

EMPTY PROPERTY POLICY REVIEW

Councillor Alex Farrell, Cabinet Member for Housing & the Local Plan

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Agenda Item: 6

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Key Decision? No

Local Ward N/a

Members



OVERVIEW & SCRUTINY

1. Executive Summary

- 1.1 Empty residential properties are a recognised nationwide problem.
- 1.2 Not only are they properties that could be brought back into use as affordable homes they can also attract fly tipping, vermin, vandalism, squatters, burglars and arsonists. They can also lead to damp ingress into neighbouring properties and affect the wellbeing of neighbours and communities.
- 1.3 Empty commercial properties can impact the health, wellbeing and vitality of a high street by making an area look less desirable and attractive to potential investors, visitors and shoppers.
- 1.4 The council has identified empty properties both residential and commercial, as a key local issue.
- 1.5 The council has an [empty homes policy](#) that was approved in 2016 and is due to be reviewed. The current policy does not currently extend to commercial properties.
- 1.6 This paper requests that the Overview & Scrutiny Committee reviews the current policy, considers best practice from across the country, and recommends changes and enhancements the council should consider when reviewing its policy and creating an action plan for the coming years.

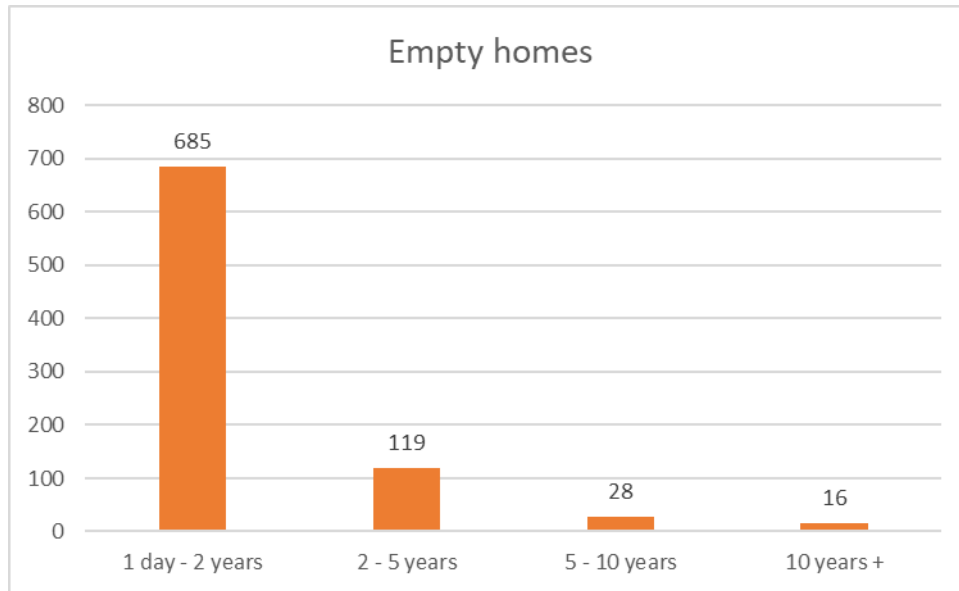
2. Recommendations

- 2.1 The Overview & Scrutiny Committee reviews the current policy, considers best practice from across the country, and recommends changes and enhancements the council should consider when reviewing its policy and creating an action plan for the coming years.

3. Background

Scale of the issue (residential)

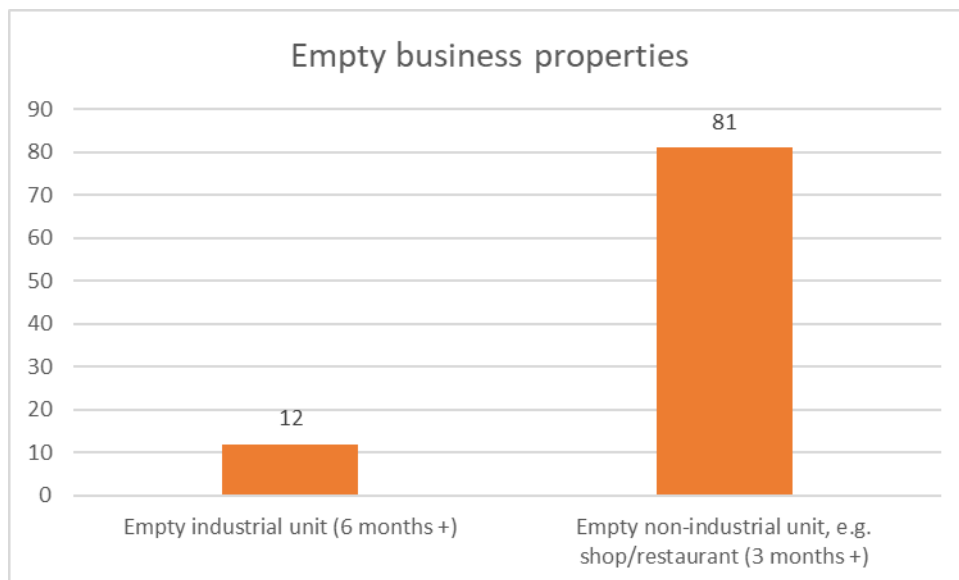
- 3.1 Whilst at any one time, there can be approximately 2,000 empty unfurnished homes in the district (approx. 4% of all homes), over 1,200 of these are either temporarily empty (e.g., rented properties in between tenancies or properties undergoing sale), are unoccupied annexes, pitches or moorings (seasonal use), with a smaller proportion (approx. 160) being longer-term empty properties that could potentially be bought back into use.
- 3.2 As of January 2024, there are 119 empty unfurnished properties that have been empty between 2 & 5 years, 28 that have been empty between 5 & 10 years, and 16 that have been empty for more than 10 years (see graph overleaf).



