

Cheltenham Borough Council

Cabinet 16 April 2013

Compulsory Purchase Resolution

8 Golden Miller Road

Accountable Member	Cabinet Member Housing and Safety, Councillor Peter Jeffries
Accountable Officer	Mark Nelson, Enforcement Manager, Built Environment
Ward(s) Affected	Swindon Village
Key Decision	No
Executive Summary	<p>8 Golden Miller Road, is a semi-detached house built in 1970. The property is privately owned but has been vacant since approximately 2003. Since becoming vacant, the property has deteriorated and complaints have been received by the council concerning lack of maintenance, lack of security, blocked drains, rats, wasps, untidy and overgrown gardens affecting neighbouring properties and a general loss of amenity to the area. All negotiations to improve the property and bring it back into residential use have failed and negotiations to purchase the property have also failed. Although compulsory purchase is seen as a last resort, it must now be considered as a means to bring the property back into residential use and allow renovation to improve its appearance and prevent further loss of amenity to the area.</p>
Recommendations	<p>Cabinet is recommended to:</p> <p>1.1 Authorise the making of a Compulsory Purchase Order ('the Order') under section 226 (1)(a) of the Town and Country Planning Act 1990 to acquire 8 Golden Miller Road, Cheltenham, as shown edged red on the attached plan (Appendix 2) (the Order Land).</p> <p>1.2 Authorise the Enforcement Manager to make any necessary minor or technical amendments to the boundaries of the Order Land.</p> <p>1.3 Authorise the Borough Solicitor to seal the Order and to take all necessary steps, including the publication of all statutory notices and defend the Council at Public Inquiry if necessary, to secure confirmation of the Order and the vesting of the Order land in the Council.</p> <p>1.4 Authorise the Enforcement Manager to continue to negotiate with the owners of interests in the Order Land to secure a purchase of the Order Land prior to confirmation of the Order</p> <p>1.5 In the event that the Secretary of State notifies the Council that it has been given power to confirm the Order, authorise the Borough Solicitor to confirm the Order.</p>

Financial Implications	<p>The council must have sufficient funds to meet all the expenses including legal costs and fees associated with property purchase and sale; any compensation claims associated with the acquisition of property and to meet other heads of claim as appropriate.</p> <p>Funding is available via the housing capital reserve which is earmarked to fund the Housing General Fund capital expenditure. There is currently £500k available in this reserve which will cover the costs of compulsory purchase.</p> <p>The difference between the costs and receipts of compulsory purchase can be funded out of rolled forward Private Sector Renewal funding</p> <p>Once acquired, the property will be sold on and the renovation costs covered by the purchaser.</p> <p>Bringing this property back into use may provide the Council with additional funding courtesy of the New Homes Bonus, which can provide a cash bonus when numbers of vacant properties are reduced.</p> <p>Contact officer: Paul Jones (paul.jones@cheltenham.gov.uk) 01242 775154</p>
Legal Implications	<p>Section 226(1)(a) of the Town and Country Planning Act 1990 enables Local Authorities to acquire any land provided the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to the land being acquired and it is not certain that they will be able to acquire it by agreement.</p> <p>The acquiring authority must not, however, exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic social or environmental wellbeing of the area. The report sets out how this is to be achieved in paragraph 2, Development Proposals.</p> <p>The Council will also need to demonstrate that there is no other reasonable alternative to compulsory purchase to secure the improvement of the property and that it has the resources to fund the acquisition as set out in this Report.</p> <p>The test the Secretary of State applies in deciding whether a CPO should be confirmed is whether there is a compelling case in the public interest. The Cabinet will need to be satisfied that such a compelling case is made out for the compulsory purchase of a private property as referred to in this report i.e. improvements in economic, environmental, and/or social well being of the area.</p> <p>Whilst the human rights of the owner of the land are engaged in the compulsory purchase order process, this is considered to be a legitimate interference for the reasons set out in this report.</p> <p>Contact officer: Lisa Jones (lisa.jones@tewkesbury.co.uk) 01242 774929 or 01684 272695</p>
HR Implications (including learning and organisational development)	<p>None</p>

Key Risks	See Appendix 1
Corporate and Community Plan Implications	<p>The acquisition of 8 Golden Miller Road, subsequent re-sale, renovation and re-occupation contributes positively to the following corporate and community plan objectives:</p> <ol style="list-style-type: none"> 1. To enhance and protect our environment. <p>The proposed development will make use of existing housing stock to provide housing and will improve the appearance, security and local amenity.</p> <ol style="list-style-type: none"> 2. To strengthen our communities. <p>The proposed acquisition and use for residential accommodation promotes safety and security and gives people access to decent and affordable housing.</p>
Environmental and Climate Change Implications	<p>The renovation of the site to modern standards will improve the property in terms of energy efficiency and will help to increase the level of accommodation available, alleviate housing pressures and improve the environmental well being of the area.</p>

