

# **Transitional Private Sector Empty Property Policy 2008/9**

# TRANSITIONAL PRIVATE SECTOR EMPTY PROPERTY STRATEGY 2008/9

## Background

### Introduction

1. This is Chester-le-Street District Council's Transitional Empty Property Strategy and has been introduced to reduce the number of empty homes within the council's district. The need to reduce the number of empty homes has been widely recognised for several years mainly through the campaigning of organisations such as the Empty Homes Agency and in response the Government has introduced a number of measures aimed at encouraging the reuse of empty homes. The Government has proposed that each Local Authority adopts an Empty Property Strategy and appoints an Empty Property Officer. Chester-le-Street District Council has designated an EHO to act as its Empty Property Officer to oversee and take appropriate action in respect of empty properties within the Council's district. In developing the Council's Empty Property Strategy consideration has been given to government's guidance to both owners and local authorities entitled "*Empty Properties-Unlocking the Potential*". A Housing Green Paper was published on July 2007 entitled "*Homes for the Future: More affordable, More sustainable*". In this paper the government states that local authorities, as part of their strategic housing role, should make better use of empty homes when looking to increase the housing supply. The overall outcome that this strategy sets out to achieve is to provide a corporate response to deal with empty properties promptly and efficiently resulting in properties standing empty for shorter periods of time and consequently fewer empty properties within the Council's district.

2. The Empty Property Strategy has been developed to target and deal with empty private sector properties which have been empty for 12 months or more. It sits alongside and links into a range of other key Council plans and policies especially the Corporate Plan, the Housing Strategy, the Community Strategy and the Private Sector Housing Renewal Policy all of which identify the aims and objectives for achieving the Council's vision for Chester-le-Street by setting out priorities for improvement in areas such as health, employment, crime and anti-social behaviour, education, private sector housing and employment. In particular the Private Sector Empty Homes Strategy supports our wider strategic housing objectives which are set out in our Housing Strategy Statement and Private Sector Housing Renewal Policy.

3. We are committed at Chester-le-Street to providing the best possible services for everyone within the district. Our Corporate Policy Framework is designed to ensure we have a joined-up approach to policy development across the Council. This ensures that our policies, plans and strategies are absolutely focused on

delivering our priorities and that all plans and strategies are consulted on and are based on robust policy and data analysis. Chester-le-Street District Council recognises the need to develop and implement an effective and imaginative Empty Homes Strategy in order to reduce the number of vacant homes within its district.

In light of the forthcoming Local Government Review in April 2009 the policy has been written as a transitional policy with an emphasis on;

- building an accurate local picture and awareness raising
- identifying local underlying causes
- developing practical options

This should enable the legacy of the Policy to be incorporated into any potential longer term County-wide policy.

### **The National Perspective**

4. Bringing empty homes back into use links into wider government objectives at the heart of which is one overarching aim to create thriving, vibrant, sustainable communities which will improve everyone's quality of life. A sustainable community is a place where people want to live and work now and in the future. The government's agenda also includes tackling low demand housing and market failure, anti-social behaviour, the provision of affordable homes and ensuring that homes meet the decent homes standard. The Empty Property Strategy clearly aligns itself with these central government objectives.

5. Local Government has a key role to play. The emerging policy agenda around "place-shaping" describes how Local Government can work with residents to develop and deliver high quality public services that meet the needs and preferences of local people. The "place-shaping" role brings together local partners and communities giving the Council a stronger role in improving services as well as developing and shaping the local economy and identity. This forms the basis for much that we do in Chester-le-Street including our approach to empty homes.

6. The Empty Homes Agency (EHA) is an independent charity set up to highlight the waste of empty properties represent. They have been successful in their campaign to allow Local Authorities the discretion to set the level of Council Tax charged on empty properties, and have been the main driving force behind new legislation in the Housing Act 2004, which gives Local Authorities new powers to tackle the problems of long-term empty properties.

