



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Empty Homes Update Report and Enforcement Proposal	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team – 18 January 2023	X
	Leader and Deputy Leaders 24 Jan 2023	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group [1 & 2 Feb 2023]	X
	Cabinet 14 Feb 2023 / Council [DATE]	
	Audit Committee [DATE] / Scrutiny Community Regeneration Committee [DATE] / Scrutiny Environment and Health and Well Being Committee [DATE] / Scrutiny Value for Money Council Services Committee [DATE]	



<p>Is this an Executive Decision:</p>	<p>NO</p>	<p>Is this a Key Decision:</p>	<p>NO</p>
<p>Is this in the Forward Plan:</p>	<p>YES</p>	<p>Is the Report Confidential:</p> <p>If so, please state relevant paragraph from Schedule 12A LGA 1972:</p>	<p>Appendix 1</p> <p>Paragraph 2 – Information which is likely to reveal the identity of an individual.</p> <p>Paragraph 5 – Legal Professional Privilege.</p> <p>Paragraph 6 – Information that reveals that the Council proposes to give a notice under which requirements are imposed on a person.</p>

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **John Teasdale**

Date Signature



Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 14 February 2023

REPORT TITLE: Empty Homes Update Report

PORTFOLIO: Communities and Housing Standards

HEAD OF SERVICE: Sal Khan

CONTACT OFFICER: Brett Atkinson **Ext. No. x1123**

WARD(S) AFFECTED: Multiple

1. Purpose of the Report

1.1. To provide a performance report identifying the reduction in empty homes.

2. Executive Summary

2.1. The Council's Empty Homes Service continues to operate effectively, having contributed to bringing 118 empty homes back into use in the last 10 months.¹ East Staffordshire is also in a reasonable position compared with neighbouring authorities.

2.2. An update is provided on targeted enforcement activity that has taken place, with the recommendation to pursue court action to gain entry to 3 empty homes where the owners have not permitted the Council access to conduct an inspection.

3. Background

3.1. High levels of empty homes are recognised as having a detrimental impact to the viability of communities; consequently restoring empty homes can have social, regenerative, financial and strategic benefits.²

¹ This is for the period 6 Jan 22 to 28 Oct 22.

² <http://researchbriefings.files.parliament.uk/documents/SN03012/SN03012.pdf>

- 3.2. The current empty homes service was mobilised on 1 May 2019, prior to this there had been little activity in this area for a number of years. The results during the services period of operation have been very positive, with the current contract retaining the services of Grafton UK Ltd until the end of April 2024.
- 3.3. Empty homes are identified by liability for Council Tax,³ and this is also how the performance of the Council's Empty Homes Service has been measured. This is also the mechanism by which reoccupied former empty homes which are eligible for contributing to the New Homes Bonus⁴ baseline are identified.

