



Empty Homes Project
Opening doors to new opportunities

Empty Homes Strategy 2022



Vision Statement

North Devon Council will strategically plan and deliver housing provision to meet local needs. Working with our partners, we will take the action necessary to tackle the widening imbalance in supply and demand.

Introduction

The Empty Homes Project is one of a suite of projects that fall under the umbrella of North Devon Council's Housing and Community Safety Programme, developed to identify the key housing priorities for the Council and measures required to deliver them.

This comprehensive and ambitious Empty Homes Strategy is a key action within the programme along with a commitment to tackle long-term empty properties, adopting a new approach, which also complements our Private Sector Housing Renewal Strategy.

What is an empty home?

A property which has been empty for in excess of six months is considered to be a long term empty property. The Housing Act 2004 strengthened Council powers, although Councils have a number of legislative controls across other services too.

Why are properties being left empty?

It is important to recognise that not all empty homes are a major problem, there are often good reasons for properties being left empty, for example they can be empty between a change of occupants, they are for sale, or they are undergoing refurbishment. However, there are increasing numbers of empty homes and properties that are problematic which are left empty for longer than is reasonable. This is particularly acute during a time where there are fewer properties for sale on the housing market.

We know there are approximately 140 domestic properties that have been empty for more than two years in North Devon.

Reasons a property may be left empty

Individual factors

- The owner may be unwilling to consider leasing or letting the property
- The owner may be temporarily working abroad and intends to live in the property in the future
- The owner may not be aware of the property's existence, for example where accurate property records are not kept
- Unresolved ownership matters, for example following the death of an owner
- The owner may not fully appreciate the financial benefit of bringing their empty property back into use

- The owner may have acquired the property solely for speculative investment purposes and be unconcerned that the property is empty
- The owner may be a development company, with plans for its future redevelopment
- The property may be joined to a business property and the business owner does not want to let it
- The owner may be in hospital or care

Property factors

- The property may be in need of major repairs or renovation and the owner may not have the financial resource to make it habitable
- There may be problems with accessing the property
- There may be planning constraints which restrict the occupancy of the property
- The property has been repossessed

The benefits of bringing empty properties back into use

Empty homes are a wasted resource, they can lead to complaints from neighbours and can cost owners a lot of money to maintain and insure. Bringing an empty property back into use not only relieves the stress of worrying about maintaining the property, it also has a number of other benefits including:

- increasing the provision of much needed homes
- generating additional income for the owner
- contributing to the regeneration of an area
- increasing spend in the local economy
- potentially increasing the market value of surrounding properties
- reducing the risk of crime and anti-social behaviour at the property
- reducing the need to build new homes in the area

The consequences of leaving a property empty

Some properties remain empty, fall into disrepair and can become a blight on the neighbourhood. Despite the reasons why a property could remain empty, without intervention there can be consequences:

- increased risk of crime and anti-social behaviour such as vandalism, drugs or squatting
- increased risk of complaints from neighbours
- reduction in the value of the empty property and potentially of others within the area
- increased need to build new properties
- reduced investment and spending in the local economy
- an unattractive visual amenity in an otherwise attractive neighbourhood

Objective

By supporting the repair, improvement, adaptation or conversion of empty properties to bring them back into use as homes, we aim to:

- reduce the number of long term empty homes in North Devon
- increase the housing supply
- tackle empty property nuisance issues

We have identified four strategic priorities, each with a number of key actions, which we aim to deliver. The four strategic priorities to bring empty properties back into use are to:

- 1. Provide information, advice, help and support through opportunities and incentives to owners of empty properties**
- 2. Proactively engage and work with owners of long term empty properties**
- 3. Improve our neighbourhoods by targeting empty properties that have become the focus of anti-social behaviour and/or neglect**
- 4. Develop effective partnerships with key stakeholders.**

Priority 1: Provide information, advice, help and support through opportunities and incentives to owners of empty properties

Whether the owner requires financial assistance to repair or renovate their property, or to let it out with peace of mind, our experienced officers will be on hand to help. We can provide advice on selling and help with finding a purchaser. We are committed to getting empty properties back into use as homes because nobody will benefit from a property remaining empty. We will provide owners of empty properties with a range of information, advice, help and support.

There are many opportunities and incentives to bring empty properties back into use, some of which are listed below:

- [North Devon Council's Private Sector Leasing scheme](#)
- [Lendology CIC loans](#)
- [Reduced VAT rates](#)
- [Free empty homes matchmaker scheme](#)
- [Rent the property through a letting agent](#)
- [Sell the property](#)
- [The Council Tax cost of keeping a property empty](#)
- [Holiday lets and AirBnBs](#)
- [Planning permission to change the use of a commercial property to a dwelling](#)

North Devon Council's Private Sector Leasing scheme

We will actively encourage and work with owners of empty properties to join our Private Sector Lease (PSL) scheme as this is our preferred option. Our scheme enables us to get empty properties back into use as homes, whilst protecting the owner's asset because we will let, maintain and manage each property. By joining the scheme, the owner of the empty home will also be helping us reduce the amount of public money spent on temporary accommodation. We will target and prioritise the type, size and location of empty homes to ensure they are suitable for our PSL scheme and meet our strategic housing needs.