7. They have also been instrumental in bringing about changes in the VAT system which has gone some way to reducing the levels of VAT charged when

renovating long-term empty properties. They are currently campaigning on a number of issues including:

- The complete harmonisation of VAT charged for repairs to empty properties against that of new build properties;
- A requirement for Local Authorities to have an empty property component in their Housing Strategy;
- Support for a housing market renewal fund to tackle the issue of low demand;
- Occupation of Public Sector empty properties;
- Regional Mobility Schemes, which encourage people living in areas of high housing, demand to move to areas of low housing demand;
- Promoting Short-life Housing Schemes, and the option for Local Authorities to charge higher levels of Council Tax on long term empty properties.

8. Statistics produced by the then Office of the Deputy Prime Minister (ODPM) in 2004 showed that there were over 689,000 empty homes in England. In the North East region alone it has been estimated there were a total of 46,669 empty properties of which 34,879 (75%) were in the private sector. In some areas these numbers were increasing due to problems of low demand. Overall however figures from the Empty Property Agency have shown that the numbers of empty properties in the north are declining and recently stood at 34,597, although it stressed that more work is needed if this situation is to continue.

9. The Housing Act 2004 granted councils increased powers to tackle empty properties. It enables local authorities to make Empty Homes Management Orders on long-term empty properties to bring them back into use where there is a good case for this. In developing this strategy we have considered the Government's Guidance Note on Empty Dwelling Management Orders, which sets out in detail the mechanisms to be used in implementing the powers contained in the Housing Act 2004 to deal with empty homes.

10. The government until April 2008 measured and compared local authority performance on empty properties using Best Value Performance Indicator 64 (BVPI64). This requires authorities to report annually the number of empty properties brought back into use as a result of direct action by the local authority. This indicator will be retained locally to allow the impact of the policy to be assessed.

## Existing legislative provisions to deal with empty properties.

11. The main legislative provisions available to the Local Authority in respect of empty properties are shown attached in Appendix 1. The Council has a wide range of legislative mechanisms available to deal with the problems associated with empty homes and these have now been supplemented with the Empty Dwelling Management Order provisions in the Housing Act 2004.

## The Local Perspective

### Introduction

12. The District currently has 292 empty properties as at April 2008. As properties are identified they are externally inspected to establish their condition and a questionnaire is issued to the owner to ascertain their intention for the property and reason for it being empty. By April 2008 over 140 questionnaires had been issued and 70 properties inspected. Table One provides a breakdown of the number of properties and the length of time they have been unoccupied. As can be seen 168 properties fall within the definition of an empty property for the purpose of this Strategy i.e. unoccupied for 12 months or more.

### Table One

#### Length of Time Properties Have Been Empty

	Time			
	6 months	6-12 months	12-24 months	Over 24 months
<b>Number of Properties</b>	<b>3</b>	<b>121</b>	<b>62</b>	<b>106</b>

Table two provides a breakdown of the condition of the properties inspected to date using the criteria discussed at paragraph 27.

### Table Two

#### Property Condition

Percentage of Properties	Condition Category
<b>2%</b>	<b>A</b>
<b>5%</b>	<b>B</b>
<b>8%</b>	<b>C</b>
<b>20%</b>	<b>D</b>
<b>65%</b>	<b>E</b>

Table three summarises the results of the questionnaire survey of property owners for the reasons properties are unoccupied.

**Table Three**

**Reasons for Properties Being Unoccupied**

<b>Property condition</b>	<b>Percentage of total</b>
Second home	8%
Unable to sell	13%
Bought as an investment	8%
Refurbishing	20%
Left in a will/other legal reasons	10%
Holiday home	3%
<b>Not specified</b>	<b>38%</b>

**Issues affecting the Empty Property Strategy**

**Introduction**

13. Empty properties represent an enormous inefficiency and waste of resources from the housing market to the wider effect on economic, social and environmental fabric of the community. Consequently the empty property issue will continue to maintain a high profile with Local Authorities who are under constant pressure from Government and other external agencies to adopt a robust strategy which will result in a worthwhile reduction in the number of empty properties in their area.

14. Whilst there will continue to be a need to build new homes, extension of the built environment can be limited by taking the opportunities offered by existing under-used or empty properties. Bringing them back into use provides much needed, high quality, affordable housing and is more economically viable than new-build.

