



Acquisition of Private Sites and Empty Homes

Call In by the Corporate Resources and Governance O&S Committee

1 Request for “Call-In”

1.1 On 20th September 2016 Cabinet took a decision to:

- Delegate to the Strategic Director Economy and the Cabinet Member Housing and Homes, approval to authorise the acquisition under section 17 of the Housing Act 1985 or section 226 (1) (a) Town and Country Planning Act 1990, of any vacant/undeveloped sites in Birmingham suitable for new housing development by the Council through BMHT.
- Delegate to the Strategic Director Place and the Cabinet Member Housing and Homes approval to authorise the acquisition under section 17 of the Housing Act 1985 of any long term empty properties in Birmingham.
- Approve the use of CPO powers under section 17 of the Housing Act 1985 and section 226 (1) (a) Town & Country Planning Act 1990 to acquire vacant sites and empty homes.
- Following any acquisition of the sites, authorise the Strategic Director Economy to include the sites within the development programme of the Birmingham Municipal Housing Trust (BMHT) 2015-2020 and to apply for any planning permissions, stopping up orders or any other licences or consents or highways or other agreements as are necessary in order to develop the sites, the letting of construction contracts to be subject to Full Business Cases to be considered by the appropriate decision maker.
- Authorise the Strategic Director Economy to apply for grant or loan funding to support the programme of acquisition of sites and empty properties from any available funding sources, including but not limited to, the Homes and Communities Agency, and the Local Enterprise Partnership.
- Note that an annual report will be presented to Cabinet detailing any sites and properties acquired over the previous 12 months.
- Authorise the Director of Property to negotiate terms for the acquisition of any sites or properties on a voluntary basis in advance of compulsory acquisition as well as to settle any CPO compensation.



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- Authorise the City Solicitor to take any steps/enter legal agreements needed to bring the above into effect including, but not limited, to:
 - i. take all necessary steps to secure the making, confirmation and implementation of the compulsory purchase orders, including the publication and service of all notices to give effect thereto including High Court enforcement officer
 - ii. if granted power to do so by the Secretary of State, to confirm the compulsory purchase orders

- 1.2 A request for Call-In was made to the Corporate Resources and Governance Overview and Scrutiny (O&S) Committee by Councillors Randal Brew and Ewan Mackey on 26th September 2016.
- 1.3 The Corporate Resources and Governance O&S Committee met on 5th October 2016 to consider the matter. In doing so, Members heard from Councillor Peter Griffiths, Cabinet Member for Housing and Homes; Clive Skidmore, Head of Housing Development and Matthew Smith, Principal Enforcement Officer.

2 Issues with the Decision

- 2.1 At the meeting, Cllr Brew highlighted the following reasons for the request for call-in:
- 4 – the Executive appears to have failed to consult relevant stakeholders or other interested persons before arriving at its decision;
 - 5 – the Executive appears to have overlooked some relevant consideration in arriving at its decision;
 - 6 – the decision has already generated particular controversy amongst those likely to be affected by it or, in the opinion of the Overview and Scrutiny Committee, it is likely so to do;
 - 7 – the decision appears to be particularly “novel” and therefore likely to set an important precedent.
- 2.2 Cllr Brew outlined the intention of the Cabinet decision, to allow the Cabinet Members and officers to sign off decisions without going to Cabinet, and that the powers are being taken away from the collective decision-making model that provides important safeguards against negligence and abuse.
- 2.3 He stated that he was principally concerned with the delegations and that this was setting an important precedent. It gives too much power to individual Cabinet Member and officers. This is not to question the probity of the individuals concerned, but good governance requires checks and balances. And the question follows: if this goes through, what else will be taken away from formal decision making?
- 2.4 He also explored what the underlying reasons might be; if it was about encouraging development across the city then there were other ways to achieve this. If it was about facilitating development



by BMHT, then it is a more fundamental argument about the role of the state and home ownership.

Cabinet Member and Officer Response

- 2.5 Cllr Griffiths responded that there is a housing shortage and that house building should be accelerated. He quoted Philip Hammond, Chancellor of the Exchequer, in a recent speech talking about the "Government's determination to tackle this [housing] challenge using all the tools at our disposal."
- 2.6 The Cabinet Member noted that no objections were made at Cabinet and that the decision was in line with the Council Plan. There are sites with approvals for 8,000 homes (not 6,000 as in the report), with live permission, so this is an escalating position. Action will only be taken where all other steps have been taken to encourage development, which is clear from the CPO regulations.
- 2.7 The current programme for bringing land into use entails sites being "stockpiled" to be brought to Cabinet in blocks, thus delaying the decisions. This new decision would allow quicker decision making with regards to single houses and reduce the frequency of the reports to Cabinet, contributing to "decluttering" the agenda.
- 2.8 Birmingham City Council is seen as a beacon of good practice in building new homes and this decision will contribute to this.
- 2.9 Tackling housing is a moral duty and this cabinet decision will enable just that. There will be opportunity for full discussion with ward councillors for each site.
- 2.10 Clive Skidmore, Head of Housing Development, outlined further detail, including that
- It is very rarely that we have to CPO any properties as often the knowledge that this option is open is enough to galvanise action and this is the preferable option;
 - The key outcome is more homes for the city;
 - Through BMHT, homes are provided for sale and rent;
- 2.11 Matthew Smith, Principal Enforcement Officer, added that since 2010, the City Council had authority to CPO 132 houses but only acquired 1 in 10. 90% of the time, once the Council has the authority, the owners act.

Discussion

- 2.12 In the ensuing discussion, the following points were made by members of the Committee:
- The release of sites and empty properties is vital to diminish pressure on greenfield sites;
 - The delegations are the main area of concern – the decision puts the acquisition of single houses and large areas of land together; therefore Cabinet should reflect on clearer criteria or a financial threshold on when to delegate up to Cabinet.



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- 2.13 The Cabinet Member and officers responded that there were clear criteria in the report (paragraph 5.11) which meant there was no risk of overspending or spending unwisely. Financial thresholds had been discussed but it had been difficult to know where to pitch it.

3 The Committee Resolution

- 3.1 The Committee resolved (by a vote of 6 votes to 1, with 2 abstentions) to call-in the decision for reconsideration by Cabinet, on the grounds that:
- 7 – the decision appears to be particularly “novel” and therefore likely to set an important precedent.
- 3.2 I therefore formally ask the Cabinet to reconsider its decision; in particular that Cabinet sets a financial threshold over which decisions must be referred back to Cabinet. This would allow the majority of smaller acquisitions to be completed by Cabinet Members and officers as set out in the decision report. However, the more significant decisions would be dealt with transparently and with the appropriate democratic safeguards.

Councillor Mohammed Aikhlaq

Chair, Corporate Resources and Governance Overview and Scrutiny Committee