

# North Tyneside Council

## Report to the Head of Commissioning and Investment

Date: 31 May 2018

Title:  
Compulsory Purchase Order  
in Respect of 25 and 26  
Wellington Avenue, Wellfield  
Estate, Whitley Bay

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Portfolio(s): The Elected Mayor

Cabinet Member(s): Mrs N Redfearn

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Report from Service  
Area:

Commissioning and Investment

Responsible Officer:

Niall Cathie  
Strategic Property Manager

(Tel: (0191) 643 6517)

Wards affected:

St Mary's

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### PART 1

#### 1.1 Executive Summary:

North Tyneside Council is the former tenant of 25/26 Wellington Avenue, Wellfield Estate in Whitley Bay.

These premises were transferred to the Authority on its formation in 1974. Prior to the transfer, the former Tynemouth County Borough Council was the tenant of the premises under the terms of a 99 year lease dated 12 May 1912.

When the premises transferred to the Authority from the former Borough Council it was without record of the then owner and Landlord or any correspondence with them relating to the premises.

The Authority has since been unable to identify the current owner and Landlord and when the lease expired on 11 May 2011, the Authority ceased to have any legal interest in the premises.

The building has subsequently fallen into disrepair whilst vacant and outside of the ownership of the Authority.

At its meeting held on 12 March 2018, Cabinet authorised the making of a Compulsory Purchase Order (CPO) in an attempt to bring this property into the Authority's ownership in order that appropriate works can be carried out to secure its improvement and future beneficial use.

This report seeks approval to the proposed “Scheme” for the premises which confirms the improvement works that the Authority will carry out if it is successful in taking ownership through the use of CPO powers. It also seeks approval to the “Statement of Reasons” which outlines the purpose of the CPO. Both can be approved in accordance with a Delegation to the Head of Commissioning and Investment that was agreed by Cabinet on 12 March 2018.

## **1.2 Recommendation(s):**

It is recommended that the Head of Commissioning and Investment, in consultation with the Elected Mayor, the Head of Finance, the Head of Law and Governance and the Head of Environment Housing and Leisure :-

- a) approve the “Scheme” as shown as Appendix 1 to this report for bringing 25/26 Wellington Avenue back into beneficial use as detailed in Section 1.5 of this report;
- b) approve the “Statement of Reasons” in relation to the CPO for 25/26 Wellington Avenue, as attached as Appendix 2 to this report that will be submitted with the CPO to the Secretary of State for Housing, Communities and Local Government providing the justification for pursuing a CPO based on the information given in Section 1.5 of this report;
- c) agree to officers taking all necessary steps to secure the making, confirmation and implementation of the CPO, including the conduct of a Public Enquiry (if appropriate) to obtain confirmation of the Order by the Secretary of State.

## **1.3 Forward Plan:**

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 16 April 2018.

## **1.4 Council Plan and Policy Framework**

This report relates to the following priorities in the 2018-2020 Our North Tyneside Plan:

Our Places will:

- Be great places to live by focusing on what is important to local people, such as by tackling the derelict properties that are blighting some of our neighbourhoods.
- Offer a good choice of quality housing appropriate to need, including affordable homes that will be available to buy or rent.

## **1.5 Information:**

### **1.5.1 Background**

North Tyneside Council is the former tenant of 25/26 Wellington Avenue, Wellfield Estate in Whitley Bay as shown outlined in red on the plan attached as Appendix 3.

These premises were transferred to the Authority on its formation in 1974. Prior to the transfer, the former Tynemouth County Borough Council was the tenant of the premises under the terms of a 99 year lease dated 12 May 1912.

When the premises transferred to the Authority from the former Borough Council it was without record of the then owner and Landlord or any correspondence with them relating to the premises.

The Authority has since been unable to identify the current owner and Landlord and when the lease expired on 11 May 2011, the Authority ceased to have any legal interest in the premises.

The building has subsequently fallen into disrepair whilst vacant and outside of the ownership of the Authority. This is having a negative impact on the locality and the premises are regularly the subject of anti-social behaviour and are potentially becoming a danger to anybody who trespasses onto the property.