To meet the criteria, properties must be unfurnished, in a good condition and with adequate heating, there must also be demand for the size of property available. In addition, there must also be the consent of any mortgage company, landlord or insurer, together with any other necessary consents.

The benefits of our Private Sector Leasing scheme:

The Council will:

- pay rent quarterly in advance at competitive rates
- pay a guaranteed rent – whether the property is occupied or vacant
- have responsibility for services - gas, electric, water and council tax when property is empty
- manage the property on a day-to-day basis so the owner will have no direct dealings with the tenants

- find occupants and keep the property occupied, where possible
- hold spare keys for the property
- issue keys and recover keys from occupants
- carry out regular inspections – at least quarterly. Weekly if not tenanted
- pay a “termination bonus” at the end of the lease as a contribution towards re-decorating - this is only paid after two years
- arrange all inspections, servicing and call-outs under your maintenance contract for the central heating/hot water system
- take responsibility for up to five minor repairs every year
- repair damage caused by tenants or the council - unless covered by the owner’s insurance and excluding fair wear and tear
- carry out minor repairs and notify the owner if landlord repairs are required
- arrange landlord repairs on the owner’s behalf (subject to agreement about payment)
- issue agreements to occupants and do our best to ensure these are met
- try to resolve any disputes between occupants and neighbours
- guarantee vacant possession at the end of the lease
- ensure property is kept in good order when vacant
- cover up to £100 excess of any claim which results from an act or omission by us or the tenant
- remove rubbish at the end of the lease
- keep any garden tidy

Letting and safety standards that a property needs to meet

The properties we use in our PSL scheme need to meet minimum standards and we work with empty property owners who are interested in joining the scheme to identify any improvements that are required. (Many of the properties are used by families with young children so we pay particular attention to ponds, greenhouses, low-level glass, stair rails and other safety issues that may not concern an adult).

We use the Decent Homes Standard to determine whether properties are in a reasonable condition; the four we require are:

1. Homes must be free from Category 1 hazards as assessed using the new Housing Health and Safety Rating System. Category 1 hazards are defects that could harm the health or safety of the occupier. Typical examples are inadequate heating, dampness or electrical hazards
2. Homes must be in a reasonable state of repair. This means the main elements of the structure such as the roof, walls, windows, plumbing and/or heating should not be old and in poor condition
3. Homes should have reasonably modern facilities and services. This means bathrooms should be less than 30 years old and appropriately located, and that kitchens should be less than 20 years old and have adequate space and layout
4. Homes should provide a reasonable degree of thermal comfort. This means homes should have an efficient, programmable system of heating and adequate standards of insulation

Our team is available to answer any questions by telephone on 01271 388362 / 3 or email housingoptions@northdevon.gov.uk

We are duty bound to consider appropriate enforcement action if we discover serious disrepair or defects upon inspection, even if the lease is subsequently not taken up. This is defined in Part 1 of the Housing Act 2004. The owner will be responsible for the cost of any works required to make the property safe.

Landlord responsibilities

There are a number of measures that landlords would need to take as part of their responsibilities:

- To provide proof of ownership (ensuring it matches the name and address on the application to the council) and all necessary consents and permissions from any third party, including mortgage lender, head landlord and insurance provider before the lease starts
- To insure the property to the full reinstatement value and public liability to the value of two million pounds. To claim against the insurance if required
- To allow us to carry out the gas, electric, asbestos and energy performance checks for which the landlord will then be recharged
- To pay all existing and future taxes assessments and outgoings imposed or charged upon the property
- To keep the installations for the supply of water, gas, electricity, sanitation, central heating and heating water in the property in proper working order
- Take out an appropriate maintenance contract for the hot water and heating
- Provide the property in the condition agreed and ensure it is well-maintained and safe for the period of the lease (given that we may arrange and in some cases pay for this)
- To keep the structure and exterior of the property (including roof, drains, gutters and external pipes) in good repair
- To fit new locks to the front and back doors and provide all keys for any access and exit doors to the property, prior to the start of the lease
- Continue to pay the service charge for any flat
- Allow us to manage and the occupants to live in the property without interference

We will need to see a Landlords Gas Safety Certificate and an Electrical Certificate to ensure the safety of the property and we can arrange the checks on behalf of the owner.

We can also implement a central heating / hot water system maintenance contract so we do not have to approach the owner if something goes wrong.

The property owner will need to inform the insurance company that they have joined the scheme and take out public liability insurance cover.

Lendology CIC loans

To help fund property improvements we have worked in partnership with Lendology CIC since 2005. Where a property requires improvement to get it back into use, or a renovation

needs a cash injection to complete the project before renting or selling, a range of loans are available. Loans are also available for commercial conversion of buildings into dwellings (subject to planning permission).

Where we have taken possession of a property, following an application for an Empty Dwelling Management Order, we will consider using the Lendology loans scheme to finance works necessary to bring the property back into use. We will then consider whether the property is best let for social housing or via a private letting agent. The service of the loan and the management costs will be met from rental income.

We will review our current loan policy and consider recommending the adoption of a wider range of loan criteria to encourage and facilitate an increase in the number of loan applications.