15. Although the number of empty homes within our district is not currently a major issue nevertheless it is essential to make every effort to bring them back into use and utilise unused space in order to minimise the need to develop Greenfield sites. Ensuring that empty homes become occupied can result in improved environmental and social conditions as well as improving the sustainability of an area as a result of a reduction in the level of crime, anti-social behaviour and blight often associated with empty derelict properties and the surrounding neighbourhoods.

### **What is an empty home?**

16. Empty homes occur for a variety of reasons and those reasons are detailed below. Some are empty for short periods while they are being sold or let and come back into occupation fairly quickly without causing problems. Others will remain empty while they are being renovated or improved. The primary focus of this strategy is to deal with those properties which remain empty for significant periods of time and are not likely to be brought back into use without addressing the underlying reasons for them being empty. For the purposes of this strategy therefore our definition of a long term empty home is **“a residential property which has been unoccupied for at least 12 months”**.

### **Why do properties become and remain vacant?**

17. There are a number of reasons why properties become and remain empty for protracted periods of time. These include:

- Abandonment by owners leaving areas with poor reputations.
- Low desirability of particular types of accommodation in certain locations.
- Transitional empty properties pending a change of owner.
- Extensive maintenance problems combined with low value of the property.
- Perceived problems with renting the property.
- Owners not being aware or understanding the options available to bring properties back into use.
- Properties which are left empty by the resident moving into residential care.
- Properties where the owner has died and the property is in probate.
- Owner awaiting an upturn in the market and other housing market conditions such as leaving houses empty in order to achieve a quick sale.
- Properties bought as buy to let with initial vacancies.
- Lack of funding for repair work.
- Family disputes/Divorce settlements.
- Repossessions.
- Lack of suitable information and advice.

### **What are the effects of long term empty properties?**

18. This strategy is committed to reducing the number of long-term empty properties in the district particularly those which cause continuing problems and affect the sustainability of an area. Properties that are left empty for long periods of time have a number of negative effects on the local area as follows:

- They are a wasted resource both financially and in terms of potential housing or community use. Council tax revenues are reduced because of empty property discounts.

- They attract crime and anti-social behaviour including vandalism, litter and sometimes arson.
- Market values are often reduced as neighbours move away and confidence is reduced.
- The reduced spending power of the local area impacts on local businesses and the general economic stability of the area.
- There are also implications for public services such as schools or leisure activities if the population of a particular area is reduced.

19. This strategy brings together all of the work being done in relation to empty properties in Chester-le-Street and sets the approach for future action. The implementation of this strategy will tackle the issues associated with empty properties by reducing the number that are empty and making Chester-le-Street a more attractive place to live and work.

### **What are the benefits of bringing empty properties back into use?**

20. Bringing empty homes back into use will have significant benefits for the residents of the district including:

- Enhancing the Local Environment - boarded up or derelict properties do not look attractive and can seriously affect the value of neighbouring properties. Bringing a property back into use can dramatically improve the local environment.
- Reducing Vandalism and Anti-social Behaviour - vandalism and anti-social behaviour are often associated with empty properties. Returning empty properties back to use has a positive effect in reducing such problems and contributes to the 'Respect Agenda'.
- Increasing the Provision of Affordable Housing - with the continually increasing costs of purchasing properties there is an increasing demand for quality affordable housing.
- Reducing the Need for New Build on Greenfield Sites - we are facing increasing pressure to build more new homes, taking up valuable Greenfield sites. Using space we already have is a vital part of relieving this pressure.
- Regenerating Run-down Areas - re-occupying empty properties has a positive impact on regenerating run-down or deprived areas, particularly in areas where large numbers of properties are vacant.
- Improving Housing Standards - many of the empty properties are below current legal standards or in a state of disrepair. Renovating such properties contributes to the raising of housing standards.
- Helping to Tackle Homelessness - returning properties to the housing stock is a positive step towards tackling homelessness in the Borough.
- Bringing New Life into Town Centres - converting space within existing commercial premises into units of accommodation contributes to the vitality of our town centres.