- 3.3 Of these it is recognised that the majority of the 119 (2 – 5 years) empty properties will be reported as not empty after shortly after 2 years has passed, when the council tax premium charge is levied. As such it is estimated that the number of acute empty properties is closer to 44.
- 3.4 There are also 966 empty furnished properties made up of people in prison, probate cases, those receiving care elsewhere and second homes.

Scale of the issue (commercial)

- 3.5 Whilst at any one time, there can be approximately 250 empty business properties in the district, the vast majority are empty listed buildings (over 78), small storage spaces (over 54), with approximately 90 properties that could be investigated to determine if they could be brought back into use.
- 3.6 As of January 2024, there are 12 empty industrial units, and 81 non-industrial empty unit across the district.



Recent activity – enforced sale

- 3.7 In the past year, the council’s regulations and enforcement team has been pursuing the potential use of a novel power called enforced sale in relation to two long-term empty properties. This allows the council to bring unsightly/unsafe properties back into use utilising powers set out in the Law of Property Act 1925.

- 3.8 The approach is founded on the council ‘requiring’ the property owner to carry out specified works to a property through a notice served under one or more of the below:
- S.4 Prevention of Damage by Pests Act 1949 (take steps to destroy rats or mice)
 - S.79 Building Act 1984 (remedy ruinous or dilapidated sites)
 - S.80 Environmental Protection Act 1990 (abate a statutory nuisance)
 - S.215 Town and Country Planning Act 1990 (remedy detrimental effect on amenity)
 - S.11 and S.12 Housing Act 2006 (remedy category 1 or 2 hazards in the dwelling)
- 3.9 If the owner fails to carry out the works within a specified time, the council could choose to carry out the works. The owner is then invoiced for the works and if the invoice goes unpaid, the council places a charge on the property.
- 3.10 The council can then sell the property to recover what is owed. Once the cost of the required works, legal costs, auction/sale costs, marketing costs, and any other debts to LDC are deducted (e.g., council tax), the remainder is paid to the owner. This approach can come with significant capital outlay and potential risks.
- 3.11 The benefit of the enforced sale approach is that it encourages the owner to either occupy the property, rent the property out, or to sell it themselves at several points in the process – in order to avoid an invoice and charge registered against the property.

Case study one Empty for approximately 20 years in central Lichfield.

The council’s intent was explained to the owner who granted access to the property so that an officer could conduct the inspection. Hazards were identified that required remedial action and these would likely amount to over £100,000 in works. The owner was informed that they must now undertake the works or take other action to prevent LDC intervening. This prompted them to engage a planning consultant and they are of the opinion that if the dwelling was demolished, four new homes could be built on the site. The owner is now pursuing this course of action. The next step is a bat survey which cannot take place until May 2024, after which submission of a planning application is expected.

Case study two Empty for approximately 16 years in central Lichfield.

The council’s intent was explained to the owner who granted access to the property so that an officer could conduct the inspection. Hazards were identified that required remedial action and these would likely amount to over £100,000 in works. The owner was informed that they must now undertake the works or take other action to prevent LDC intervening. The owner is engaging with officers and undertaking the necessary work himself, which he has stated will be complete by July 2024 ready for sale. Officers are of the opinion that the work is behind schedule and are therefore requesting regular updates, before considering further action.