Lendology offer online empty property loan decisions in principle, which do not impact the applicant's credit score via their website:

www.lendology.org.uk/loans/empty-property-loans/

Owners of empty properties can contact Lendology for an informal chat with one of their expert loans advisers about the empty property and how they may be able to help on 01823 461099, email loans@lendology.org.uk or complete our online [contact form](#).

Lendology currently provides the following loan information criteria on its website:

Works that are covered:

- Removal of category 1 hazards
- Renovation
- Energy efficiency
- External wall insulation
- Replacement boilers
- Central heating installations
- Roofs
- Windows
- Electrics
- Kitchens
- Bathrooms
- Structural repairs

Who can apply?

- Empty property owner
- In receipt of benefits
- Retirees
- No upper age limit
- Self-employed
- Poor credit history

What Lendology offer

- Borrow from £1,000

- Fixed interest rate
- Typical 4.2% APR
- No early repayment charges
- Up to 15 year repayment period
- Flexibility to make overpayments of £100 or more
- Deferred repayment options
- Range of loan types based on circumstances

Reduced VAT rates

Domestic building work, including repair, maintenance and improvements are usually charged at the standard rate of 20% VAT.

However, there are a number of circumstances in which VAT on building works is charged at a reduced rate or even zero-rated. For up to date advice please visit www.hmrc.gov.uk or seek independent advice on the opportunities and restrictions.

Owners of empty homes claim a VAT refund by providing evidence that the property has been empty for the required period.

Installation of certain energy efficiency measures

Reduced rates of VAT currently apply to a number of types of building works, such as installing energy saving measures, adapting a building for a disabled person or for converting a non-residential building into a home. More information is available at [VAT for Builders](#).

A reduced VAT rate applies to the installation of the following energy efficiency measures:

- Central heating and hot water controls
- Draught stripping
- Insulation
- Solar panels
- Wind Turbines
- Ground source heat pumps
- Air source heat pumps
- Micro combined heat and power units; and
- Wood-fuelled boilers

Change in the number of dwelling units

A 5% VAT rate applies to the cost of renovation work to a building in residential use that results in a change in the number of dwelling units such as dividing a house into flats. There is no reduced VAT rate for DIY. More information can be found at [VAT Notice 708](#).

New dwellings

The supply of new dwellings including labour and materials is zero rated for VAT. More information can be found at [zero rating the construction of new buildings](#).

Free empty homes matchmaker scheme

We will provide a matchmaker service connecting owners of empty homes with potential buyers, investors or developers.

The service will aim to match owners of empty homes (who would like to sell their property) with people who want to buy an empty home. Whether the empty home needs total renovation or is ready to move into, any potential seller will be welcome to join the scheme. We will benchmark with other councils and develop a policy for adoption.

Whilst we will not disclose details of empty homes without the owner's consent, we will enable potential buyers to make a purchase enquiry about an empty home on our website. Following an enquiry, we will contact the owner of the empty home to advise them of the enquiry and supply the contact details of the enquirer.

Rent the property through a letting agent

Another option available to an owner of an empty home is to rent the property through a letting agent. Letting agent fees will apply.

Sell the property

Whilst not our preferred option, selling an empty property may be the only way to get it back into use. We will support owners of empty properties who wish to retain ownership of their asset and help them explore alternatives to selling, however if an owner decides to sell we will provide advice on:

- selling to the Council
- using our property matchmaker scheme
- selling on the open market
- auctioning the property

We will not apply for an Empty Dwelling Management Order in respect of a property which is actively being marketed for sale.

The Council Tax cost of keeping a property empty

Empty, unfurnished properties are eligible for a discount for up to three months. After this period the full amount of Council Tax becomes payable.

Properties which remain empty and unfurnished will be charged an empty property premium as a percentage of their Council Tax payment:

- Empty and unfurnished for two years - 200% of the normal liability
- Empty and unfurnished for five years - 300% of the normal liability
- Empty and unfurnished for ten years - 400% of the normal liability

Some empty properties may be exempt from Council Tax and examples are listed below:

- owned by a charity (exempt for up to six months)
- left empty by someone who is now in prison
- left empty by someone who has moved to receive personal care in a hospital or a home
- repossessed properties (in possession of the mortgage company)
- waiting for probate or letters of administration to be granted (and for up to six months after)
- the responsibility of a trustee in bankruptcy
- empty because the law has said it must not be lived in
- waiting to be lived in by a minister of religion
- left empty by students who live elsewhere to carry out their course
- unable to be let separately because they are part of a main property or there is a planning restriction

We will target properties charged with an empty property premium and with council tax arrears and where appropriate, will take enforcement action to recover the debt.

It is worth noting that changes to the qualifying period for application of the council tax long term-empty homes premium were announced on The Levelling Up and Regeneration Bill in the Queen's Speech on 10 May 2022.

The Bill will allow us to consider homes as empty dwellings after one year rather than the current two years and we will be allowed to apply the following maximum additional charge for empty homes:

- 100% after one year
- 200% after five years
- 300% after 10 years.

Holiday lets and AirBnBs

We will provide information to owners of holiday lets and AirBnB properties of their responsibilities for considerate letting and encourage them to let their properties as permanent homes for our citizens. We will promote the social and economic advantages of switching back from short-term holiday use to a permanent residential use.

