



**Title:** **Compulsory Purchase Order - 114 Uplands Road, Oadby**

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## **1. Introduction**

- 1.1. 114 Uplands Road, Oadby is a 3/4 bedroom detached property in a residential area. The property has a deep rear garden and a good front garden with a garage and off road parking providing scope for extension or alteration, The property has been vacant for at least 16 years and is in a poor state of repair, with smashed windows, to the front and rear of the property. In addition both gardens are overgrown with the front garden being used by passersby as a dumping ground for household rubbish. The weeds and foliage in the rear garden have impacted on the neighbour's property. Despite rigorous attempts via letters and phone calls to contact the owner by officers of the Council it has not been possible to contact with the owners to carry out the works to bring the property back to an acceptable condition.
- 1.2. Various options have been explored as to what action to now take. It is proposed to make the Compulsory Purchase Order (CPO) and once confirmed to dispose of the property by the most appropriate of the options set out in this report.

## **2. Recommendations**

2.1 It is recommended that Members:

- (i) Make a Compulsory Purchase Order under section 17 and Part XVII of the Housing Act 1985, and the Acquisition of Land Act 1981, for the acquisition of 114 Uplands Road, Oadby.
- (ii) That the Director of Services, in conjunction with the Chair of Policy, Finance and Development Committee and the Chief Finance Officer do anything necessary to give effect to the recommendation (i) above, including but not limited to undertaking all procedural steps required to:
- make advertise and secure confirmation and implementation of the Compulsory Purchase Order;
  - acquire the legal interest in the property, the subject of the proposed Compulsory Purchase Order, whether by voluntary agreement or compulsorily using statutory powers set out in the preceding paragraph;
  - take all necessary action to deal with all matters relating to the payment of compensation and statutory interest including approval of agreement with property owners ( if they come forward) setting out the terms for withdrawal of objections to the Order and where necessary and/or appropriate the instituting or defending of related proceedings;
  - dispose of the property in accordance with the proposals set out in this report.

### 3. Information

3.1 The property has been empty for 16 years. It is in a state of disrepair, efforts have been made by Council Officers to contact the owner who lives in Diss, Norfolk but to no avail. Enquiries have been made with South Norfolk Council who have confirmed that the owner of the property is still living but he fails to respond to telephone calls, any letters or documentation sent to him in relation to the property.

3.2 Documentation shows that up until June 2011 the Council's representatives had communications with the owner of the property. However since that date no replies have been received in relation to the condition of the property and the works that are required.

The Council has received many reports of youths entering the property and using it as a meeting place and to take illegal substances. Due to the poor condition of the property, and to prevent further vandalism, and the property being used for illegal activities the Council took steps to secure it by arranging the boarding of the garage and the ground floor of the building.

On 7 August 2015, Officers wrote to the owner requesting that grounds of the property be tidied. A response was not received.

On the 12 July 2016, section 215 Notice of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) was issued to the owner of the property requiring the following steps to be taken with effect from 26<sup>th</sup> August 2016.

- (a) Cut down all vegetation in both the front and rear garden areas to ground level.
- (b) Remove all cut vegetation to an authorised place of disposal.
- (c) Remove all fly tipped rubbish on the site to an authorised place of disposal
- (d) Secure all ground and first floor windows and doors on all elevations by way of replacement of the glazing or by boarding up.

The "time for compliance for the notice" stated:-

Steps (A,B+C) to be completed with 1 month of the date on which this Notice Becomes effective.

Step (D) to be completed within 2 months of the date on which this Notice Becomes effective.

To date none of the works have been completed.

On the 1 November 2016 in line with the Empty Homes Strategy Officers wrote to the owner issuing a third letter explaining the options available to the Council in relation to the property inviting a reply within 21 days.

On the 29 December 2016 officers wrote a fourth letter to the owner advising that it is the Council's intention to pursue a compulsory purchase order. A response has not been received.

3.3 The Council now has to consider its position after the CPO has been obtained.

Potential options include:

- Invite sealed bids with the highest bid winning;
- Redevelop the property by the Council;
- Sell the property by auction.