- Increasing the Availability and Range of Tenanted Properties - the need for additional housing, particularly in the private rented sector can be offset by making long-term empty properties available to rent.
- Increase in Council Tax Revenues - currently empty properties receive a 50% reduction in council tax which would not apply if the property was brought back into use.

### **Council Tax Issues.**

21. Owners of empty unfurnished properties which are in a habitable condition can currently apply for a 6 month exemption from council tax followed by a 50% reduction in the charge until the property is re-occupied. Recent changes to council tax legislation allow local authorities the discretion to set the levels of discount awarded for empty properties. Imposing a greater charge on long term problematic empty properties is an effective tool for encouraging owners to bring them back into use and is an option which needs to be considered.

### **Targeting the Problem.**

#### **Introduction.**

22. In order to effectively target the problem of empty properties in the district this strategy must have clearly defined aims as well as providing a framework within which the Council can work with other organisations and private individuals to bring empty properties back into use. These aims are as follows:

- To support the sustainable regeneration and growth of the district.
- To reduce the number of empty properties within the district and to limit the effect of empty properties within the community.
- To deal effectively with any problems associated with empty properties.
- To minimise the need for future development of Greenfield sites.
- To support Brownfield development sites and improve the existing built environment.
- To work in partnership with other organisations involved with empty properties.
- To be proactive in the identification of empty properties and raise awareness of empty property issues.
- To ensure the re-use of empty properties through encouragement and advice.
- To effectively use enforcement powers to secure the re-use of empty properties as well as preventing the problems that empty properties can create.
- To create good quality, affordable housing for those in housing need.
- To provide a strategic fit with other corporate objectives and create effective cross-departmental working relationships.

### **Types of Empties.**

23. In order to function effectively the housing market needs vacant homes to allow for residential mobility, redevelopment and improvements to take place and consequently at any given time there will be a period of vacancy between changes in occupation. It is important therefore to define what is considered to be an empty property within the context of this strategy so as to be able to target resources and remedial action in the best possible way. Research has shown that there are two main types of empty properties:

- Transitional vacancies - these are a normal part of the operation of the housing market and seldom cause problems or require the intervention of the Council.
- Problematic vacancies – these are the long term empty properties that are inactive in the housing market and are constantly the subject of complaints to environmental health because of problems with vandalism, long term disrepair, nuisance and being open to access. These are the properties which will need to be considered when assessing the extent of the problem and how best to selectively target and prioritise action on a worst first basis.

### **Location of Problematic Empties.**

24. It is essential to know the number and location of empty properties within the Council's district in order to effectively target action and resources. At present long term empty properties are identified from council tax records and using this information an empty homes condition survey is currently being carried out to identify the extent and scale of the problem. This information will be collated and used to decide which properties to target on a worst first basis. It is initially intended to identify and target those properties, in the worst external physical condition, those which have been empty for the longest period of time and those which are associated with anti-social behaviour or have a history of complaints against them. Council tax data will continue to be used to give robust information about the number of empty homes within the district although this will be supplemented with local intelligence as the Policy matures.

### **Establishing Ownership of Empty Properties.**

25. Establishing ownership is a major problem faced by officers dealing with empty properties especially if owners do not live locally and need to be contacted in order to find out what their intentions are for a particular empty property. The Council's designated Empty Property Officer will have responsibility for establishing ownership of empty properties using various means including enquiries through the following:

- Revenues and benefits.
- Accommodation and managing agents.

- Electoral register.
- Use of neighbours and other local information.
- Land registry.
- Use of Section 16 Local Government (Miscellaneous Provisions) Act 1976 to requisition information regarding ownership.

A questionnaire is currently being sent to known owners of long term empty properties in the district in order to try and find out and understand the underlying reasons why the properties have become long term vacant. It is proposed to carry out this exercise on a regular basis in addition to a regular physical inspection of each property in order to ascertain what plans owners have to bring properties back into use and also to determine the extent of any deterioration which may have occurred and the appropriateness of implementing any enforcement action. This information will be collated and used to help find practical ways of helping owners bring their properties back into use. The questionnaire and condition survey form are shown attached in Appendix 2.