At its meeting held on 12 March 2018, Cabinet authorised the making of a CPO in an attempt to bring this property into the Authority's ownership in order that appropriate works can be carried out to secure its improvement and future beneficial use.

This report seeks approval to the proposed "Scheme" for the premises which confirms the improvement works that the Authority will carry out if it is successful in taking ownership through the use of CPO powers. It also seeks approval to the "Statement of Reasons" which outlines the purpose of the CPO. Both can be approved in accordance with the Delegation agreed by Cabinet on 12 March 2018.

The proposed "Scheme" for the property is to convert it back into two semi-detached three bedroom residential dwellings that can be let out by the Authority as affordable homes as part of its housing stock to persons in housing need.

Attached at Appendix 1 to this report the Scheme details architectural drawings showing how the premises can be sub-divided.

In addition to internal building separation works, the existing roof covering will be replaced, new front doors will be installed, repair works will be carried out to external brick work, new timber garden fencing will be erected and two off-street parking bays will be provided to each property.

The current estimated cost of this work is in the region of £200,000, and funding is available to cover this amount within the Housing Revenue Account either in the financial years 2018/19 or 2019/20 depending when and if the ownership of the Premises transfers to the Authority. This includes the cost of submitting a planning application for a change of use of the premises from a children's home to two private dwellings.

This is the preferred "Scheme" that was endorsed by the Strategic Property Group at its meeting held on 15 May 2018.

The cost of the Scheme will be in addition to the payment that the Authority will need to make to secure ownership of the property through the Upper Tribunal Land Chamber as detailed in Section 2.1 of this report.

The “Statement of Reasons” that is required to support the promotion of the CPO is attached as Appendix 2 to this report. This makes reference to the fact that the work is required to halt the further decline of the premises and its detrimental impact on the immediate locality. It also references the Authority’s Housing Strategy 2016 - 2021 that was agreed by Cabinet in August 2016 and which details the Elected Mayor’s commitment to tackling empty properties which “blight” neighbourhoods.

This report therefore seeks formal approval to the “Scheme” and the “Statement of Reasons”.

If a CPO is not progressed then the property will continue to deteriorate and have further impact on the local area as a target for anti social behaviour.

Should the Authority fail to secure the property through the use of its CPO powers, Officers will consider the options available to the Authority including seeking an Order from the High Court.

## **1.6 Decision options:**

The following decision options are available for consideration:

1. The Head of Commissioning and Investment may approve the recommendations contained within this report and agree the “Scheme” and the “Statement of Reasons” to facilitate the making of the Nos. 25 and 26 Wellington Avenue, Wellfield Estate, Whitley Bay Compulsory Purchase Order 2018.
2. The Head of Commissioning and Investment may decide not to approve the “Scheme” and/or the “Statement of Reasons” in which case the Authority will not be in a position to proceed with the CPO.

Option 1 is the recommended option.

## **1.7 Reasons for recommended option:**

Option 1 is the recommended option as this will allow the Authority to progress the CPO in order to secure ownership of 25 and 26 Wellington Avenue in order to stop the further decline of the premises and its negative impact on the locality and to bring them back into beneficial use.

## **1.8 Appendices:**

Appendix 1: Architectural drawings of the proposed “Scheme”.

Appendix 2: The “Statement of Reasons” to support the use of CPO powers.

Appendix 3: Boundary plan of 25 and 26 Wellington Avenue, Wellfield Estate, Whitley Bay “The Order Land and Property”.

## **1.9 Contact officers:**

Niall Cathie, Strategic Property Manager, tel. 0191 643 6517

## **1.10 Background information:**

Lease dated 21<sup>st</sup> May 1912

Cabinet Minutes - CAB151/03/18

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

The officer time involved with making the CPO, will be contained within existing budgets.