1. Background

- 1.1 8 Golden Miller Road is a semi-detached brick built house, built in 1970. The property was bought in October 1979 by the current owner and has been vacant since approximately September 2003. 8 Golden Miller Road is attached to number 10 Golden Miller Road which is currently owner occupied.
- 1.2 8 Golden Miller Road has been vacant for approximately 10 years and is having a detrimental effect on the neighbourhood due to lack of maintenance and the resulting dilapidation of the property. The neighbours have complained to the Council on many occasions since the property became vacant about the effect it is having on their properties and the general well being of the area. There are concerns that it will begin to attract further trespassers leading to vandalism and anti-social behaviour.
- 1.3 The Council have tried to encourage and offer assistance to the owner to undertake repairs and reoccupy the property since becoming aware that it was vacant, but no action has been taken to date. The property has been visited on many occasions to investigate complaints made and to ascertain whether the property was occupied or not. Many letters have also been sent by the Council but no improvements have been made or attempts made to reoccupy the property.
- 1.4 Several 'requisition for information' forms were served under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 following the lack of response from the owner, but no response was received from the owner and no action taken to rectify the complaints. Non-return of a requisition for information form is an offence under the Local Government (Miscellaneous Provisions) Act 1979. Proceedings were taken against the owner for this offence and the case was heard at the magistrate's court on 23rd November 2007. The Council's case was proven and the owner was fined.
- 1.5 Complaints to the Council continued and following further contact from the council, the owner returned a form in February 2010 which advised that he did not wish to co-operate with the

council to bring the property back into use and that it was his intention to sell the property - however there has been no evidence of this to date.

- 1.6 In 2010, the planning enforcement team at the Council served the owner with a section 215 notice under the Town and Country Planning Act 1990 to undertake works to improve the amenity of the area. The Council wrote to the owner on several occasions, however no correspondence or undertakings were received from him and the notice was not complied with. The Council brought a prosecution against the owner in 2011 and the owner was found guilty in his absence for failure to comply with the notice. The Council also carried out limited works in default.
- 1.7 The owner has been contacted on 22nd June 2011, on 8th September 2011 and on 14th March 2012, to advise that the Council wished to purchase his property and that compulsory purchase powers would be considered as a last resort. No response has been received from the owner following these letters and the Council has been unable to start negotiations with the owner.
- 1.8 The Council has made every effort to re-occupy the property and secure the improvement of the property, to the benefit of the street scene and locality generally, without resorting to compulsory purchase. Compulsory purchase is seen by the Council as a last resort and despite extensive attempts to contact and negotiate with the owner of 8 Golden Miller Road, all attempts have failed.

2. Developmental Proposals

- 2.1 Once acquired, the Council intends to sell the property on the open market and in preparation for occupation ensure that it is made secure, cleared of rubbish, maintained to ensure that it does not detrimentally affect any neighbouring properties or the amenity of the area and renovated, where necessary, to ensure that it does not contain any category 1 hazards as specified under Part 1 of the Housing Act 2004.
- 2.2 It will be a condition on sale of the property that the new purchasers carry out the works required to improve the amenity of the area, make the property safe to live in and ensure that the property is re-occupied as soon as possible to prevent further deterioration.
- 2.3 We do not foresee any problems with finding a purchaser as interest has already been expressed in purchasing the property.

3. Human Rights Issues

- 3.1 Circular 06/2004 "Compulsory Purchase and the Crichton Down Rules" states that a compulsory purchase order should only be made where there is a compelling case in the public interest. The council must be sure that the purposes for which it is making the order sufficiently justify interfering with the human rights of those with an interest in the land affected.
- 3.2 In deciding to take compulsory purchase action, regard has to be had to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of dwellings, Article 8 of the Convention. The Council has to weigh the human rights interest of public need as against private property rights and to consider that sufficient justification exists for the making of the compulsory purchase order. By authorising this Order the council is therefore of the opinion that a compelling case exists in the public interest.
- 3.3 In relation to both Article 1 and Article 8, the property is not currently occupied by the owner and the Order will ensure the repair and reoccupation of the property. It will also promote the economic, social and environmental well being of the area; and will bring the property back into use as residential accommodation which will provide a valuable source of urgently needed

accommodation. Furthermore, the owner will receive the market value of the property if it is compulsorily purchased. The making of the Order is therefore considered to be both proportionate and justified in the wider public interest.

- 3.4** It is possible that the resolution to make a compulsory purchase order, or the making of the order itself, may lead the owner to reach a negotiated agreement with the Council and further action may then become unnecessary.

4. Reasons for Recommendations

- 4.1** It is recommended that this action is taken to bring back into use a unit of residential accommodation, improve substandard property and improve the social, environmental and economic well being of the area. Bringing this property back into use will help to strengthen the community and help to resolve local issues caused by the property being vacant.

5. Alternative Options Considered

- 5.1** The owner of the property has been encouraged to bring the property back into use and vacant property grants were offered when they were available. More recently, attempts have been made to negotiate purchase of the property from the owner, but this has failed.
- 5.2** A notice has been served by the Council under section 215 of the Town and Country Planning Act 1990. This, however, has not been successful in improving the amenity of the area as the owner has failed to carry out the works specified and works in default by the Council can only be a temporary measure as the property continues to deteriorate.
- 5.3** Compulsory purchase orders should only be used as a last resort after attempts have been made to encourage the owner to take responsibility for maintaining the property and bringing it back into use. All attempts to encourage the owner to maintain and re-occupy his property have failed.

6. Consultation and Feedback

- 6.1** No response has been received from the owner despite correspondence from the Council to advise that we are considering the compulsory purchase of his property.

7. Performance Management – monitoring and review

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Appendices	1. Risk Assessment 2. Plan of land to be acquired
Background Information	- s215 notice served on property under Town and Country Planning Act 1990 - Housing and Homelessness Strategy 2012-2017