

<b>DECISION:</b>	<b>CABINET</b>
<b>DATE:</b>	<b>5 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<b>COMPULSORY PURCHASE ORDER  FOR PROPERTY KNOWN AS: 2 OVERROSS FARMHOUSE, 26 OVERROSS FARM, LEDBURY ROAD, ROSS ON WYE, HEREFORDSHIRE HR9 7BN</b>
<b>PORTFOLIO AREA:</b>	<b>ENVIRONMENT, HOUSING AND PLANNING</b>

**CLASSIFICATION:** Open, with a separate exempt report

### **Wards Affected**

Ross on Wye, West Ward

### **Purpose**

To seek Cabinet approval to resolve to Compulsory Purchase Order for the property known as 2 Overross Farmhouse, 26 Overross Farm, Ledbury Road, Ross on Wye, Herefordshire HR9 7BN under powers contained under Section 17 (1) (b) of the Housing Act 1985 as amended, and the Acquisition of Land Act 1981 and all other enabling powers for housing purposes.

### **Key Decision**

This is not a Key Decision.

### **Recommendations**

**THAT:**

- (a) Herefordshire Council resolve to Compulsory Purchase Order the property known as 2 Overross Farmhouse, 26 Overross Farm, Ledbury Road, Ross on Wye, Herefordshire HR9 7BN in order to bring the property back into residential use;**
- (b) the Assistant Director of Law Governance & Resilience be authorised to:**
  - execute a General Vesting Declaration should the Compulsory Purchase Order be confirmed.**

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Further information on the subject of this report is available from  
Jane Thomas; Housing Manager (Development) on (01432) 261910

- to the vesting of the property into Council ownership, subsequently offer the property for sale, with terms of sale to include covenants that the house is improved to Decent Homes Standards within a specified timescale.

**(c) That the Chief Officer Financial and Commercial be authorised to:**

- recover such administrative and other charges incurred in any purchase and subsequent sale of the property as permitted by the Compulsory Purchase regulations, together with any other outstanding charges on the property.

## **Key Point Summary**

- To bring a property that has been empty for over 34 years back into residential use
- Resolve the on-going problems for the adjoining neighbours and community
- Meet local housing demand
- Demonstrate to other empty property owners that the Council is committed to returning empty properties back into use.

Information regarding the value of the property and costs associated with a CPO are contained in the EXEMPT Report

## **Alternative Options**

1. The owner has been offered extensive advice and assistance (see Introduction and Background) but has not made any progress in bringing the property back into use. He has expressed interest in selling the property to the Council at a price which is above market value (See EXEMPT Report)
2. The property would not be suitable for an Empty Dwelling Management Order due to the large volume of work required to bring it into a habitable condition. The property is in derelict condition with no internal walls, floors, plumbing, wiring, glazed windows or fixtures and fittings.
3. Failure to bring the property back into use will continue to be a detriment to the adjoining property and neighbourhood as well as the loss of a housing unit.

## **Reasons for Recommendation**

4. This report seeks approval for the Compulsory Purchase of one residential dwelling known as 2 Overross Farmhouse, 26 Overross Farm, Ross on Wye, Herefordshire HR9 7BN under provisions of Part II of the Housing Act 1985.
5. It is considered that the Compulsory Purchase of this house under these powers is the most appropriate way of ensuring its improvement and subsequent occupation.
6. This property is located in the market town of Ross on Wye in a residential cul-de-sac position and has stood vacant and neglected since at least 1977. It is a semi-detached property, but the adjoining property is occupied and the owner has been blighted by the poor condition of 2 Overross Farmhouse and is affected by the value and saleability of her own property. All

attempts to encourage the owner to take steps that would see it ultimately repaired and brought back into use have failed.

7. The Herefordshire Local Housing Market Assessment, show the Net Housing Need for 2011-2016 for the Ross on Wye area is 271, with an estimated 93 requirements for 3 and 4 bed properties.

