

THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE

SECTION 226 (1) (a) OF THE TOWN AND COUNTRY PLANNING ACT 1990

**NOS. 25 AND 26 WELLINGTON AVENUE, WELLFIELD ESTATE, WHITLEY BAY
COMPULSORY PURCHASE ORDER 2018**

STATEMENT OF REASONS FOR MAKING THE ORDER

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(Addressing the Requirements of ODPM Circular 06/2004)

1. Description of the Order Land

The order land and property comprises the land and buildings shown outlined in red on the plan attached as Appendix 1 (The Order Land and Property). Further details are given below:-

Numbers 25 and 26 Wellington Avenue, Wellfield Estate, Whitley Bay

This is a two storey property that was formerly used as a Local Authority children's home having been converted from two semi detached houses situated on Wellington Avenue at the junction with Whitley Road on the Wellfield Estate in Whitley Bay.

The Property was constructed in 1911/12, and is of traditional brick construction with a slate roof. The ground floor accommodates communal living facilities together with an office. To the first floor there are seven bedrooms, two bathrooms and a store. Externally there are garden areas to three sides of the Property and an area of off street parking.

2. The Enabling Power

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

In order to exercise such powers the Authority must be satisfied that the proposed development, redevelopment or improvement is likely to contribute towards one or more of the following objectives:

- the promotion or improvement of the economic well-being of their area;
- the promotion or improvement of the social well-being of their area; or
- the promotion or improvement of the environmental well-being of their area.

3. Purpose for Seeking this Compulsory Purchase Order and Explanation of Proposed Use.

North Tyneside Council (the Authority) is the former tenant of 25/26 Wellington Avenue, Wellfield Estate in Whitley Bay (the 'Property') under the terms of a lease dated 12 May 1912, between Thomas John Taylor (1) and Richard Taylor and James Alfred Taylor (2) for a term of 99 years. The lease was registered with the Land Registry under title number TY447895. Mr Thomas John Taylor is the landlord stated on the lease. (Lease attached as Appendix 2)

The freehold title remains unregistered.

By an assignment dated 31 December 1913, the lease was assigned by the original tenants to the Guardians of the Poor of the Tynemouth Union and the Authority is the present successor in title to the assignees with the Property being transferred to the Authority on its formation in 1974. Prior to the transfer, the former Tynemouth Borough Council was the tenant of the Property having taken over the assets and duties of the Guardians of the Poor of Tynemouth Union. (A copy of the Assignment is attached as Appendix 3)

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

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

The Property has subsequently fallen into disrepair whilst vacant and outside of the tenancy of the Authority.

The Authority is seeking to use Compulsory Purchase Powers in order to secure ownership of the Property to prevent its further decline and the associated negative impact on the locality with the intention to bring the Property back into residential use by converting the Property back into two separate residential dwellings.

4. The Authority's Justification for Compulsory Purchase

Since the Authority vacated the Property in or around 2004, as it was no longer viable to maintain it as a children's home and no alternative use was identified, the Property has been empty save that the Authority has stored some items at the Property, maintained the compliance data (fire risk assessment etc) and endeavoured to ensure that the Property is wind and water tight in an attempt to avert vandalism.

The Authority has taken significant steps to try to locate and identify the whereabouts of the current Landlord; as successor to the original landlord Mr Thomas John Taylor. The steps taken have included:

- a) Land Registry Search - the Authority has carried out a number of searches at the Land Registry and the freehold title is not registered.
- b) Genealogists – the Authority instructed Hoopers International Probate Genealogists (Hoopers) on 27 June 2008, to conduct a full investigation to ascertain the whereabouts of the landlords' successors in title.

On 02 July 2008, Hoopers confirmed that the successors to the title mentioned in the Deed dated 21 May 1912, were Thomas John Taylor, Richard Taylor and James Alfred Taylor.

On 24 July 2008, Hoopers provided a further update expressing difficulties in tracing the successors in title and that further steps would be taken.

