

Empty Homes Policy [draft]
Welwyn Hatfield Borough
Council

1.0 Introduction

Welwyn Hatfield Borough Council (the Council or council) has not previously had an empty homes policy. Historically the number of long-term empty homes in the borough has been considered to be relatively low and those that are empty have on the whole been well maintained. Therefore, the need for a strategy has not been deemed necessary.

We have however kept the situation under review, and whilst the number of empty homes reported has only increased slightly, since the Covid pandemic more neglectful conditions are apparent and engaging with some owners more difficult.

Not only are empty homes a wasted resource, particularly when considered against the need for housing, when these long-term vacant dwellings are neglected they can have an adverse impact on the local community. In order to take some of the enforcement measures necessary, it is recommended that the council develop and publish an empty homes policy.

This policy document explains the council's approach to empty homes in the borough. It also sets out the measures the authority can employ to address those empty homes that are having a detrimental impact on the community and bring them back into use to help meet local housing need. This Policy is primarily focussing on privately owned empty homes that are long term empty. This policy does not include council housing properties.

2.0 Empty Homes

The council's definition of an empty home for the purpose of this policy, means homes that have been empty for at least 6 months, but with the main focus on longer-term empty homes that have been empty for two years.

These two-year empty homes have not come back into use with the normal operation of the housing market and if they present a problem, they are likely to need support or intervention. However, we maintain an interest and oversight of all empty properties in the district, including second homes and furnished empty homes.

2.0 Strategic Links and Council Priorities

Under the 'QUALITY HOMES THROUGH MANAGED GROWTH' corporate priority in the Council's 2021-2024 Business Plan; bringing empty homes back into use is a part of the ambition to

- Deliver more affordable homes to meet local housing need
- Provide high quality housing, thriving neighbourhoods and sustainable communities

We need to deliver sustainable housing growth to meet the current and emerging needs of all our communities.

The overall aim of the policy is to enable us to use the powers available to us:

- to tackle owners who fail to maintain their empty homes and pose detriment to the community
- reducing the number of empty properties across the Borough wherever possible
- increase the supply of available housing to help meet housing need

[Note: It is important to note that Government policy does not allow the reduction of empty properties to be counted as a contributor to meeting the borough's housing targets, although they do count towards attracting funding under the New Homes Bonus grant].

3.0 Problems caused by Empty Properties

Empty properties can have a detrimental impact on communities and the local environment. Whilst it is not illegal to keep a property empty it can be an expensive option. The longer a property lies empty, the more it will deteriorate. Some of the most common problems associated with empty properties include:

- Wasted asset that costs the owner money to maintain/leave empty
- Vandalism/arson/anti-social behaviour
- Blight on local communities and general loss of value affecting neighbouring property values
- Urban deprivation of inner areas accelerating population loss
- Loss of community as permanent homeowners move out and are replaced by passing tenants
- Deterioration leading to dangerous and dilapidated structures which can be a danger to the public and/or cause damage to neighbouring properties
- Fly tipping/dumping/overgrown land and gardens
- Problems due to vermin infiltration
- Illegal squatting
- Time and money costs to both the Council and the emergency services

4.0 Benefits of bringing empty properties back into use and enabling housing growth

There are many financial, environmental, social and economic benefits of bringing disused residential properties back into use. These include:

- Attractive neighbourhoods and economic vitality which can increase spend and boost the local economy
- An increased supply of available housing to help meet housing need and reduce homelessness and the need for temporary accommodation
- Making best use of existing housing stock
- Increased revenue and new homes bonus income
- Increased income for owners who rent or sell their empty properties
- Reduced crime and anti-social behaviour and the fear of crime through improvements to homes and buildings to create safer communities and attractive neighbourhoods
- Improving homes and buildings to modern standards using the latest low carbon technology
- Enhancing the vitality of town centres and promoting economic growth by bringing town centre homes and buildings back into use
- Improving the visual impact of neighbourhoods to boost wellbeing, create pride in the community and reduce demand on public services
- Supporting the Council's commitment to tackling threats to public health which are sometimes linked to empty properties such as fly-tipping, vandalism and anti-social behaviour.

5.0 The Empty Homes Context in Welwyn Hatfield Borough

The situation with empty homes is never static as homes are brought back into use and other homes become empty or remain empty for longer periods of time. Government empty homes data released in November 2021 showed that in England there were 237,340 homes registered as long-term empty. This was a decrease of over 31,000 from the previous year which had also seen the first rise in the number of empty homes since 2016.

At the current time (December 2022), in Welwyn Hatfield there are:

- 961 empty private sector homes of which;
- 362 are empty but furnished (2nd homes)
- 304 have been empty/unoccupied for up to 3 months
- 178 dwellings have been empty for between 6 months and 2 years
- 113 have been long term empty for 2 years or more
- 4 are uninhabitable

In addition, there are empty properties that are not targeted for action to be brought back into use. Those owned by the Ministry of Defence and the Crown are exempt under legislation and derelict properties that have been removed from the Valuation Office residential list and are no longer a dwelling (however other enforcement action may be taken on these if dangerous, infested etc). The majority of empty homes that have been empty for 6 months or less come back into use within that period of time due to the normal operation of the housing market so are not a priority under this policy for the Council. The Council focuses on properties that are long term empty of 2 years or more which are not likely to come back into use without support. With the use of this policy, we aim to successfully reduce the levels of 2 year plus long term empty properties.