- 3.11 Currently the council addresses the symptoms of empty homes on a case-by-case basis (e.g., boarding them up to prevent unauthorised access, dealing with rats, or fly tipping), based on complaints and assessment of risk, and has been trialling a more targeted approach (as detailed in the case studies above) in recent months.

Other powers

- 3.12 The council has a range of other powers to address empty properties. Powers include:

Negotiation with owner

- 3.13 The council can take an informal approach and work with property owners to bring homes back into use. This type of approach can include interest free home loans, home clearing services, and tenant matching schemes.

Empty dwelling management order (EDMO)

- 3.15 An (EDMO) is a legal device under The Housing Act 2006 that allows councils to take possession of an unoccupied property and put it back into use as housing. The council does not take over ownership of the property but can prevent the owner from using it or letting it to someone else, while the order is in force. To apply for an EDMO, a council must apply to a residential property tribunal for approval of an interim order. The tribunal must be satisfied that the property has been empty for at least two years, is having a negative impact on the local community, and has local support for the use of an EDMO. The council can bring the property up to the 'Decent Homes' standard through renovation works and allow reoccupation of the property by letting the property for the duration of the EDMO. The council assumes management of the property and legal possession but does not obtain ownership. All management costs are met from rental income.

Compulsory purchase order

- 3.16 As long as there is a proven housing need within an area, compulsory purchase orders (CPOs) can be used where owners refuse to take action to bring a property back into use, where an owner cannot be traced, or where a property has been empty for a long time and is causing a nuisance or is a danger to the public. Before a CPO is confirmed, a council must show it has taken steps to encourage owners to bring the property into acceptable use. The council will also need to demonstrate sound reasoning for making a CPO and justify the impact on the human rights of the owner or anyone else with an interest in the property.

Other tactics

- 3.17 A number of councils across the country including Burnley, Kingston & Derby City councils are highlighted as exemplars in tackling empty properties - [incentives to bring empty homes back into use in Burnley](#), [Derby City Council empty homes strategy](#) & [tenant finder service in Kingston](#).
- 3.18 Approaches adopted by these councils include:
- Empty homes assistance interest free loans to owners – [find out more](#).
 - Council tax incentives – [find out more](#).
 - Property refurbishment through CPOs and EDMOs supported by capital funds and work with partners such as housing associations – [find out more](#).
 - Tenant finder schemes – [find out more](#).
- 3.20 The adoption of these innovative approaches can require investment, in some cases both revenue and capital, which will need to be considered as part of the policy development.

Suggested topics for discussion

- 3.20 How important is it that the council addresses empty properties?
- 3.21 What are the committee's views on the council's current policy – view online at www.lichfielddc.gov.uk/emptyproperties
- 3.22 Does the current policy need strengthening/expanding and if so, what should be considered?

Next steps

- 3.23 An internal working group is being established to review the empty homes policy, as well as look at potential ways to deliver against a revised empty properties policy in the future.
- 3.24 The revised policy and action plan will be subject to Cabinet approval.

Alternative Options	Do not review the policy.
Consultation	Overview & Scrutiny will provide consultation advice to help shape the new policy which will also be subject to an equalities impact assessment and approval by Cabinet.
Financial Implications	There are no direct funding implications arising from the review of the policy. Any financial implications arising from the action plan will be considered separately.
Approved by Section 151 Officer	Yes

Legal Implications	There are no direct funding implications arising from the review of the policy. Any legal implications arising from the new policy and plan will be considered separately.
Approved by Monitoring Officer	Yes

Contribution to the Delivery of the Strategic Plan	<p>The strategic plan includes an ambition to shape place which includes:</p> <ul style="list-style-type: none"> • keep it clean, green and safe • preserve the characteristics • make sure sustainability and infrastructure needs are balanced <p>A successful empty homes/property policy underpins this by ensuring local homes are safe and liveable, and that high streets are preserved and new homes are created through re-use of empty properties.</p>
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Equality, Diversity and Human Rights Implications	There are no direct funding implications arising from the review of the policy. A full equality impact assessment will be conducted on the resulting policy.
EIA logged by Equalities Officer	Yes

Crime & Safety Issues	N/a
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Data assessment	Relevant data is included in this report and will inform the creation of the new strategy and action plan.
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Environmental Impact (including Climate Change and Biodiversity).	N/a
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GDPR / Privacy Impact Assessment	N/a
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	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Not reviewing the policy and action plan and not making progress in relation to empty properties	Likelihood: Red Impact: Orange Score: Red	Review the policy, action plan and resources to deliver.	Likelihood: Green Impact: Yellow Score: Green

Background documents	Empty homes policy – view online at www.lichfielddc.gov.uk/emptyproperties
Relevant web links	N/a