### **Empty Property Database.**

26. The Council currently maintains a database of information about empty properties. In order to monitor and assess the extent and condition of private sector empty homes within the district it is intended to update this database every month in partnership with Revenues and Benefits using council tax records as baseline information. It is also proposed to link the database with the Council's GIS mapping system to allow clear and precise presentation of analytical data.

### **Categorisation of Empty Properties.**

27. In order to deal with empty properties on a worst first basis as well as targeting resources effectively it is intended to categorise properties according to priority. A simplistic categorising format will be used to establish priority as follows for properties which have been empty for more than 12 months

Category A – The property is derelict or severely neglected. It may be open to access and its condition attracts fly tipping, vandalism or other anti social behaviour. It is the subject of constant complaints from the public.

Category B – The property is in a state of serious disrepair and is likely to be currently uninhabitable.

Category C – The property requires repairs to vital areas but it would be inhabitable with ongoing repairs. The property does not give rise to complaints from the public nor is it causing nuisance to neighbours or the surrounding community.

Category D – The property requires some obvious repairs but could be inhabited immediately.

Category E – The property appears in general good repair and is immediately inhabitable with little or no repair required.

### **Functions of the Empty Property Officer.**

28. In order to have a pro-active and co-ordinated approach when targeting empty properties it is important that the functions and duties of the Council's Empty Property Officer are clearly defined as follows:

- Overall co-ordination, implementation and development of the Empty Property Strategy.
- Maintain, establish and extend contacts with internal and external partners (other service areas, landlords, residents, financial institutions, developers, RSLs etc).
- Maximise funding sources.
- Initiate and promote publicity in local/council press.
- Identify empty properties for action according to priority. Establish ownership, make contact and decide on further action.
- Promote the reporting of empty properties through facilitation within communities.
- Actively engage with local residents, residents groups and other stakeholders who are affected by problem properties to acquire local intelligence.
- Work with owners, landlords and landlords agents to offer advice, information and assistance including funding options all with the intention of bringing the property back into use through voluntary action on the owner's part.
- Where negotiation and other options have failed take the appropriate enforcement action to ensure that the property is in a habitable condition and brought back into occupation.

### **Available Options and Solutions to Deal with Empty Properties.**

#### **Introduction.**

29. Dealing with empty properties is a complex and time consuming process which unfortunately is unavoidable if as a Council we are to prevent an increase in the numbers as well as securing the early return to use of empty properties. A coordinated and pro-active approach must be adopted using a comprehensive mix of tools that best suit the challenges faced in the district. This will be achieved using a combination of advice, assistance and enforcement. The overall outcome of this strategy must be to ensure that empty properties are dealt with efficiently resulting in properties standing empty for shorter periods of time and consequently fewer empty properties within the Council's district. If

properties are not brought back into use by voluntary means then the Council will have no option but to use the wide range of enforcement powers at its disposal. The following options and solutions are available to deal with empty properties.

**Advice and Information.**

30. It is essential that appropriate advice and information is provided to owners and landlords on the options available to them to deal with empty properties because this alone may result in some empty properties being brought back into use on a voluntary basis. Often the owners of empty properties have acquired their property through inheritance or some other unplanned event so are unsure about the most suitable course of action. Advice will be offered to owners about sale, refurbishment, renovation and health and safety standards and to owners or prospective landlords about the legal aspects of letting the property as well as giving prospective tenants advice about tenancies. It is also important to work with members of the Landlords Forum and the Landlord Accreditation Scheme to provide advice and assistance to those who may wish to let the property and manage it themselves or alternatively purchase empty properties.

**Partnership Working.**

31. The Council recognises that in order to achieve the aims of the Empty Property Strategy partnership working both internally and externally is essential across all areas of its activities. These partnerships must be developed and maintained in order to deliver this Strategy effectively.

32. Internally a corporate approach is essential and in addition to the Private Sector Housing Team in the Environmental Health Department other teams within the Council are important contributors to the success of the Empty Property Strategy as follows:

- Planning and Building Control – refurbishment and conversions.
- Revenues and Benefits especially Council Tax – Empty property database.
- Financial and Legal Services – Advice on financial and legal matters.
- Community Safety – Anti social behaviour associated with empty properties.
- Housing Strategy – Increases to the housing stock.