On 10 November 2008, the Authority received further correspondence confirming that Hoopers had been able to ascertain that Richard Taylor and James Alfred Taylor were brothers and the sons of John Taylor who was a master builder and mason. There is a possibility, although it has not been possible to confirm this, that John Taylor and the 3rd successor in title Thomas John Taylor were in fact one in the same person meaning the successor in title was Thomas John Taylor and his two sons.

Richard Taylor's estate would have passed to his wife, then son and in turn the sons wife Dorothy Parker Taylor who died in 2006. The executor of Dorothy Parker Taylors will were Messrs Cartmell Shepherd of Viaduct House, Carlisle, CA3 8EZ, who were contacted for information (see below)

James Edward Taylor was presumed to have died intestate as no evidence of a will has been found, and his widow later died intestate on 21 July 1973. A potential successor in title was identified as a William Pritchard but subsequent correspondence with Mr Pritchard at the last known address produced a response from him confirming that he was unable to assist. (Copies of all correspondence from Hoopers International Probate Genealogists is attached as Appendix 4)

Although Hoopers were able to provide a significant amount of information they were not able to provide any clarification in relation to the identity of the Property owner / Landlord and the Authority therefore consulted Cartmell Shepherd Solicitors in Carlisle for further assistance.

- c) Cartmell Shepherd Solicitors - due to the lack of progress and the unsuccessful outcome of Hoopers investigations, the Authority's Legal department made enquiries of Cartmell Shepherds Solicitors of Carlisle on 27 July 2011, to investigate further. In October 2011, Cartmell Shepherds advised they had traced the beneficiaries of a Doris Taylor's Estate. The Authority confirmed costs could be met for further investigations up to a capped level. (Copies of all correspondence from Cartmells Solicitors is attached as Appendix 5)

Regrettably there was a lapse in progress and in a further attempt to progress matters in August 2014, Cartmells Solicitors were asked to take further steps to locate the Landlord / successor in title but again were unsuccessful.

- d) Press notices / social media - as no successor in title had been identified the Authority placed notices in the Local and National press in April / May 2015, in an attempt to prompt the successor in title to come forward. Notices were posted in the:

Whitley Bay Guardian (07.05.2015)

Newcastle Journal (07.05.2015)

London Gazette (07.05.2015) (See example Notice attached as Appendix 6)

Authority's face book and twitter pages (17.04.2015) (See Appendix 7)

No individuals came forward in response to any of the notices.

- e) Lands Tribunal – the Authority approached the Land Tribunal to seek confirmation as to whether they were able to assist and received confirmation by email dated 19 May 2017, that the Land Tribunal did not consider it held jurisdiction to deal with an application by the Authority in relation to unclaimed land / property where the owner could not be identified. (Correspondence attached as Appendix 8)
- f) Bona Vacantia Department - the Authority contacted the Bona Vacantia department to establish whether the Property was one they seek to claim. On 31 July 2017, the Authority received confirmation by email that the Bona Vacantia Department did not intend to take any action in relation to the Property and were unable to assist further. (See email dated 31.07.2017 attached as Appendix 9)

In addition the Authority has given consideration to whether a claim for adverse possession would be appropriate. However it is not possible for the Authority to pursue an application for adverse possession of the Property until at least 12 years following the expiry of the former lease and in the meantime the Property will continue to deteriorate and blight the locality.

As a result of increasing anti social behaviour complaints linked to the Property and the ongoing deterioration of the Property, the Authority has actively considered options available.

The Property forms part of an estate built in the early years of the 20th Century and originally comprised two semi-detached properties, although has subsequently been converted into one building. The only registration of the Property with the Land Registry relates to the Authority's earlier lease which has now lapsed.

The lack of success to identify the owner of the Property has prevented the Authority taking any enforcement action as a result in its deterioration. The Property is currently empty and the general fabric and make up of the building is deteriorating and becoming a concern to the Authority and the wider community. The Property is

increasingly becoming a cause of danger to the public especially children / young people who congregate around it.

Groups of young people are aware that the Property is vacant and are congregating around and at the Property. Repairs are needed to the flat roof structure at the rear of the Property, which would be unsafe if anyone were to climb upon it presenting a risk of falling through. This flat roof is easily accessible and poses the greatest risk to injury to unauthorised persons. Given the time that the Property has been vacant the rear yard area is an attraction for children / young people to congregate and play.