6.0 Our approach to bringing Empty Properties back into use.

The Council, in collaboration with partners and empty property owners, commits to using the powers available to tackle long term empty homes that are unsafe or are presenting a significant problem to neighbours or the local community. This may involve the Council purchasing, refurbishing, or managing, empty properties back into use as affordable homes.

6.1 Informal intervention/support to bring properties back into use

Empty property owners are not always aware of the support the Council can offer them, or the environmental and financial consequences of leaving their properties empty. The Council has a duty to provide information, guidance and general support to owners of empty properties. Through this support, many empty properties can be returned to use. Options include, for example:

- Refurbishing and re-occupying the property
- Letting the property themselves as landlord or through a letting/management agent
- Selling the property through an estate agent or via auction
- Selling the property to an investor
- Leasing the property to a private individual, property developer or registered provider

The Council is committed to preventing properties from becoming empty for prolonged periods where they can. Properties left empty in excess of two years will automatically be charged double the rate of Council Tax. If an empty property is brought to our attention, we will contact the owner to ascertain their intentions and offer advice and guidance to bring the home back into use. Our Housing options team will work with any owners who want to / or can be persuaded to rent out their property by providing it to a tenant that is in housing need. We organise landlord events and forums publicising a range of incentives and disincentives of empty homes and the public can report problematic empty properties in their neighbourhoods to us.

The Government is proposing new legislation on increasing Council Tax on second homes. The council will consider implementing a premium on second homes if the legislation is approved.

Supporting owners to sell or let their empty properties is a key component in the reduction of empty properties across the borough. However, this has a cost implication and the council does not have the means to offer empty property grants and/or loans to residents to encourage restoration.

6.2 Council Departments involved in preventing and tackling long term empty homes

These include:

- Private Sector Housing
- Housing Options
- Housing Needs
- Planning Enforcement Planning and Planning Conservation
- Environmental Health
- Building Control
- Council Tax
- Community Safety
- Elected Members
- Housing Development

Other officers may be needed as cases develop. These may include:

- Legal Services
- Property Services

External partners might be needed, such as the Police, to assist the Council with investigations or to support enforcement action the Council might take.

6.3 Enforcement and other formal interventions

6.3.1 Formal Intervention

Formal intervention has not been previously needed in our borough and the council is keen to avoid enforcement action where possible preferring to encourage and support empty homes back into use voluntarily. However, this is starting to change as a small number of properties have become neglected and the owners un-willing to engage. We suspect this could be as a result of the Covid pandemic and the ongoing cost of living crisis, and if this is the case we could see more empty and second homes suffer neglect. If an owner is unwilling to co-operate and their empty property is causing concerns in the neighbourhood, the Council may consider enforcement action, which could result in them losing ownership of the property. Enforcement action can include but is not limited to:

- Improvement Notices to ensure any necessary remedial works are undertaken as and when required
- Securing empty residential or commercial premises to protect the public and prevent unauthorised access and acts of crime (*Local Government Miscellaneous Provisions Act 1982*)
- Abatement Notices to ensure owners improve properties that are causing a statutory nuisance, for example a defective roof that is causing damp to a neighbouring property (*Environmental Protection Act 1990*)
- Action to improve the appearance of a property if it is considered to be detrimental to the amenity of an area under section 215 of the *Town and Country Planning Act 1990*

- Community Protection Warnings and Notices to prevent unreasonable behaviours that have a negative impact on local communities (*Anti-Social Behaviour, Crime and Policing Act 2014*).

6.3.2 Acquisition of property

In some circumstances, it may be necessary for the Council to consider long-term enforcement solutions for problematic empty properties including:

- Enforced sale (*Law of Property Act 1925*) - the Council may enforce the sale of a private property to recover outstanding debts secured against the property (excludes council tax debt).
- Empty Dwelling Management Orders (*Housing Act 2004*) enable local authorities or nominated parties, usually registered providers, to take over the management of an empty property for up to 7 years and rent it out to people in housing need. Renovation costs to improve the property can be reimbursed through rental income.
- Compulsory Purchase Orders (CPOs) can be used by local authorities as a last resort where all other options have failed. CPOs give local authorities the power, where justified, to acquire land or property including empty properties that are causing a statutory nuisance with or without the owner's consent, to prevent further decline

A full list of available powers and legislation can be found at Appendix B

7.0 Resourcing

- 7.1 The Government currently provides incentives to local authorities to increase housing supply through the New Homes Bonus scheme, although there is uncertainty about the continuation of this scheme in future years. For each long-term empty home brought back into use councils receive a financial reward. The bonus is based on achieving a net reduction in the number of long-term empty homes each year. An additional bonus is paid if the dwellings are returned to use as affordable homes.