3.4 In looking at each option, the following comments are relevant:

**Invite sealed bids with the highest bid winning**

- The Council would CPO the property, put it on the market and seek to enter into an agreement with the highest bidder who then carries out the necessary works to make it habitable.

**The Council brings forward its own scheme**

- This option could provide much needed accommodation for families in housing need.

**To auction the property**

- The Council would go through the CPO process and then use an auction to expose the property to the market. This allows all interested parties the opportunity to bid and thereby establishes a valuation at a given date. The risk is that having had the CPO confirmed the property may not sell at auction (no reserve or a low reserve can mitigate some of this risk). The Council would then be left with the property and no end user. In this case the Council could then look to selling the property on the open market by private treaty.

3.5 After considering each of the options, the Council bringing forward its own scheme may be an appropriate way forward, although there is also scope to continue to give consideration to the appropriateness of the other options as the process proceeds. The valuation of the property can be established by asking the District Valuer to carry out a valuation.

3.6 In order to sell the property at auction the Council will need to have made the CPO and taken possession so that it has the freehold to sell on at the auction. Therefore the CPO needs to be made and confirmed so that the property is vested in the Council before the auction date. The outstanding matter would be the level of compensation but that would be assessed as the sale figure from the auction. This compensation involves not just the sale price of the physical building but the other entitlements relating to disturbance, basic loss payment and professional fees

3.7 A disposal of the property by sealed offer/private treaty can be made conditional upon the purchaser agreeing a scheme of refurbishment. However, with a sale at auction this is unlikely to be the most appropriate way forward as such disposals are generally sold 'unfettered'. This means that if it was sold unconditionally then it would be left to the purchaser to carry out the works. In mitigation of this risk the purchaser will of course have paid for the property so is unlikely to not carry out refurbishment. Also, if the property was left to continue to deteriorate the Council would at least have a known owner to pursue for works/costs.

3.8 Procedurally the Council will need to go through the compulsory purchase procedure first which involves:

- the preparation, making and obtaining confirmation of the compulsory purchase order required for 114 Uplands Road, Oadby including the costs of any public inquiry;
- acquiring 114 Uplands Road, Oadby and any compensation claim arising out of such acquisition;;
- any reasonable costs incurred in dealing with any compensation claims including any references to the Upper Tribunal (Lands Chamber) for determination of any claim; and
- any reasonable costs of dealing with any legal challenges/proceedings issued in relation to the exercise by the Council of its compulsory powers.

#### **4. Legal Issues**

- 4.1. Where owners cannot be traced or where a response from known owners is non-committal or otherwise unsatisfactory, there is scope for a compelling case in the public interest for enforcement action to be taken by the Council, to ensure that their strategy aims are achieved. In this case there is the length of time the property has been empty and the previous failed attempts to secure the renovation plus the Council's Corporate Plan in which the vision is to 'create the best quality of life for local people'.
- 4.2. In this particular case the Council has made every effort to secure the improvement of the property to the benefit of the street scene and locality generally, particularly given the continued deteriorating state of the premises.
- 4.3. The Council has the power under section 17 of the Housing Act 1985 to acquire land by way of compulsory purchase (land in this instance includes houses) for housing purposes. Part XVII of the Housing Act 1985 applies to compulsory purchase. This in turn applies, with modifications, the Acquisition of Land Act 1981 (compulsory purchase procedure), the Compulsory Purchase Act 1965 (post confirmation procedure) and the Land Compensation Act 1961 (amount and assessment of compensation).
- 4.5. The Compulsory Purchase Order must be advertised locally and copies served on all owners, lessees or reputed lessees, tenants or reputed tenants (other than lessees), and occupiers (except tenants for a month or less). If any statutory objector (a statutory objector can be an owner, lessee or occupier, not a licensee or tenant for one month or less of land within the Order) has objected within the stipulated period and not withdrawn the objection, the Secretary of State can cause a public local inquiry to be held:
  - to afford the objector an opportunity of appearing before and being heard by a person appointed by the Secretary of State; or
  - with the consent of the objector, to follow a written representations procedure, and then consider his findings before determining whether or not to confirm, quash or modify the Order.
- 4.6. In the event that there is no objection, the Secretary of State may, in certain circumstances, permit the Council to confirm the Order. The confirmation of the Order may be challenged on a point of law within 6 weeks of the publication of such confirmation. Any dispute as to the amount of compensation to be paid is referred for determination to the Upper Tribunal (Lands Chamber). The Council is obliged to act in a way which is compatible with the European Convention on Human Rights.