The Authority has recently requested that 'Dangerous Structure' signs are placed around the Property due to concerns regarding the flat roof section and children / young people climbing upon it.

A condition & dilapidations survey was undertaken by the Authority in February 2008 that detailed the cost of required works to be estimated at £24,223.00 at that time. If there had been no further deterioration in the condition of the Property this would equate to a cost of £30,980 (RPI uplift applied). (Schedule of Condition attached as Appendix 10)

Given the passage of time the Property has deteriorated further with significant water ingress and resultant damage to the roof, ceilings and floorboards and the costs of remediation will be significantly higher. A recent quote for necessary repairs to the roof alone has confirmed an estimated cost of £9,000 - £15,000.

It is therefore unlikely that in the event the owner can be identified they would invest the significant amount of money required to bring the Property up to an acceptable standard.

The only effective solution therefore is for the Authority to seek to secure the freehold interest in the Property through the use of Compulsory Purchase Powers, to enable the Property to be repaired and brought back into use in accordance with the agreed Scheme as detailed in Section 6 below.

The decision to exercise Compulsory Purchase Powers in relation to the Property was taken at a Cabinet meeting of the Authority held on 12 March 2018.

5. Human Rights Consideration

In recommending the compulsory purchase of Nos. 25 and 26 Wellington Avenue, regard has been given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights, namely, no one should be deprived of his possessions except in the public interest, and Article 8 relating to the right to full and proper compensation.

The Authority has taken significant and extensive steps to identify the owner of the Property which have proven to be unsuccessful. As a result the exercise of the Compulsory Purchase Powers will enable the Authority to promote and improve both the economic and social well being of the area in a manner that is not depriving any identified individual of his possessions.

6. Proposals for the Use of the Property

The Authority has formally approved a Scheme for the Property to convert it back into two semi-detached three bedroom residential dwellings that will be let out by the Authority as affordable homes as part of its housing stock to persons in housing need.

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 approximately £200,000, and funding is has been formally approved to cover this cost within the Housing Revenue Account of the Authority. (See proposed Scheme attached as Appendix 11).

7. Statement of Planning Position

As a former children's home the current use of the Property falls within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987.

In order to convert the Property back into two general residential dwellings a change of use will be required to Use Class C3 of the Town and Country Planning (Use Classes) Order 1987. Pre-application planning advice taken by the Authority confirms that an application to change the use from Use Class C2 to Use Class C3 will receive positive planning officer support for approval. It is anticipated that the required planning application will be submitted imminently.

8. Special consideration affecting the CPO land

There are no special considerations to be taken into account in relation to the Property.

9. Details of how the Authority will overcome any obstacle or prior consent needed before the CPO Scheme can be implemented.

Planning consent and Building Regulation approval will be required in order to change the use of the Property and convert it into two dwelling. The necessary applications are due to be submitted imminently and advice taken to date confirms that these are likely to receive a positive officer recommendation for approval given that the Property is located within a residential estate..

10. Views from other Government Departments

Homes England has been consulted on the proposal by the Authority to secure the ownership and improvement of the Property by way of Compulsory Purchase Powers. This Government Agency has confirmed that it is supportive of the Scheme to bring the premises back into use as two affordable homes for rent by persons in housing need as part of the Authority's Housing Stock.

11. Other information of interest to persons affected by the Order

There is no other information which might be of interest to those affected by the CPO. No residents will be displaced and no businesses need relocating. As the owner of the Property cannot be identified the persons affected by the order are those living in the vicinity of the Property who will benefit from the social and economic improvement of the area.

12. Details of any related order, application or appeal that may require a co-ordinated decision by the Secretary of State.

There is no related order, application or appeal.

Council Contact: Owners of properties affected by the Order who require information about the Compulsory Purchase Order process can contact Niall Cathie – Strategic Property Manager at North Tyneside Council, Quadrant West, The Silverlink North, Cobalt Business Park, NE27 0BY, Tel. 0191 6436517, email address: niall.cathie@northtyneside.gov.uk