## **Introduction & Background**

8. Cabinet member approval was given in August 2007 for the Compulsory Purchase Order to be undertaken. However it was originally the Council's intention to work in partnership with a Housing Association in a back to back purchase and develop the property into new affordable accommodation. This would be achieved with financial assistance from the Council through the Affordable Housing Grant, for the possibility of two units being developed.
9. Further investigation showed it was not possible to obtain planning permission for two units as there is insufficient parking for the number of units, due to its detached location to the town centre it could not be developed as a "car free" scheme.
10. Following this, a review was carried out by the Housing Association and the decision was taken that the scheme was not financially viable to develop one unit and therefore the Housing Association withdrew their interest.
11. On confirmation of the Compulsory Purchase Order it is proposed to sell the property with a condition to complete renovation of the property to decent homes standard in order to ensure that the property is reoccupied as soon as possible and provides good quality accommodation for the open market in Ross on Wye.

The evidence below shows there to be a compelling case for this course of action.

- i. A Completion Notice was served by the Council to the owner of the property on 26<sup>th</sup> February 1997, to complete the planning permission with 12 months of the notice or the permission would cease. The Secretary Of State wrote to the Council on the 26<sup>th</sup> June 1997 to confirm they were in agreement, that he did not believe the works will be completed within a reasonable time and confirmed the notice. The owner did not respond or complete the works required.
- ii. During 1999-2001 the Council wrote to the owner on a regular basis offering advice and assistance to bring the property back into use – The owner did not respond other than the completion of the Information Required Notice, which confirmed he was the sole owner of the property and there was no mortgage or other debts outstanding against the empty property.
- iii. In August 2001 a Repairs Notice was served Under Section 189 of the Housing Act 1985 – no work started but owner engaged an Architect and in May 2002 the owner was advised if planning application was not submitted a CPO would be pursued.
- iv. In January 2003 planning permission was obtained by the owner to complete the property, with the support of the Housing Needs & Development Team.
- v. During June 2004 to September 2005 various letters were sent, chasing the owner as work had not started, offering advice and assistance and that a Compulsory Purchase Order would be pursued if no progress was made. By 2006 the owner failed to undertake the work and the planning permission expired.

- vi. In November 2006 Herefordshire Council wrote to the owner to advise they would be interested in purchasing the property at the current full market value, but the owner did not respond.
- vii. In January 2007 Herefordshire Council wrote to the owner to confirm its intention to apply for cabinet approval to seek the Compulsory Purchase Order of the property under Section 17 of the Housing Act 1985. No response was received to this letter.
- viii. In June 2008 Herefordshire Council formally offered to purchase the property from the owner but this was not accepted as the owner did not respond. (See EXEMPT Report)
- ix. In March 2009, following further legal advice, Herefordshire Council again formally offered to purchase the property from the owner based on the District Valuer's valuation (See EXEMPT Report). This offer was also not accepted
- x. During June and July 2011 Herefordshire Council sent letters to owner offering advice and assistance and requested to meet on site.
- xi. In August 2011 Herefordshire Council met the owner on site and offered advice and assistance to try and bring the property back into use. The owner indicated no willingness to work with the Council and expressed no intention in bringing the property back into use.
- xii. In September 2011 Herefordshire Council wrote to the owner again making a formal offer based on the District Valuer's valuation. The letter also advised him that if no progress was made to bring the property back into use a Compulsory Purchaser Order would be pursued. The owner did not respond. (See EXEMPT Report)