The Convention Rights relevant to compulsory acquisition are as follows:

### **Article 1 (of the First Protocol)**

- This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.

### **Article 6 (of the Convention)**

- This provides that in determining civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

### **Article 8 (of the Convention)**

- This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country.

### **Article 14 (of the Convention)**

- This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or a social origin.

- 4.7. These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. In this case, compulsory purchase of land is permitted under the terms of the Housing Act 1985 and is subject to a statutory procedure (giving rights to consultation and to be heard at a Public Inquiry) which is being followed. In addition, compensation is payable making the action fair and proportionate.
- 4.8. The Council will use the General Vesting Declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 to vest the property in the Council. Compulsory Purchase is a drawn out process and can take between 6 and 18 months with the first step being the making of a resolution then a draft order is published and a notice fixed on the property and served on those with an interest in the property.

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Implications	
<b>Financial (CR)</b>	As the owner is unwilling to communicate with OWBC the use of compulsory purchase powers allows the Council to acquire the property. The compensation will be based on the date of disposal. Therefore if the property is sold at auction or otherwise close to the acquisition date that establishes the property value. Additionally, if the owners materialise they will be entitled to a basic loss payment, disturbance and professional fees. The proceeds from the sale would be put in escrow and then if the owners do not claim them the money reverts to the Council. The disturbance, basic loss payment and professional fees would need to be underwritten by the Council. The extent of such costs are dependent on the sale price as the basic loss payment is 7.5% of the freehold sale price. On a sale price of £200,000 the additional costs would be in the region of £35,000.

<b>Legal (AC)</b>	See the main report with reference to the Compulsory Purchase Order and transfer to the purchaser.
<b>Risk (SG)</b>	<p>Corporate Risk 5 (effective utilisation of land and buildings) and 9 (economy) Compulsory Purchase Order is not confirmed. <i>This is a low risk and most orders do not need an Inquiry. It can be also be mitigated by continued negotiations with any objectors.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) and 9 (economy) The purchaser cannot obtain planning consent for their scheme. <i>An existing consent is in place that establishes the suitability for residential use.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) The purchaser does not complete the renovation works. <i>If sold by auction then it would likely be sold on an unconditional basis and it would be left to the purchaser to carry out the works. In mitigation of this risk the purchaser will of course have paid for the property. If it was left to continue to deteriorate the Council would then have a known owner to pursue for works/costs.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) The continuing deterioration of the building. <i>By adopting the current approach the purchaser will be able to commence works either on the basis of the existing planning consent or they can seek a fresh consent.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) The owner materialises before CPO is confirmed and fails to improve the property. <i>The owners can negotiate directly a purchaser. If the owner wishes to retain the property undertakings are obtained to bring the property into a satisfactory state within a time period during which time the CPO process is not abandoned but the Council gives an undertaking to withdraw if the works are done in time.</i></p> <p>Corporate Risk 5 (effective utilisation of land and buildings) The original owners materialise within 12 years of sale and dispute compensation. <i>A sale at auction or otherwise will establish the market value and money will be paid into an escrow account so will be available should the owners materialise.</i></p> <p>Corporate Risk 6 (regulatory governance) High court challenge to a confirmed CPO. <i>Mitigated by the correct procedures being followed.</i></p>
<b>Equalities (SG)</b>	<p>An Initial Screening has been completed.</p> <p>Equality Assessment:-</p> <p><input checked="" type="checkbox"/> Initial Screening    <input type="checkbox"/> Full Assessment    <input type="checkbox"/> Not Applicable</p>

## APPENDIX 1



*114 Uplands Road, Oadby – Street View*



*114 Uplands Road, Oadby – View from the Road Side*





*114 Uplands Road, Oadby – Front Garden*



*114 Uplands Road, Oadby – Back Garden*

BETA

Land Registry



# MapSearch Snapshot

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