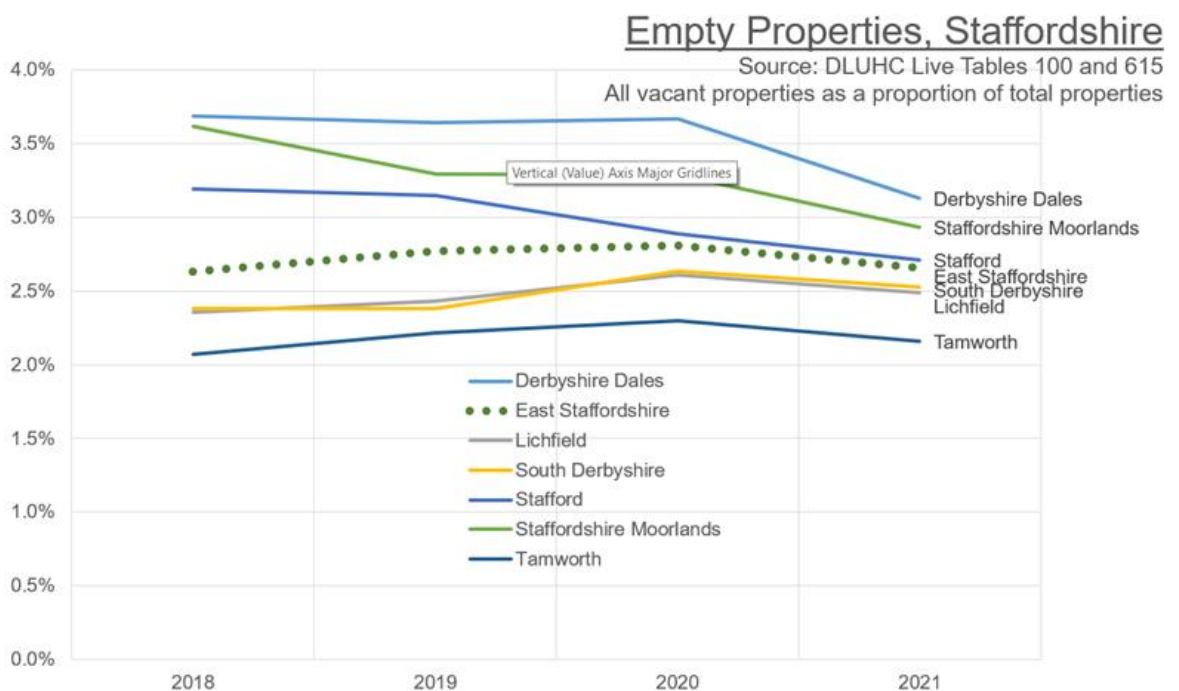
4. Contribution to Corporate Priorities

- 4.1. CP Target EHW25 - Housing Strategy Initiatives: Proactively reducing the number of empty homes in the borough

5. Overview of Empty Homes Performance

- 5.1. As can be seen below, East Staffordshire is mid table when compared with our neighbours.

- 5.2. Figure 1: Benchmarking against Neighbouring Authorities



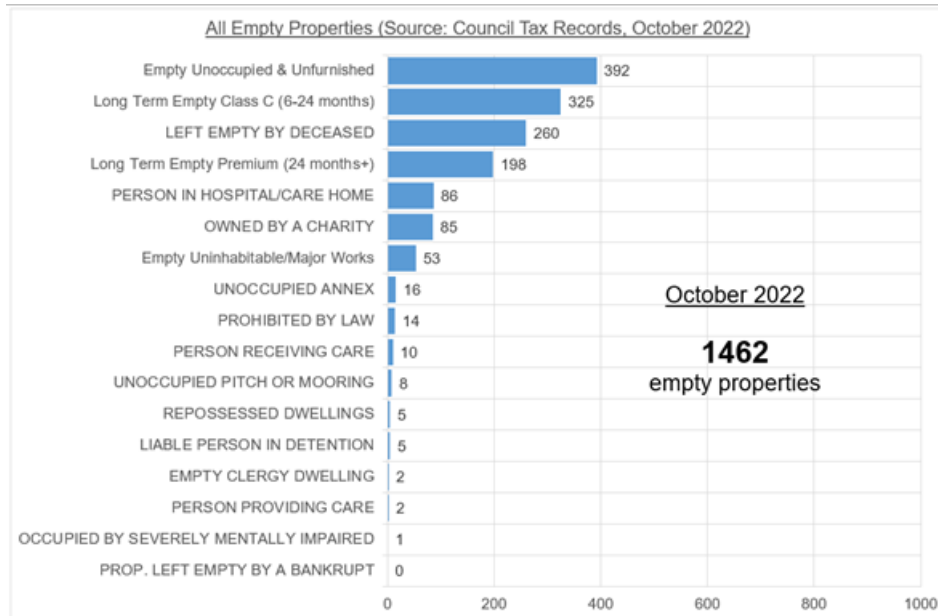
- 5.3. The downward trajectory appears very gradual primarily due to the overwhelmingly prevalence of homes that have been empty less than 2 years in the data, which formed 86% of all empty homes in October 2022. Homes that have been empty for less than 2 years are generally considered not to be problematic, as a level of churn is required for normal operation of the market.