## **Key Considerations**

### **The owner will lose his property**

12. Consideration should be given to the taking away of a person's right to own property. However, this property is not the owner's principle home and the owner has made little effort to look after or improve this property, despite numerous offers of assistance from the Council. He has allowed planning permission to lapse without action. The dilapidated condition of the property is a detriment to the neighbourhood.
13. Consideration should be given to the needs of the County in terms of the number of families in need of accommodation and the need of the Overross Farm residents who have had their neighbourhood blighted for over 30 years.
14. For the avoidance of doubt, the owner will not be considered as homeless as his main residence is another property.
15. The owner has been contacted on numerous occasions and has met with Council staff but is unwilling to take any significant action to return this property into use despite the offer of various voluntary options and despite informing the council that he would undertake works and bring the property back into residential use. This course of action does not prevent the owner from taking action to resolve the matter ahead of any Confirmation of the Order.
16. Complaints have been received from the local community regarding the negative impact this property is having upon their properties, and the recommended course of action will be for the

benefit of the neighbourhood.

## **Community Impact**

17. Over the years this property has been a source of complaint from local residents and is blight on the local area. The property is in an area of housing need with a high demand for family accommodation of this size. Bringing the property back into use can only enhance the community.
18. A communication strategy will be developed, in liaison with the Public Relations team, and upon the order being granted the Town Council and community will be consulted.

## **Equality and Human Rights**

19. Human rights need to be considered in this situation. Under the Human Rights Act 1998, Article 1 of the first protocol provides that "Every person is entitled to the peaceful enjoyment of his possessions", and that "No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law".
20. Article 8 also provides that "Everyone has the right to respect for his private and family life and his home" and "There shall be no such interference with the exercise of this right except as in accordance with the law and necessary in a democratic society for the prevention of disorder and crime, for the protection of health and morals, or for the protection of the rights and freedom of others.
21. When considering the use of Compulsory Purchase powers, the local authority has to have regard to their impact in relation to the above Articles. The council has considered the above articles, and in line with the "doctrine of proportionality" considers that given the circumstances and extensive efforts made to engage with the owner and persuade him to take steps to bring the property back into use, that use of Compulsory Purchase powers, in this situation, is not a breach of human rights.
22. By taking this course of action, the Council will not be denying the owner his home, as this property is vacant and has been for over 34 years. Whilst the council acknowledges that if the order will be confirmed it will be depriving him of a long term investment, the Council has offered the owner various options to prevent this course of action, which is a last resort. The owner will not suffer financial loss as he will be compensated for the loss of the property upon completion of the CPO.

## **Financial Implications**

23. The financial details are contained in the EXEMPT Report

## **Legal Implications**

24. The Council has the power to acquire houses or land compulsorily with the consent of the Secretary of State under section 17 of the Housing Act 1985.
25. Compulsory Purchase Orders are only taken as a last resort when all attempts to persuade owners to bring properties back into use have failed. The approval of this report does not preclude negotiations for an agreed sale being resumed nor the opportunity for the current owner to bring the property back into use themselves.

26. Please refer to 18-21 Equality & Human Rights

## **Risk Management**

27. The risks below will have minimum impact and can be managed within the Homes & Communities Division.
- i. CPO presents a lengthy time-consuming procedure. - The property would be sold on as soon as possible to recover funding at the earliest opportunity.
  - ii. The property doesn't reach its reserve price and doesn't sell, the Council are responsible for the maintenance - The estimated sale price (see EXEMPT Report) cannot be guaranteed but the property is in an area of housing demand and evidence does suggest that renovation projects are still selling well.
  - iii. The purchaser fails to renovate the property and it remains empty - The property will be sold with covenants requiring its refurbishment and reoccupation within a specific timescale.
  - iv. The owner could appeal against the CPO and prevent the order. - There is a large body of evidence to show the Council has attempted to persuade the owner to either sell it on or bring it back into use.
  - v. Updated valuation reports are required if delays are incurred – budget is available to cover additional costs.

## **Consultees**

28. The Ward member and local residents adjoining the property have been in regular contact and involved since 1999.
29. Internal colleague from Legal Services, Development Control and Transportation Planning have been consulted throughout this case.

## **Appendices**

30. Confidential Financial EXEMPT Report

## **Background Papers**

Housing Act 1985 (as amended)

Cabinet Member Approval (August 2007)