.3 This report contributes to *Caerphilly Homes Service Plan 2018-23* objective 5 – tackle the determinants of poor health and well-being by improving housing conditions in the private sector.

8. WELL-BEING OF FUTURE GENERATIONS

- 8.1 The Well-being of Future Generations (Wales) Act 2015, sets out seven Well-being Goals which aim to make a positive impact upon the social, economic, environmental and cultural well-being of the area or community concerned. The Enforced Sale Policy aligns with the following Well-being Goals:
- A prosperous Wales;
 - A resilient Wales;
 - A healthier Wales;
 - A more equal Wales; and,
 - A Wales of cohesive communities.
- 8.2 The Well-being of Future Generations (Wales) Act 2015 sets out the sustainable development principles against which all public bodies in Wales should assess their decision-making. The aim of the legislation is to ensure the well-being of future generations through maximising the contribution public bodies make towards the well-being goals. The principle is also known as the five ways of working and the following are relevant in relation to this report:
- Long Term – Utilisation of the Enforced Sale Policy could bring currently empty, dilapidated, problematic properties back into beneficial use for many years to come. The objectives also link with creating sustainable communities by tackling those properties deemed problematic;
 - Prevention – Use of an Enforced Sale Policy can prevent problems associated with currently empty properties, such as squatting and vandalism, from escalating and

- reoccurring;
- Integration – Bringing properties back into beneficial use can impact upon the well-being goals of partner organisations such as Housing Associations and the Local Health Board;
- Collaboration – Enforced Sales can enable collaboration with local Registered Social Landlords and local property owners;
- Involvement – Identifying and addressing problematic properties under this policy will be done in conjunction with local communities, property owners and Registered Social Landlords to bring about a mutually beneficial outcome.

9. EQUALITIES IMPLICATIONS

- 9.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential unlawful discrimination and/or low level or minor negative impact has been identified. Therefore, a full EIA has not been carried out.

10. FINANCIAL IMPLICATIONS

- 10.1 The main aim of the policy is to recover outstanding debts, which is financially beneficial to the Authority.
- 10.2 Caerphilly Homes may purchase properties through this procedure, which would be subject to ensuring a viable Housing Business Plan for potential purchases utilising the Housing Revenue Account and/or prudential borrowing.

11. PERSONNEL IMPLICATIONS

- 11.1 There are no personnel implications in relation to this report.

12. CONSULTATIONS

- 12.1 The draft report has been circulated to the consultees listed below and all comments incorporated into this version of the report.

13. STATUTORY POWER

- 13.1 Building Act 1984, Public Health Act 1961, Housing Act 1985, Local Government (Miscellaneous) Provisions Act 1982, Environmental Protection Act 1980, Prevention of Damage by Pests Act 1949, Law of Property Act 1925.

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Appendices:
Appendix 1 Enforced Sale Policy