33. External partnerships are equally important to the success of this Strategy and it is through such partnerships that the assistance available to the owners of empty properties can be increased and help ensure the return to use of empty properties as follows:

- Registered Social Landlords (RSLs) - The Council has an effective communication network with Registered Social Landlords (RSLs) operating within the Chester-le-Street district. Generally RSL's have very low numbers of empty properties but where appropriate we will work in partnership with them. We will also encourage Housing Associations and other RSLs to

procure Housing Corporation funds to acquire and renovate empty properties that are currently uninhabitable. Partnership working with local RSLs as detailed in paragraphs 44, 45 and 46 below can bring many empty properties back into use.

- Private Landlords – Private landlords play an important role in the provision of local housing. It is intended to work closely with private landlords through the Landlords Forum and provide advice, information sharing and assistance to landlords who procure empty properties.
- North East Empty Property Forum – Continued partnership working with members of the forum will ensure an integrated approach across the Northern Region enabling the sharing of good practice.
- Empty Homes Agency – The Council will continue to liaise with the agency who provide excellent support and guidance when tackling problems associated with empty properties. This in turn promotes best practice.
- Police and other Anti Social Behaviour Agencies – Closer partnerships will be developed to assist in the reduction of crime and anti social behaviour in respect of empty properties.
- Other Private Sector Partners – The Council will continue to develop partnerships with private sector partners who are key service providers including letting and estate agents to determine interest in the sale and management of empty properties.

#### **Private Sector Leasing.**

34. This scheme allows owners to lease their properties to the Council or RSL typically for a period of 2-5 years who will in turn sub-let it to a household in housing need. This removes the day to day management responsibility and risk for the owner who will be guaranteed rent for a specific period of time irrespective of whether the property is let or otherwise.

#### **Temporary Social Housing.**

35. Under such a scheme an RSL enters into a lease agreement with the owner of the property for an agreed period of time typically 3-5 years. The RSL effectively becomes the tenant and sub-lets the property to a household in housing need nominated by the Council. This provides a method of utilising properties that owners do not require for occupation in the short or medium term but still wish for the property to be returned to them at some time in the future.

#### **Housing Association Leasing Scheme.**

36. This scheme provides an owner with the opportunity to lease their property to RSLs for periods of 3-5 years in return for which the Council gets nomination rights for the properties. This secures accommodation for households with housing need.

### **Rent Deposit Scheme.**

37. Many homes remain empty because prospective tenants find it difficult to raise the money for the required deposit. The Council finds suitable tenants and sets up an Assured Shorthold Tenancy as well as guaranteeing the owner the rent deposit.

### **Empty Property Grants.**

38. The Private Sector Housing Renewal Policy agreed by the Council in November 2005 allows for repairs assistance to be given in respect of properties which have been empty for a period of 6 months leading up to the date of application and which are in a declared Council Priority Action Area. Currently there are no declared priority action areas.

### **Enforcement.**

39. In the first instance the Council will always seek to work closely with owners of empty properties and provide advice, encouragement and support. However, where owners have refused offers of assistance and can provide no good reason why the property should remain empty then enforcement action will be used as a last resort option. The full range of enforcement options are shown detailed in Appendix 1 to this report.

## Action Plan

Key Actions	Supporting actions	Target Date
Capture information from a number of sources to build a comprehensive picture of empty properties in the District	Develop and maintain a comprehensive database	Feb 2008
	Carry out 100% external survey of all empty properties	Ongoing
	Carry out 100% questionnaire survey of all empty property owners	Ongoing
	Identify problematic cases requiring priority action and appoint Case Officer	Sept 2008
Investigate the wider housing context in which empty properties occur and link this information to housing needs, market conditions and homelessness	Liaise with Private Landlord Accreditation Scheme, local estate agents and Housing Strategy Team to improve information base on market conditions.	Sept 2008
Develop an extensive range of tools, actions and enforcement activities to meet local needs.	Develop comprehensive package of signposting and advice for owners	Sept 2008
	Develop partnerships with key private sector partners – estate agents/letting agents	Ongoing
	Develop partnerships with key voluntary groups and Registered Social Landlords	Ongoing
	Work with members of the Landlords Accreditation Scheme to provide advise and assistance to those who wish to procure empty properties	Sept 2008
	Effectively use Environmental Health legislation to deal with problems associated with empty properties	



