

Appendix A

Empty Homes Strategy

Fareham Borough Council

2023

Pending

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Pending Adoption

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This strategy was approved by the Council's Executive on
[XXinsert dateXX] 2023

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Pending Adoption

Introduction

This strategy sets out how Fareham Borough Council consider long-term empty homes in the Borough, and where appropriate seek to bring those homes back into use. This supports the corporate objective of Providing Housing Choices and can make a small but important contribution toward housing need. It also recognises that empty homes can be a blight to local communities, and frustrating for nearby residents.

Although the number of empty properties in the Borough is below the national average, there are a small number that can present an ongoing challenge. This Strategy explains the actions that could be considered on problematic long-term empty homes. It also provides information around proportionate and appropriate use of enforcement-based intervention by the Council. Ultimately this Strategy seeks to articulate the Council's approach to empty homes.

Why do properties become empty?

Properties can become empty for several reasons, including but not limited to the following examples:

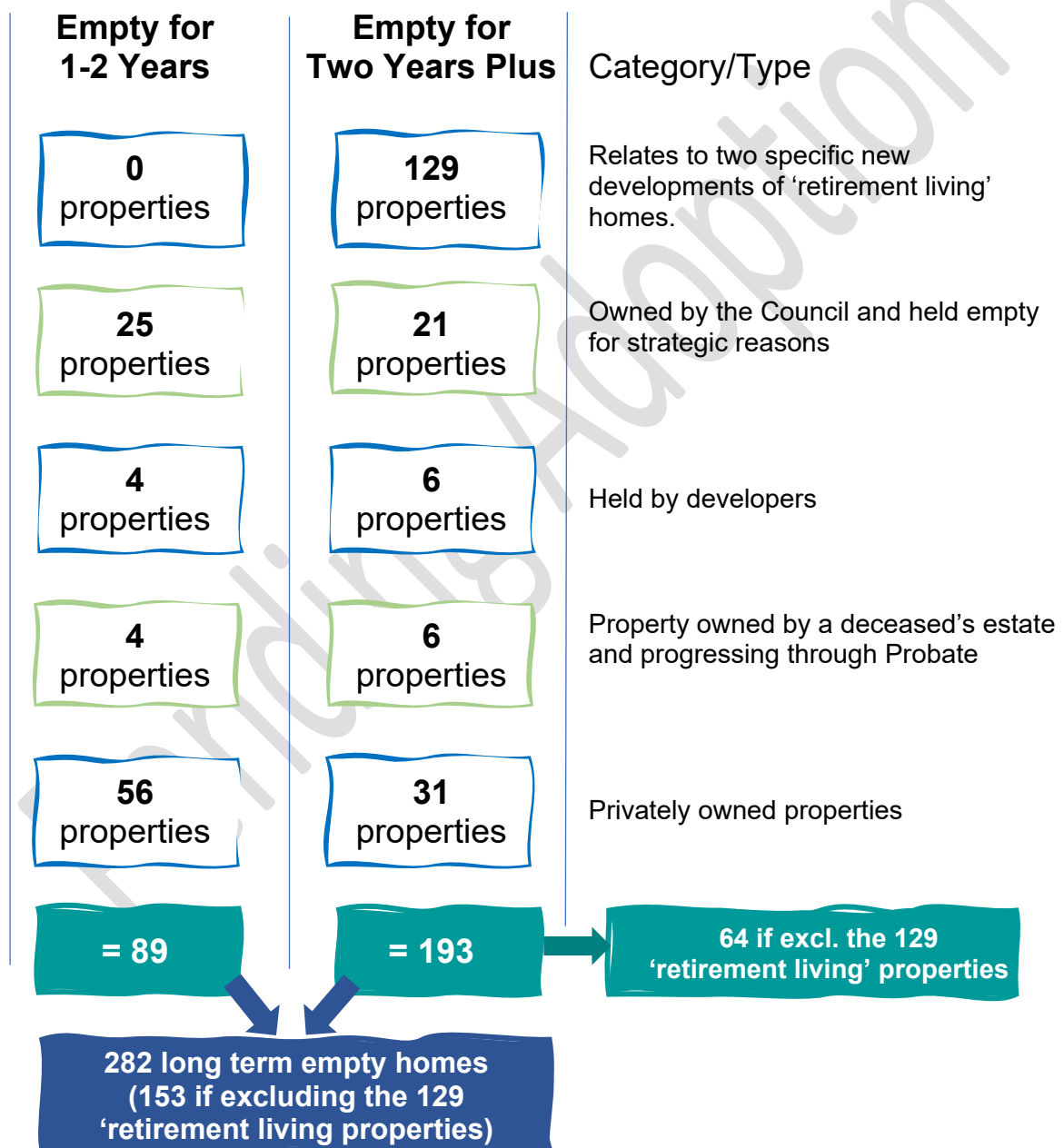
- The normal process of buying, selling, and letting properties
- A property that is unsuitable to rent or sell due to its physical state and that would require renovation beyond the budget of the owner
- When a property has been abandoned by the owner and the owner is untraceable
- Where an owner is in prison
- Where there is an issue of unresolved ownership, often because of the previous owners' death. Resolving ownership can be a lengthy legal process, during which time the property may remain empty
- Due to an ageing population, older owners may need to move into alternative older person accommodation for care or support needs, they may choose not to sell their property or to let it out, which results in the property remaining empty.