³ Local Government Act 2003, Section 85

⁴ <https://www.gov.uk/government/publications/new-homes-bonus-calculator-2020-to-2021>

This graph includes all empty homes because of the way that the data is collated by DLUHC across LAs, which allows the comparison above to be made.

5.4. Figure 2: Breakdown of all Empty Homes



5.5. As can be seen above, there were 1,462 empty homes in October but only 198 of them were subject to the Long Term Empty Premium. It is only those properties that are registered as empty for a full 2 years, which then go on to be subject to the Long Term Empty Premium, and fall within the remit of the Empty Homes Service.

5.6. Figure 3: Ward Breakdown for Long Term Empty Homes

Row Labels	Sum of 28/10/22 Download
Anglesey	22
Burton	16
Needwood	14
Town	13
Tutbury & Outwoods	12
Abbey	12
Horninglow	12
Bagots	11
Winshill	10
Brizlincote	9
Eton Park	8
Churnet	8
Weaver	8
Stretton	8

Stapenhill	7
Shobnall	7
Heath	6
Branston	6
Rolleston on Dove	4
Yoxall	3
Crown	2
Grand Total	198

5.7. The figure below demonstrates the flow of empty homes being brought back into use, whilst others cross the 2 year milestone and become eligible for intervention.

5.8. Figure 4: Movement within the Long Term Empty Homes

Date of Snapshot ⁵	Brought Forward ⁶	Plus Newly Listed ⁷	Total Requiring Intervention	Minus Successes (brought back into use)	Balance Carried Forward
14/07/2021	153	66	219	71	148
06/01/2022	148	52	200	35	165
20/05/2022	165	48	213	52	161
28/10/2022	161	37	198		

5.9. The table above demonstrates regular success in reducing the number of empty homes. Grafton's contact with owners is based on an escalating approach which is measured by a series of letters, ending with letter 4. The content of the letters can be summarised as follows:

5.9.1. Letter 1 – Introductory letter offering help and assistance, requests contact.

5.9.2. Letter 2 – Chasing letter suggesting actions and requesting contact by date.

5.9.3. Letter 3 – Letter notifying that enforcement action is possible, requests contact.

5.9.4. Letter 4 – Final letter notifying they are being considered for enforcement action.

5.10. Following input from the specialist empty homes offices, an inspection at the letter 3 stage has been introduced. This reinforces the standard letters and concentrates the owners focus on the problem that empty properties cause, potentially preventing the need to consider enforcement at letter 4 stage. The first set of letter 3 inspections were undertaken on 6 empty homes in October 2022.

⁵ The data was drawn from the Council Tax system on this date.

⁶ Those which have remained empty since the previous snapshot.

⁷ Homes which have passed 2 years of being empty during the intervening period.

6. Update on Targeted Enforcement

- 6.1. In March 2022 a decision was made⁸ to target 8 empty homes that had reached the reached the top of the escalating approach, and have either not responded or have provided inadequate responses to bring the empty home back into use.
- 6.2. In April and May 2022 the Council utilised its powers under the Housing Act 2004 section 239, which allows authorised officers to inspect the selected empty home both externally and internally. The power under this statute allows the right of access to the empty home. The owner was requested and advised to attend the inspection in each case. The inspection date and time requires the authority to be reasonable in providing adequate notice of the planned inspection. One of the Council's Environmental Health Officers conducted the inspection, enlisting the assistance of a specialist empty homes officer.
- 6.3. The specialist officer provided a report following the visits stating that in his experience physical inspections to reinforce the letters and phone calls would likely be enough to concentrate the owners focus on the problem that empty homes cause.
- 6.4. The properties were inspected again in November with the following outcomes:
 - 6.4.1. 1 empty home is to be demolished as a part of a wider development.
 - 6.4.2. 1 has been sold, and therefore is likely to be brought back into use.⁹
 - 6.4.3. 3 owners have engaged with the team conducting the inspection, but have not made significant progress since May.
 - 6.4.4. 3 owners have not allowed the Council access to inspect their empty home.
- 6.5. Whilst a cautious approach was adopted at the first set of inspections for the 3 empty homes where access was granted, it is intended that we fully apply the Housing Health & Safety Ratings System (HHSRS) scoring matrix and serve notice where it is appropriate to do so. This will apply additional pressure on the owners who are engaging, to bring about a sense of urgency that has been lacking in their response so far.
- 6.6. In respect of the 3 empty homes where access has not been granted, it will be necessary to apply for a warrant to enter and survey¹⁰ the empty home. Such a warrant can be utilised where there is a proposal to acquire an interest in or a right over land. The word 'proposal' is not defined in the act. Acquiring such a warrant will provide a powerful incentive to the owner to take action to prevent further enforcement, and also provides the opportunity serve notice under HHSRS where it is appropriate to do so.