The Authority will use the Absent Owner Procedure of the Upper Tribunal (Lands Chamber) (UTLC) to determine the value of the property compulsorily purchased. The Procedure is used when dealing with cases where an owner of a property cannot be identified as part of the CPO process. The value of the property is a question of fact and opinion determined by the UTLC on the basis of the evidence.

Once the property is valued and the CPO granted the Authority is required to make a payment into court (not to the tribunal) of the sum determined. The Authority would then be able to acquire good title to the property and register its title with the Land Registry.

The former owner (or, in this case their successors in title) then have 12 years to claim the money, or apply for the question of valuation to be re-opened. If they don't, the Authority can claim the money after the 12 year period. Whatever the outcome, the property remains within the ownership of the Authority.

It is estimated that the property has an approximate value of £100,000 in its current condition and that the estimate for sub-dividing the property into two three bedroom homes is approximately £200,000. The value of three bedroom properties within the Wellfield Estate are currently within the region of £180,000.

Funding to cover the cost of compulsory purchasing the property and delivering the preferred "Scheme" is available within the Housing Revenue Account either during the financial year 2018/19 or 2019/20.

### **2.2 Legal**

Under section 226 (1) (a) of the Town and Country Planning Act 1990 a local authority has a power to acquire compulsorily any land in their area in order to facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

Once a CPO is made and the relevant notice has been served, a period of at least 21 days is allowed for objections. If objections are raised and not withdrawn the Secretary of State must call a public inquiry. Following the inquiry the inspector appointed will report to the Secretary of State. The Secretary of State will determine whether or not to confirm the CPO.

Under the legislation, an owner of adjoining land may serve a blight notice if they consider that the CPO Scheme will have a negative impact on the sale price of adjoining land. If a notice is received, the Authority may serve a counter notice to object to the claim of blight. Where such a notice is upheld, the Authority would be required to compensate the owner of the blighted land.

The risk of a blight notice is considered to be negligible with regard to 25 and 26 Wellington Avenue given that the objective of the CPO is to improve the condition of the premises and halt its negative impact on the locality.

The Authority will need to ensure that the Absent Owner Procedure is followed and the appropriate compensation paid into court prior to seeking a General Vesting Declaration being pursued. The UTLC are not able to confirm timescales for dealing with such an application.

## **2.3 Consultation/community engagement**

### **2.3.1 Internal Consultation**

The Strategic Property Group and Ward Councillors have been briefed regarding this matter and the intention to progress with a CPO.

### **2.3.2 External Consultation/Engagement**

Local residents will be consulted as part of the planning process in respect of the proposed "Scheme" for the premises.

## **2.4 Human rights**

The Human Rights Act 1998 places direct obligations on public bodies such as the Authority to demonstrate that the use of CPO powers is in the public interest and that the use of such powers is proportionate to the ends being pursued.

In normal circumstances, the Authority must be sure that the purpose for which it is making the Order sufficiently justifies interfering with the human rights of those with an interest in the land affected.

However, in respect of 25 and 26 Wellington Avenue, the use of CPO powers is only required because the Authority has been unable to identify the owner of the property. Should the owner come forward during the CPO process then the Authority will formally withdraw the CPO as it is expected that the owner will either improve the property or sell it as an asset of value.

## **2.5 Equalities and diversity**

There are no equalities and diversity implications directly arising from this report.

## **2.6 Risk management**

There are no significant risk factors associated with the commencement of the CPO.

## **2.7 Crime and disorder**

Securing ownership of the premises will significantly reduce their decline and negative impact on the local community particularly in terms of attracting anti-social behaviour and being vulnerable to break-in. Crime and disorder issues will also be considered as part of the planning process for the "Scheme".

## 2.8 Environment and sustainability

The current condition of the premises is poor and the proposed “Scheme” will result in a general improvement in the amenity of the surrounding area. Environment and sustainability issues will also be considered as part of the planning process for the “Scheme”.

### PART 3 - SIGN OFF

- The Head of Commissioning and Investment
- The Elected Mayor
- The Head of Finance
- The Head of Law and Governance
- The Head of Environment, Housing and Leisure