We will work collaboratively with our colleagues across environmental protection, housing and planning services to assess impact from anti-social behaviour as well as the impact on the sustainability and vibrancy of the community from the loss of permanent housing in the local market. We will consider enforcement action on a case-by-case basis.

Planning permission to change the use of a commercial property to a dwelling

We will collaborate with the Planning Policy Team and Development Management Team to identify empty commercial properties where planning policy supports the creation of dwellings. We will target commercial properties for development and invite owners to consider a change of use of their commercial property to a dwelling.

The National Planning Policy Framework states that planning policies and decisions should:

'promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure) ; and

support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.'

Priority 2: Proactively engage and work with owners of long term empty properties

There is a good chance that a property is empty if:

- it is boarded up or has metal screens over the doors and windows
- no one is ever seen entering or leaving the property
- the front and back gardens are very overgrown
- there is rubbish dumped at the front or back of the property
- there are pests and vermin
- there is evidence of squatting or illegal activities
- it looks derelict, with broken windows and doors, holes in the roof or a large amount of uncollected post built up

We want to bring as many empty properties back into use as we can, so we will dedicate a page on our website to our empty homes initiatives, with all information, opportunities, incentives and links in a single place to help our customers. We will also use social media to inform our residents and customers of our activities and successes.

We will make it easy for our customers to report empty homes on our website or to our Customer Service team. We are committed to positive and supportive engagement with owners of empty properties to help get them back into use and whilst we will always investigate and react to reports of empty of empty properties, our interventions are mainly proactive.

As part of our free empty homes matchmaker service we will provide an enquiry service for potential purchasers, developers and investors to enquire about an empty home they may be interested in. We will then contact the property owner with a view to connecting them with the enquirer.

We use council tax data to identify properties empty for six months or more and will trace and contact the owners to discuss their plans for their property. We will work positively with owners to help them decide how they can best bring the property back into use. We may be able to provide details of registered builders, local letting agents and information on the legal requirements for letting a dwelling.

Our officers will be sympathetic to different circumstances and have a comprehensive knowledge of the opportunities and incentives available. We will:

- listen to owners of empty properties
- sympathise and try to work through solutions
- arrange site meetings
- carry out property inspections
- provide repairs & renovations advice
- explain finance options
- discuss potential income
- explain letting or selling options
- explain our enforcement powers

Once an owner of an empty home has decided to bring their property back into use we will actively encourage them to work with us to provide social or private housing for people wanting to live (and work) in North Devon.

Our policies and operational procedures will have regard to the Regulators' Code and we will adopt the following five principles of good regulatory compliance:

- **Transparency** – we will publish information on how we work, provide guidance and advice to our customers and explain our enforcement policy
- **Targeted** – we will base our activities on risk
- **Consistency** – we will treat similar situations in similar ways
- **Proportionality** – our actions will be fair and balanced
- **Accountability** – we will take ownership of our work and publish information on how to comment or complain about our service. We are committed to continuous improvement in the delivery of the service.

The owners of this former hotel in Ilfracombe had mothballed the listed building, which had been in a state of significant disrepair for a number of years.



We engaged with the owners who agreed to sell the listed building to avoid enforcement action. The building was purchased at auction by a property development company who secured planning permission to convert the building into residential apartments.



Priority 3: Improve our neighbourhoods by targeting empty properties that have become the focus of anti-social behaviour and/or neglect

Reporting an empty home

Our customers can report an empty home on our website at [Report an empty home](#). We will record the report on our case management system and undertake a risk assessment.

Targeting empty homes

Properties that have been empty for some time often cause problems for people who live in the local area. As well as affecting the overall environment through their appearance, empty properties can become the target of anti-social and criminal behaviour.

To ensure our resources are appropriately targeted, we will use a scoring matrix to help us decide which properties to target and we will consider the following factors:

- Environmental - such as boarded up windows, accumulated rubbish/fly tipping and overgrown gardens
- Social – whether the property is in disrepair, attracted crime, vandalism, graffiti, anti-social behaviour or where the property is well maintained but located in an area where there is an acute housing shortage
- Health or Safety – whether the property affects the integrity of neighbouring properties, if there are hazards to the public or pest activity
- Length of time the property has been empty.

See appendix 1 – empty homes risk assessment matrix

Tools

We use a number of tools to help us track, contact and engage with owners of empty properties; These include:

- HM Land Registry – check property ownership
- Valuation Office – check council tax status
- Council Tax team – for information on length of time empty and debt owed
- Estate Research – free track and trace service
- UK Property Rescue – providing trade services and specialising in Local Authority works in default
- NP Law – Compulsory Purchase Orders consultancy service

Enforcement action and our legislative powers

We have a number of tools and legislative powers we can use to help us bring empty properties back into use. We will normally try to engage with owners and explore the range of opportunities and incentives to bring empty properties back into use before using our enforcement powers.

However, given the range of opportunities and incentives and our commitment to positively engage and work with owners of empty properties, we will consider enforcement action if the owner of an empty property is unwilling or unable to bring the property back into use.