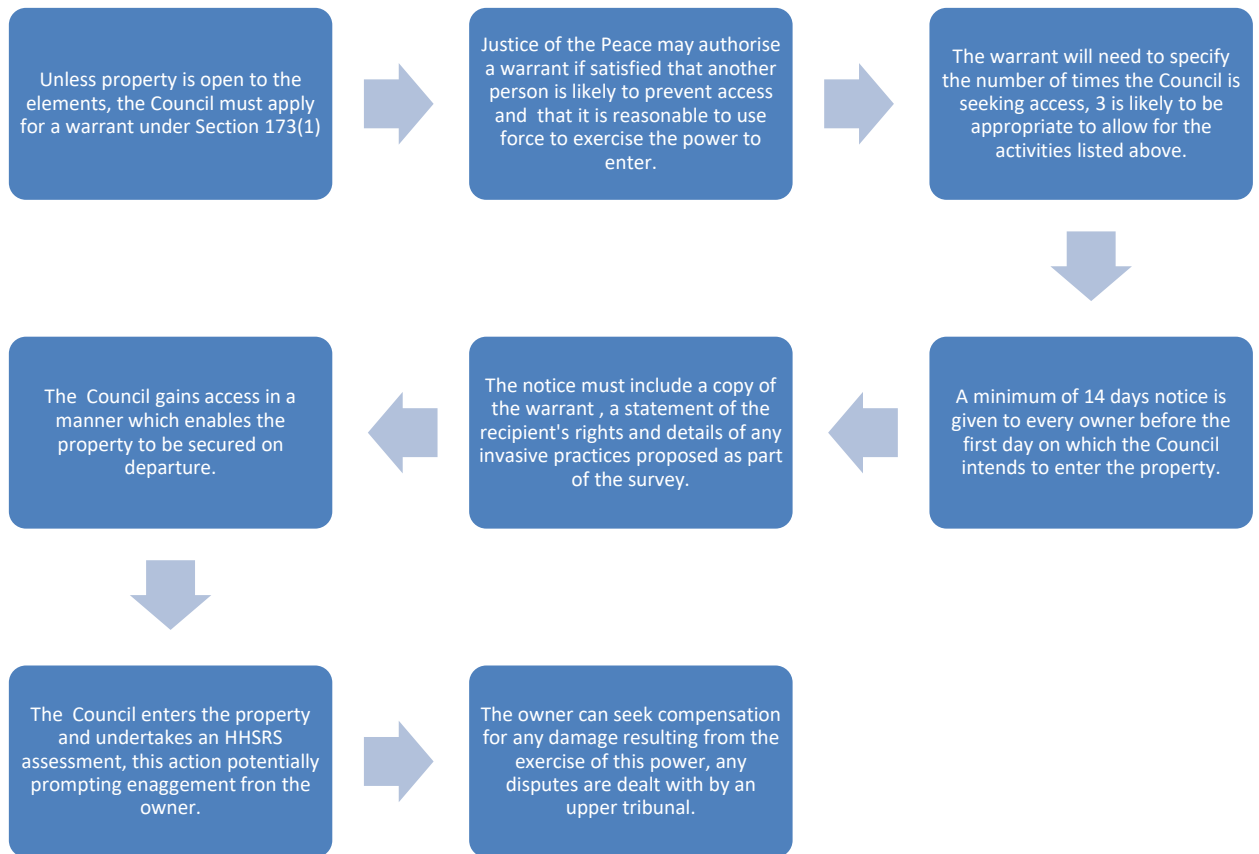
⁸ EDR 410.22

⁹ A new investor is very likely to be seeking a return on their investment, within the industry this is regarded a strong marker for success.

¹⁰ Sec 172 – 179 of the Housing and Planning Act 2016

http://www.legislation.gov.uk/ukpga/2016/22/pdfs/ukpga_20160022_en.pdf

6.7. Figure 5: Right to Enter and Survey Land



6.8. Pursuing a warrant is the only remaining means by which the Council can realistically seek to bring the empty home back into use, and the owner will see a demonstrable intent by the Council to pursue legal action. The costs incurred from this process are to be met from S106 funds. Costs are likely to include Court Costs for issuing a warrant, approx. £400, and a locksmith for gaining access, approx. £100.

6.9. Subject to the recommendation being approved by Cabinet, colleagues in the Legal Dept. will send a pre-action letter to the owners advising them of the Council's intention to apply to court, which may lead to access being allowed without the need for a court application.

6.10. Entering buildings of this type does expose Council staff to health and safety risks; however the Council is experienced in managing these risks in the daily activities of the Building Control and Housing Standards Departments.

7. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: Anya Murray

7.1. The main financial issues arising from this Report are as follows:

7.1.1. It is intended that there will be no impact on the Medium Term Financial Strategy as the programme is to be funded from S106 balances.

7.1.2. The Empty Homes Service is delivered under a contract which has already been budgeted for, and the targeted enforcement was assigned a budget of £8k which has not yet been drawn down.

8. Risk Assessment and Management

8.1. The main risks to this Report and the Council achieving its objectives are as follows:

8.2. **Positive** (Opportunities/Benefits):

8.2.1. Demonstrates the Council's commitment to reducing the number of empty homes in the borough (CP Target EHB 12).