	Consider the use of EDMOs to return properties to use where other methods have failed	Ongoing
Develop and implement measures aimed at engaging and raising awareness with the community	<p>Improve information on Council website to raise awareness of empty properties</p> <p>Produce appropriate article for District news to raise awareness of issue.</p> <p>Engage with local residents associations to obtain local concerns and intelligence.</p>	<p>Sept 2008</p> <p>Autumn 2008</p> <p>Ongoing</p>

## **Appendix 1**

The following are the main legislative provisions available to the Council to deal with empty properties:

### Local Government Act 2003

Allows local authorities to reduce discounts for homes that have been empty for more than 6 months and also allows for the disclosure of council tax information for the purpose of bringing long term empty homes back into use.

### Section 215 Town and Country Planning Act 1990

This is the main planning power. It provides that where the condition of the land is such that it is having an adverse affect on the amenity of an area, the Council, in its capacity of Local Planning Authority, can serve a notice on the owner and occupier requiring him to take steps to remedy the condition of the land.

### Section 79 Building Act 1984

This allows the Council to serve a notice on the owner of a building or structure which is in a ruinous or dilapidated condition such that it is seriously detrimental to the amenities of a neighbourhood.

Unlike S215, the detriment to the visual amenity of the area must be serious. Section 79 therefore should be used for the more serious cases of detriment.

### Section 77 Building Act 1984

This is a power to apply to the Magistrates' Court for an order requiring the owner to execute works to obviate the danger or to demolish the building. It is exercisable where a building or structure is in such a condition as to be dangerous but immediate action is not required to remove the danger.

### Section 78 Building Act 1984

Where a building or structure is dangerous and it appears to the Council that immediate action should be taken to remove the danger, then this section empowers the Council to take the necessary action to remove the danger

### Section 29 Local Government (Miscellaneous Provisions) Act 1982

This section applies only in respect of buildings and structures. It does not apply to land, which is not built upon. The power arises where:

- a) A building is unoccupied or the occupier is temporarily absent and

- b) The building is not effectively secured against unauthorised entry or is likely to become a danger to public health.

#### Section 4 Prevention of Damage by Pests Act 1949

This power applies to both land and buildings. If the council thinks that steps should be taken on any land for the control of rats and mice, it can serve on the owner or occupier a notice requiring him to take reasonable steps to destroy or keep the land free of rats and mice. This can include requiring a form of treatment to be applied to the land or the carrying out of structural repair

#### Section 34 Public Health Act 1961

This power applies where there is rubbish on any land in the open air which is seriously detrimental to the amenities of the neighbourhood. The Council is empowered to take the steps necessary for removing the rubbish but before it does so it must serve a notice on the owner and occupier specifying the steps they propose to take.

#### Part III Environmental Protection Act 1990

Under Section 79 of the EPA, premises which are prejudicial to health or a nuisance constitute a statutory nuisance. The owner or occupier can be served with an abatement notice under Section 80 and it is a summary offence to fail to comply with the notice.

#### Law of Property Act 1925, section 101

In most cases, failure by the owner to comply with a notice can lead to the Council arranging for the works to be done in default and charging the owner. If the costs cannot be recouped by billing the owner, a charge is placed on the property. These costs may be recoverable by way of an enforced sale. This option can be pursued where one of the following applies:

- Returning the property to use is crucial to the regeneration of the area
- Works in default total £ 500 or more
- The property has been empty for more than two years

#### Planning and Compulsory Purchase Act 2003

This piece of legislation provides the basis for commencement of a compulsory purchase order

## Housing Act 2004

Sections 11, 20, 28, 40 and 43 may be used to remedy Category 1 hazards as determined using the Housing Health and Safety Rating System.