It is important that we use the most appropriate legislation when taking enforcement action. We will consider the most appropriate legislative powers across:

- Housing
- Planning
- Environmental Health
- Environmental Protection
- Building Control
- Council Tax
- Other Enforcement Legislation

Housing Act 2004

Empty Dwelling Management Order (EDMO)

EDMOs enable us to take control of and manage a residential property that has been empty for over six months and where the following apply:

- all attempts to contact the owner or negotiations to bring the property back into use have failed
- the dwelling has been unoccupied for at least two years
- there is no prospect of the dwelling becoming occupied in the near future
- there is a reasonable prospect that the dwelling will become occupied if an EDMO is made
- we have complied with our duties in seeking an EDMO, including ensuring that the dwelling is not subject to an exemption under the regulations

When we have given the owner three months' notice that we intend to seek an EDMO we can apply to the Residential Property Tribunal Service for authorisation to serve an Interim EDMO. We will need to demonstrate that property has been empty for two years, has a negative impact on the local community and there is local support for the use of an EDMO. The tribunal will take into account the interests of the local community as well as the rights of the owner.

If successful, we will register the EDMO as a local land charge to make it known that the property is under our control and to prevent the owner from selling it without us being able to recover any associated costs up to the date of completion. An Interim EDMO lasts for 12 months during which we will work with the owner to try to agree a way to put the property back into use.

Once we have secured an Interim EDMO we will consider whether and when to apply for a Final EDMO, which will include a schedule of works and cost estimates. A Final EDMO lasts up to seven years.

An EDMO allows us to take control of the management of the property, but not obtain ownership. By taking over the management of the property we can undertake renovation works to bring the property up to the Decent Homes Standard. All management costs are met from rental income.

An EDMO allows us to bring an empty property back into use without changing its ownership. We can recover any costs we incur by taking possession of the property and making it habitable.

There are exemptions which prevent us serving an EDMO. These are:

- Second homes
- Holiday lets
- Flats and houses normally occupied by students
- The owner is in prison
- The owner is receiving or giving care
- The owner is in the armed forces
- The relevant proprietor is temporarily residing elsewhere
- The property is on the market for sale or let

The Housing Health and Safety Rating System (HHSRS)

Our officers will carry out inspections of empty properties using the HHSRS to assess whether there are any hazards in a home that could affect someone's health. There are 29 prescribed hazards with high risk classed as Category 1 and lesser risks as Category 2.

If we find a Category 1 hazard we have a duty under section 11 of the Act to serve notice. Section 12 of the Act provides us with the powers to serve notices relating to Category 2 hazards. We can consider the following enforcement action against the owner:

- Serve an improvement notice
- Make a prohibition order
- Serve a hazard awareness notice
- Take emergency remedial action
- Make an emergency prohibition order under
- Make a demolition order under the Housing Act 1985
- Declare the area in which the premises concerned are situated to be a clearance area under the Housing Act 1985.

Housing Act 1985

We have powers under section 17 of the Housing Act to acquire houses or buildings which may be suitable as houses by way of compulsory purchase.

Whilst we will always continue to engage with owners of empty properties and explain all available options to bring properties back into use, we will consider compulsory purchase action as a last resort where the owner:

- is unable or unwilling to co-operate with voluntary measures we have offered
- has failed to agree to refurbish or occupy the property
- is untraceable

We will prioritise and target property types that meet our strategic needs for social and affordable housing. We must demonstrate that there is a proven housing need and that it is the public interest to compulsorily purchase an empty property.

We can recover the cost of taking compulsory purchase action when the property is sold. We may also be able to impose restrictions (known as covenants) to ensure the property is improved to a decent homes standard and occupied within 12 months of the date of sale.

Town and Country Planning Act 1990

Section 215 Notice

We can issue a notice under section 215 of the Act if the condition of land or a building is causing significant harm to the amenity of an area we have the power to require its proper maintenance.

If we serve this notice, we must specify what action is required to improve the condition of the land and give a timeframe for compliance. If nothing happens, we have discretion to extend the deadline, prosecute the offender or to take direct action.

We also have powers under section 219 of the Act to undertake the clean up works ourselves and to recover the costs from the landowner. We can take direct action if we have issued an enforcement notice and its requirements have not been met. If we take direct action and are unable to recover the cost from the landowner, we may place a charge on the land to recover costs. In all cases, before we decide to take direct action we will:

- assess if the condition is continuing to cause significant harm or cause harm over a wide area
- look at the overall costs of carrying out the action and the prospects of recovering any costs
- assess any risks to the health and safety of our employees, contractors, the owner or occupier(s) of the property
- check whether the direct action is consistent with our corporate objectives and overriding objectives of national planning policy

In some circumstances section 215 notices may be used in conjunction with other powers, for example, repair notices in respect of listed buildings or dangerous structure notices.

The owner had removed the ground floor bay window of an empty home in Barnstaple.



Following the owner's failure to engage with us, we took enforcement action under planning legislation to secure the reinstatement of the window and removal of overgrown foliage.



Planning (Listed Building and Conservation Areas) Act 1990

Urgent Works Notice

We have the power to execute urgent works that appear to us to be urgently necessary for the preservation of an unoccupied listed building under section 54 of the Act and we can require the owner to pay the costs incurred in carrying out the works.