Appendix B – List of Legislation

The Housing Act 1985

This Act empowers local authorities to acquire land, houses or other properties from private individuals, for the provision of housing accommodation. The acquisition must be shown to have a quantitative or qualitative housing gain. This power can be used to compulsorily purchase empty homes.

A number of pieces of legislation supports this power including:

- *Compulsory Purchase Act 1965 – to serve a Notice to Treat to acquire the property and post confirmation procedure. This procedure is normally used if the local authority is developing the land itself and needs to commence work on site immediately following confirmation of the compulsory purchase order,*
- *The Compulsory Purchase (vesting declarations) Act 1981 – to make a General Vesting Declaration under to acquire all necessary interests in the land and property included in the confirmed Compulsory Purchase order. This procedure is mainly utilised in circumstances where the acquiring authority intends to sell the CPO land for development by a third party under a development agreement and therefore needs to acquire title to the land rather than simply to obtain possession,*
- *Acquisition of Land Act 1981 - compulsory purchase procedure,*
- *Land Compensation Act 1961 - amount and assessment of compensation.*

The Housing Act 2004

The Housing Act (HA) 2004 provides a number of options for a local authority to take action to bring an empty home back in to use. This includes:

- Improvement Notice (s11)
- Prohibition Order (s20)
- Hazard Awareness Notice (s28)
- Emergency Remedial Action (s40)
- Emergency Prohibition Order (s43)
- Demolition Order (s265 1985 Act as amended)
- Clearance Area (s289 1985 Act as amended)

The HA 2004 also granted local authorities a powerful tool for returning empty homes into occupation - *Empty Dwelling Management Orders* (EDMOs). EDMOs can enable local authorities to let out empty homes for up to 7 years, without the consent of the owner. The local authority will be able to carry out repair works on the property and recover their costs from the rental income. If, however, the repair works are significant, the costs may not be able to be recovered during the maximum 7 year rental period. In this case, an EDMO would not be feasible. Consequently, analysis of all costs has to be undertaken before an EDMO should be applied for.

Building Act 1984

Sections 77 to 79 can be used to require the owner of a dilapidated and/or dangerous building to undertake remedial work for and sites or in emergency situations the local authority can carry out the works and later recover the costs of the works from the owner.

Town & Country Planning Act 1990

This legislation can be used to gain entry to or dispose of a property or detrimental to the amenity of the area.

Environmental Protection Act 1990

Section 79 to 81 applies where a premises causes a health risk or nuisance and repair work is required to make it safe.

Prevention of Damage by Pest Act 1949

Section 4 might be used to serve a notice on the owner or occupier requiring reasonable steps to be taken to destroy rats and mice on the land.

Local Government (Miscellaneous Provisions) Act 1982

Section 29 is used where a property is not effectively secured against unauthorised entry or is likely to become a danger to public health. The local authority may undertake works to prevent unauthorised entry to the building or prevent it becoming a danger to public health. This legislation may also be used to request information from the owners of properties and anyone (including companies) who have an interest in the property.

Anti-social Behaviour, Crime and Policing Act 2014

Local authorities can serve notices on owners of empty properties that are in a poor condition.

Public Health Act 1961

Section 34 allows local authorities to serve notice on an owner to remove a nuisance or gives local authority power to do so in the default of the owner.

The Local Government Act 2003

The Local Government Act 2003 has introduced the ability for local authorities to limit the reduction of council tax on holiday / second homes to 10%, reduce other empty property discounts and vary the discount exemption classes. The Act also enables councils to share council tax data between departments to make empty homes strategies more effective.

Local Land Charges Act 1975

Where an Owner has not complied with certain Statutory Notices, the local authority may undertake works in default of a Notice and recharge the cost of the works to the Owner. This debt may be registered as a Local Land Charge.

Law of Property Act 1925

Where there is a financial Charge registered in Part 2 of the Local Land Charges Register, a Local Authority has the power to enforce that Charge via the Enforced Sale Procedure. The power to carry out an enforced sale is within the Law of Property Act 1925. This is essentially a method of debt recovery and a measure of last resort; however, it can be used as a tool for regeneration in certain circumstances. Section 20 of the Limitations Act 1980 sets out that enforced sales action must be taken within 12 years of the right to receive the money arising.

Human Rights Act 1998

When deciding whether to go forward with an Enforced Sale Procedure or Compulsory Purchase Order, consideration must be given to the Human Rights Act 1998. In particular, selling property belonging to a third party engages Article 8 of the Act, namely 'the right to respect for ... private and family life ..., home and ... correspondence.' Also, Article 1 of Protocol 1 is also engaged, namely '... the peaceful enjoyment of possessions ...' Therefore, interference is only permitted if such action is

considered proportionate. The individual's property rights have to be balanced against the general benefits to the community if the property were to be brought back into use.

Flowchart of identification to action