Empty Dwelling Management Orders (EDMO's) – The Housing Act 2004 now enables local authorities to apply to Residential Property Tribunals to make EDMO's on long term, privately owned, empty dwellings where owners are unwilling or unable to co-operate with voluntary measures to secure occupation. The property does not have to be run down or uninhabitable. The fact that it has not been lived in for more than 6 months can be enough to allow an EDMO to be made. The EDMO gives the Council the right to possession of the property and once the EDMO has been made, the Council may do anything the owner would normally be entitled to do with the property.

**Appendix 2**

**Empty Property Survey Form**



**Chester-le-Street District Council  
Empty Property Assessment**

Reference	
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Address	
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Signs of Occupation/Sale	Yes/No	Comments

Condition of Property	Comments
Chimney	
Roof Ridge	
Roof General	
Soffit boards	
Guttering	
Above Ground Drainage	
Lintels/Sills	
Windows/Doors	
Structure	
External Walls	
DPC/Dampness	
Airbricks/Vents	
Garden	
Paths	
Outbuildings	
Boundary Walls	
Miscellaneous	

Any Other Comments	
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Open To Access	
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Nature of Neighbourhood	
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Overall Rating	
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- A - Derelict/serious disrepair – obviously uninhabitable
- B - Serious disrepair – probable uninhabitable
- C - Repairs required to vital areas – habitable with ongoing repairs
- D - Some repairs required but obviously habitable
- E – Good repair, habitable with little or no repair required

Date		
Officer		
Photographs	Yes	No

**Empty Property Owner Questionnaire**

**EMPTY PROPERTY QUESTIONNAIRE**

**Please complete the questionnaire and return in the prepaid envelope provided, within 14 days.**

1. Address of Property:
  
2. How long has the property been unoccupied ?.....
  
3. Please state date of occupation if now occupied .....
  
4. When was the last time either you or a representative visited to check the property?  
.....
  
5. Are you aware of the current condition of the property .....
  
6. Please tick all the relevant boxes as to why the property has been left unoccupied

Unable to sell	<input type="checkbox"/>
Probate difficulties	<input type="checkbox"/>
Left under a will	<input type="checkbox"/>
Bought as an investment i.e. capital appreciation	<input type="checkbox"/>
Matrimonial/divorce settlement issues	<input type="checkbox"/>
Planning Issues	<input type="checkbox"/>
Negative equity	<input type="checkbox"/>
Property condition e.g. not habitable	<input type="checkbox"/>
Temporary relocation with job	<input type="checkbox"/>
Owner moved into nursing home/care	<input type="checkbox"/>
Sale would affect benefit entitlement	<input type="checkbox"/>
Bankruptcy	<input type="checkbox"/>
Absentee joint owners	<input type="checkbox"/>
Joint owners cannot agree on future use of property	<input type="checkbox"/>
Other, please state e.g. property is <b>second home</b>	<input type="checkbox"/>

.....  
.....

7. Would you be interested in receiving help with managing/letting your property? **YES/NO**

8. Have you tried to sell the property? **YES/NO**  
If yes, please specify

No reasonable offers received	
Buyers unable to obtain mortgage	
Survey revealed structural problems	
Blighted area	
Other, please state	

.....  
.....

9. Did you purchase the property as a 'Buy to Let' **YES/NO**

10. Have you considered renting the property **YES/NO**  
If no, please specify

Rent levels insufficient	
Risk of bad tenants	
Repair costs needed to bring property up to standard	
Lack of expertise in managing properties (i.e. Tenants selection and tenancy documentation)	
Delays in obtaining housing benefit payments from the Council	
Others please state	

.....  
.....

11. Would you be interested in renting your property if assistance was available from the Council for renovation or conversion?

Renovation	
Conversion	

12. What would you like to do with the property?



Live in it yourself	
Rent it out	
Sell it	
Other	

.....  
 .....

**13. General comments/further information required:**

.....  
 .....

**14. Name:** .....

Contact Address: .....  
 .....  
 .....  
 .....  
 .....

Telephone Number: .....

**Thank you for taking time to complete this questionnaire.**

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