We cannot use these powers in relation to the following:

- an ecclesiastical building which is for the time being used for ecclesiastical purposes
- any building which is a scheduled monument
- Crown land, except on a non-Crown interest in the land . . .
- any listed building which is occupied (where the building is occupied in part, the powers may be used in relation to those parts which are not in use)

The Secretary of State may direct that the powers can apply to an unlisted building in a conservation area where it appears to him/her that its preservation is important for maintaining the character or appearance of the conservation area.

Repairs Notice

If it appears that reasonable steps are not being taken for the proper preservation of a listed building we can serve a Repairs Notice and subsequently compulsorily acquire the building under section 47 of the Act. This is a reserve power which is only used to ensure the long-term preservation of a listed building.

There is a two-stage process. The service of a:

- (i) Repairs Notice and
- (ii) Notice of compulsory acquisition on every owner, lessee and occupier if, after the expiry of two months it appears to the appropriate authority that reasonable steps are not being taken for properly preserving the building.

The Repairs Notice must specify the works which are reasonably necessary for the proper preservation of the listed building and we must explain the effect of powers we have under sections 47 to 50 of the Act.

We cannot commence compulsory purchase of a listed building unless we have already served a Repairs Notice at least two months previously. Instead of a purchase price being paid upfront, compensation is payable to the owner of the building based on its market value.

However, if we are able to prove that the listed building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition, only minimum compensation may be payable. But proving that the neglect is deliberate can be challenging.

Prevention of Damage by Pests Act 1949

We have powers under section 4 of the Act to require the owner of land to take steps for the destruction of rats or mice or keeping land free from rats and mice. We can carry out works in default and recovery of the costs incurred.

Environmental Protection Act 1990

Some empty properties can require inspections to determine whether they result in a statutory nuisance. Section 79 of the Act defines what constitutes a statutory nuisance:

- any premises in such a state as to be prejudicial to health or a nuisance
- smoke emitted from premises so as to be prejudicial to health or a nuisance
- fumes or gases emitted from premises so as to be prejudicial to health or a nuisance
- any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance
- any accumulation or deposit which is prejudicial to health or a nuisance
- any animal kept in such a place or manner as to be prejudicial to health or a nuisance
- any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance
- artificial light emitted from premises so as to be prejudicial to health or a nuisance
- noise emitted from premises so as to be prejudicial to health or a nuisance
- noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street
- any other matter declared by any enactment to be a statutory nuisance

Where a complaint of a statutory nuisance is made about an empty property by a person living within its area, we have a duty to take reasonably practicable steps to investigate and detect any statutory nuisances.

We can serve an abatement notice under section 80 of the Act when we are satisfied that a statutory nuisance exists, or is likely to occur or recur to require the:

- abatement of the nuisance or prohibiting or restricting its occurrence or recurrence
- the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes

Under section 59 of the Act we can require the occupier of land to remove waste deposited and/or to take steps to eliminate or reduce the consequences of the deposit of the waste.

Building Act 1984

Defective premises

We can serve a notice and take action to remedy the defective state of a building under section 76 of the Act if it appears to us that:

- any premises are in such a defective state as to be prejudicial to health or a nuisance and
- there has been unreasonable delay in remedying the defective state as prescribed by section 80 of the Environmental Protection Act 1990

Dangerous building

If it appears to us that a building or structure (or part of) is in a dangerous condition, we can apply to a magistrates' court to take action under section 77 of the Act. The court may:

- where danger arises from the condition of the building or structure, make an order requiring the owner to:
 - execute such work as may be necessary to prevent the danger or,
 - if the owner chooses, demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition
- where danger arises from overloading of the building or structure, make an order restricting its use until a magistrates' court, being satisfied that any necessary works have been executed, withdraws or modifies the restriction

If the person fails to execute works that are necessary to prevent the danger, we can:

- execute the order in such manner as they think fit, and
- recover the expenses reasonably incurred by them in doing so from the person in default

Dangerous building—emergency measures

Section 78 of the Act allows us give notice to the owner of a dangerous building, take necessary action and recover reasonably incurred expenses if it appears to us that:

- a building or structure, or part of a building or structure, is in such a state, or is used to carry such loads, as to be dangerous, and
- immediate action should be taken to remove the danger

Ruinous or dilapidated buildings and neglected sites

If it appears to us that a building or structure is in a ruinous or dilapidated condition and is seriously detrimental to the amenities of the neighbourhood we can serve a notice under section 79 of the Act to require the owner to:

- execute such works of repair or restoration, or

- if the owner chooses, demolish the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition

We can also serve a notice to require removal of rubbish from collapse or demolition from the site and any adjoining land if the condition of the land is seriously detrimental to the amenity of the neighbourhood.

Local Government (Miscellaneous Provisions) Act 1982

Protection of buildings

Under section 29 of the Act we can serve a notice and undertake works to a building to prevent unauthorised entry to it or to prevent it from becoming a danger to public health.

We can use these powers if it appears to us that:

- the building is unoccupied or
- the occupier of the building is temporarily absent from it

If we carry out works to protect a building we can recover reasonable expenses from the owner.