Empty Homes in Fareham Borough

There are slightly over 50,000 residential properties in Fareham Borough. As many properties will be empty for a short period of time (typically allowing for property transactions) the challenge and focus for Fareham Borough Council are those properties that have been vacant for a longer period.

Based on Council tax records in winter 2022, 282 properties are recognised as long term empty. 89 have been empty for between one and two years, and 193 have been empty for more than two years.



The number of empty homes in Fareham Borough has been consistently below the national average, and there are no indications of an increasing trend in the Borough.

129
empty
retirement
living homes

The figures for the Borough are currently heavily impacted by the 129 empty retirement living homes which have been vacant for over two years. This is not representative of a trend, and instead reflects a small number of specialist developments delivered during recent years (during the COVID-19 pandemic). Officers will monitor these to ensure the number continues to reduce, which is expected as property sales take place in the years ahead.

Excluding these 129 empty 'retirement living' homes, there are 89 homes which have been empty for between one and two years, and 64 homes which have been empty for more than two years.

Several properties are held empty due to wider redevelopment/regeneration projects. For example, in December 2022 over 20 apartments were empty at Assheton Court; this facilitating the Council's redevelopment project at the site which should commence in 2023.

Of particular concern are the privately owned homes which have been empty for over two years. These homes tend to be those that can visibly or structurally fall into decline and can often be of great concern to neighbours and the wider community.



There will be occasions where a long-term empty home is well kept and where the Council tax (including any applicable premiums) is paid, but where the owner has a particular or personal reason for retaining and keeping their property vacant.

The data for long term empty homes in Fareham Borough suggests there is no significant empty home problem in Fareham Borough. However, empty homes can on occasions present issues of concern, and would be better brought back into use to contribute to housing need in the Borough. Objectives to address the issue that empty homes can present have therefore been identified.

Objectives

The following objectives will apply to tackling long term empty homes in Fareham Borough:

Objective 1
To encourage owners of empty homes to bring their properties back into use

Objective 2
To appropriately and proportionately use Council resources to address problematic empty homes

These objectives are explained further overleaf, including the tools that the Council could use and consider in helping to deliver against these objectives.