8.2.2. Follow through on the messages contained in the letters issued by the Empty Homes Service, stating that action will be taken where necessary to bring an empty home back into use.

8.2.3. Awareness of the Council's willingness to take action may persuade other owners of empty homes to be more cooperative with the empty homes service.

8.3. **Negative** (Threats):

8.3.1. Owners of the targeted empty homes are likely to be distressed by having action taken against them.

8.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

9. Legal Considerations

*This section has been approved by the following member of the Legal Team:
Glen McCusker – Locum Solicitor*

9.1. The main legal implications issues arising from this Report are as follows:

9.1.1. 9.2.1. Section 239 Housing Act 2004 provides a power to local authorities to enter dwellings to inspect the condition of empty properties.

9.1.2. Relevant powers are the right to enter and survey land in Part 7 of the Housing and Planning Act 2016.

9.1.3. A local authority can apply to the Magistrates Court, under s240, for a warrant to enter the premises where access has been denied or forceable entry is required.

10. Equalities and Health

10.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

10.2. **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

11. **Data Protection Implications – Data Protection Impact Assessment (DPIA)**

10.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

10.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

12. **Human Rights**

12.1. There are no Human Rights issues arising from this Report.

13. **Sustainability** (including climate change and change adaptation measures)

13.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A

14. **Recommendation(s)**

14.1. To obtain a warrant to gain access to the 3 empty homes whose owners have not allowed the Council to inspect their condition.

15. **Background Papers**

15.1. Housing Enforcement Policy

15.2. The Housing Strategy 2021-2025

16. **Appendices**

16.1. Appendix 1: [CONFIDENTIAL] Target List of Empty Homes