Anti-Social Behaviour Crime and Policing Act 2014

Community Protection Notice

A Community Protection Notice (CPN) can be a useful tool to encourage the owner of an empty property to engage with us to bring the property back into use. We will consider issuing a CPN where there are issues connected to an empty property have a detrimental impacts on the quality of life of people who live near the property. These issues could include abandoned vehicles and vandalism or graffiti.

However, there is no requirement for us to be able to see the impacts from the public realm so we will issue CPNs to secure improvements to detrimental impacts that are often hidden from the wider public, such as overgrown rear gardens.

A CPN is a notice that imposes any of the following requirements on the individual or body issued with it:

- to stop doing specified things
- to do specified things
- to take reasonable steps to achieve specified results

Under section 43 of the Act we can issue a CPN to anyone aged 16 or over, or a body, if we are satisfied on reasonable grounds that:

- the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and
- the conduct is unreasonable

Conduct on a property is considered to be conduct of the occupier of that property. If there is no occupier, or the owner or occupier cannot be identified, the Notice can be posted on the property

We can only impose reasonable requirements to:

- prevent the detrimental effect from continuing or recurring or
- reduce that detrimental effect or to reduce the risk of its continuance or recurrence

If those actions are not taken, the person the notice is served on can be prosecuted and required by the court to take action. In addition we can arrange to take action, (but notice has to be served again if the action is needed indoors) with the costs being the liability of the person who didn't take action.

The legislation does not time limit the length of a CPN so requirements to prevent detrimental impacts could be imposed. This could provide further incentive for an owner to engage with us.

Closure of Premises Notice

Under section 76 of the Act we have powers to issue a closure notice if we are satisfied on reasonable grounds that:

- the use of a particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public, or
- that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises,

and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

The Council Tax (Administration and Enforcement) Regulations 1992

We are committed to engagement, but where an owner of an empty property has outstanding Council Tax debt in excess of £1,000 we will consider applying to the Magistrates' Court for a liability order, which is a legal demand for payment. Once secured we can make a similar application for a charging order.

There are three stages within this process:-

1. Interim charging order - can be secured generally without the debtor being present and once secured will be registered at HM Land Registry
2. Final charging order – can be applied for once an interim charging order has been obtained. The debtor may object to this order, however, the burden of proof is on the debtor to show why such an order should not be made.
3. Order for sale - we can apply to the Court for an order of sale. The Court has discretion to make an order of sale and will take into account the following factors:

- the size of debt and length of time it has been outstanding
- likelihood of the debt being satisfied from the proceeds of sale
- whether the Council is unlikely to recover the debt using other methods available
- the request is reasonable and proportional under Article 8 of the Human Rights Act 1998.

Enforced Sale - Law of Property Act 1925

Many statutes allow us to serve a notice requiring the owner of a property to carry out works. Sometimes failure to comply with a notice amounts to an offence and often we have the right to carry out the works in default and to recover the cost. Sometimes the legislation allows us to apply to the Court for a charging order to be registered against the property for the amount of the works in default costs. The Act governs the operation of the enforced sale procedure.

We can exercise a power of sale conferred under the charging order to recover the money we are owed for carrying out the work in default. It is a similar power that a bank or building society uses to sell a house when the owner has defaulted on the mortgage payments. This does not cover the right to sell a property because due to council tax arrears. That process, unlike the enforced sale procedure requires an application to court and an order for sale.

The following statutes are some of those that help with empty homes, which can be used to reclaim costs and can lead to a charging order on the property:

- Section 4 of the prevention of Damage by Pests Act 1949
- Section 79 of the Building Act 1984
- Section 80 of the Environmental Protection Act 1990
- Section 215 of the Town & Country Planning Act 1990
- Sections 11 and 12 of the Housing Act 2004

We will consider carrying out enforced sales on any empty property within the district when £500 or more is owed to the Council through works in default being undertaken. Any surplus is paid to the owner or mortgagee.

An Enforced Sale brings two main benefits:

- Money owed to the Council is recovered
- The property is sold to a new owner with the expectation that it will be brought back into use.

We will act proportionately when deciding whether to commence with action to enforce the sale of an empty property and ensure that it is in the public interest. We will consider an enforced sale if:

- the owner is unable or unwilling to co-operate with voluntary measures offered by us, such as the refurbishment of the property
- the owner is untraceable or unavailable to act.

We will normally follow best practice and sell the property at auction. It is important that we seek to obtain the best price as we have a duty to the owner of the property not to sell a property at an under value.

When the property has been sold we can deduct the following from the sale proceeds:

- the original works in default costs and costs of putting the charge on
- legal costs in undertaking the enforced sale procedure
- legal costs in connection with the sale
- auctioneer's or other marketing costs
- any local authority officer time in relation to the enforced sale process
- any other debts owed to the Council and charged on the property

Human Rights Act 1998

Before we take enforcement action we will consider the provisions of the Human Rights Act 1998, in particular:

- Part 1, Article 8 "the right to respect for... private and family life..., home and... correspondence", and
- Protocol 1, Article 1 "peaceful enjoyment of... possessions", need to be balanced against the general benefits and rights of neighbours and the surrounding community.

Priority 4: Develop effective partnerships with key stakeholders

Developing relationships and working with partners & stakeholders is an important way of engaging with our customers, developing policies and promoting our work. We recognise that without these relationships the our effectiveness is diminished.

We will collaborate and engage with individuals, organisations and bodies who share our commitment to getting empty properties back into use. These include:

- Elected Ward Councillors
- Town & Parish Councils
- Registered Social Landlords
- North Devon & Torridge Housing Crisis Group

We will undertake a feasibility study to assess the practicality of working with a Registered Social Landlord, property management company or letting agent to manage private let of empty homes.

Collaboration between our own teams

To maximise efficiency and effectiveness we work collaboratively with a range of Council teams such as:

- Communications team – press releases, social media posts and feedback responses
- Council Tax
- Housing Options
- Affordable Housing
- Environmental Protection
- Planning
- Environmental Health
- Building Control

A joint approach can help encourage the owner of an empty property to either:

- undertake improvements and let or sell the property or;
- sell the property to a developer or investor to improve and bring back into use

This property in Ilfracombe was in a poor condition. The roof was damaged roof and there were broken windows.



We worked with the local ward councillor who was able to persuade the owner to sell the building. A local developer purchased and subsequently renovated the property.



Homes England

Homes England is an executive non-departmental public body, sponsored by the [Department for Levelling Up, Housing and Communities](#) and is responsible for:

- increasing the number of new homes that are built in England, including affordable homes and homes for market, sale or rent
- improving existing affordable homes and bringing empty homes back into use as affordable housing
- increasing the supply of public land and speeding up the rate that it can be built on
- helping to stimulate local economic growth by using our land and investment, and attracting private sector investment in local areas.

We consult Homes England for empty property advice and information.

Empty Homes Network

We are members of the Empty Homes Network which supports the delivery of empty property strategies. It was launched by empty property practitioners with the support of government ministers, the Housing Corporation and the Empty Homes Agency.

Its constitution defines the aims of the organisation as follows:

- to foster mutual support and understanding amongst empty property practitioners;
- to raise the status and profile of empty property practitioners
- to promote the value of the dedicated empty property practitioner
- to promote, support and facilitate the development of professional standards and skills amongst empty property practitioners
- to promote policies and practices which offer effective responses to the challenges presented by empty property.

The delivery , monitoring, evaluation and review of the strategy

Delivery

To support the delivery of the strategy we aim to embed our policies and procedures by the end of December 2022. We will then be able to use data comparisons to set realistic and achievable forecasts and targets on a range of activities to measure the effectiveness of our interventions.

The four strategic priorities and related objectives will be delivered through the empty homes strategy action plan, which details the delivery actions.

Successful delivery of the strategy should result in a net increase in housing and in turn, an increase in the New Homes Bonus paid by central government because it is based on the amount of extra council tax revenue raised for not only new build homes, but conversions and long term empty homes brought back into use. There is an additional payment for providing affordable homes.

Monitoring

We will regularly update our empty homes module records to reflect changes in council tax data. We aim to bring ten empty homes back into use in year one. We will report on our progress quarterly and provide data on how our work has affected the New Home Bonus as well as any impact on demand for temporary accommodation to our Housing Options team.

Evaluation

We are committed to continuous improvement and will ensure our officers are adequately trained and that they adopt best practice. We will evaluate outcomes and review policies and procedures to ensure lessons are learnt. We will adapt to legislative change and will consider new funding opportunities and possible strategy enhancements as opportunities arise.

Review of the strategy

We will review the empty homes strategy annually to ensure it reflects legislative changes, policies and strategies. We will constantly strive to offer innovative opportunities and incentives to bring empty homes back into use.

Empty Homes Strategy Action Plan

We have developed the following action plan to deliver the strategy and we aim to be in a position to commence engagement and interventions by end June 2022. We are committed to continuous improvement and will regularly review a develop policies and procedures.

We will:

1. review the empty homes database, ensuring efficient and effective case management to maximise successes and opportunity
2. develop reporting mechanisms for empty homes to allow easier access for customers to report an empty home and increase awareness of the service
3. review and revise the advice and assistance available and provide web information in one place. We will increase offers of assistance and improve how we communicate them
4. explore opportunities for our private sector leasing scheme as well as social and private letting options. We will work with registered social landlords, housing associations and letting agents to provide affordable housing for local people with the aim to reduce demand for temporary accommodation
5. review the Council's empty homes loan policy which will provide more flexibility and promote greater take-up to improve the effectiveness of assistance for owners of empty homes
6. collaborate with planning policy and development management to explore change of use opportunities
7. collaborate across internal services such as housing, planning, environmental protection, building control, property & technical and legal services to provide a seamless customer journey
8. develop partnership working with external agencies such as letting agents, estate agents and house clearance companies and explore potential discount incentives for owners of empty properties
9. develop policies and procedures of enforcement options including Compulsory Purchase Orders, Empty Dwelling Management Orders and Enforced Sales. Adopt a transparent and consistent approach to increase the number of empty homes brought back into use following enforcement action
10. regularly contact owners of empty homes to encourage engagement and provide an empty homes pack which will include all the opportunities and incentives available. Identify 'quick wins' in efforts to bring empty homes back into use.