Benefits of bringing empty homes back into use	
Community Benefits	Property Owner Benefits
<ul style="list-style-type: none"> ▪ Improve the appearance of the neighbourhood ▪ Providing housing for local people in need of a home ▪ Easing the pressure for housing elsewhere ▪ Reducing the risk of squatters, vandalism, and crime 	<ul style="list-style-type: none"> ▪ Security against vandalism and squatting ▪ Better condition property (increase in value and reduced future maintenance costs) ▪ A rental income or improved sales potential ▪ Council Tax paid by tenants, not the owner

Objective 1

To encourage owners of empty homes to bring their properties back into use

The Council's initial aim is to provide help and advice to the owners of empty homes. There is no dedicated Empty Homes Officer at Fareham Borough Council due to the limited extent of the issue. Instead, a multi-department approach will be taken to understand the issues and provide the most appropriate advice and/or encouragement for any individual case.

Engaging with empty property owners and reaching a voluntary solution is always preferred. These types of approaches have less demand on Council resources and can often retain a positive relationship with the property owner.

A multi-department approach

The expertise of different departments to best address the issue

Encouragement Tools

Advice on selling/letting the home

We can encourage the owner to contact a local agent to understand the options available to them.

FareLets

The Council operated private rented scheme can encourage empty home owners to become landlords. It provides a safe, secure option for a private owner to let their property. Giving guaranteed rent with tenants provided by the Council following reference checking.



There are three levels of service offered by FareLets, from a simple tenant find to a full management service. Further information on FareLets is available [here](#) or by calling 01329 824649.

Council Tax

The Council tax chargeable on empty homes will be used to act as a deterrent to property owners leaving a home empty, or in turn an incentive to bring a property back into use.

Since 2013 local authorities can apply an empty homes premium for properties that have been empty for two years or more. Initially this was set at 150% but in 2018 increased to 200%, so in effect requiring owners to pay double the standard Council Tax liability. From 2020 owners of properties empty for five years or more can be charged 300%, and from 2021 400% can be levied for properties empty for ten years or more. The implementation of empty homes premium is at the discretion of the Council's Council Tax department.



Council Tax Premium:

On empty homes premiums can apply to the Council Tax payable

Empty two years or more = 200%

Empty five years or more = 300%

Empty ten years or more = 400%

Communication

Communication with empty owners will be key, building an understanding of the reasons for the empty home and considering the most appropriate suggestions and encouragement for that homeowner. In some cases there will be personal and emotional reasons that apply and officers will be considerate of this.

On many occasions communication with the owner (or relatives of the owner) can bring about improvements to the issues the empty home is presenting. An example being where a property owner is now in a care home and is choosing not to sell or let the property, should vegetation become overgrown and simple visual repairs be required then contact with an appropriate relative can often bring about the necessary works being arranged.

Objective 2

To appropriately and proportionately use Council resources to address problematic empty homes

Where encouragement tactics have failed, or there is an imminent risk to health and safety, the Council could consider more formal action.

These approaches come at a cost to the Council both in terms of direct financial cost and/or risk, but also because they involve significant officer time. As such, any decision to use formal/enforcement action will have to consider whether that action is proportionate and appropriate for the scale of issue the empty home presents.

For instance, a home visibly ill kept and with overgrown vegetation might look unattractive and be a blight to neighbours, but it may not warrant the more extreme of enforcement tools and accompanying expense to the Council. This is explained further under 'Proportionate and Appropriate Action' on pages 14 to 16 of this Strategy.

In all cases the ability to take enforcement action can depend on whether the owner of the empty home is traceable. Unfortunately, if an owner of a property cannot be ascertained and/or cannot be traced, then this can add complexity and ultimately hinder the options available to the Council.

Untraceable Owners:

Present an additional challenge and can reduce the options available to the Council

Many of the enforcement tools available to the Council (explained in the following pages) will not forcibly bring the property back into use. Instead, they will deal with issues the empty home might be creating.

Enforcement Tools

Community Protection Notices (CPN)

Under the Crime and Policing Act 2014 (Part 4), in certain circumstances Environmental Health can issue a Community Protection Notice (CPN). These are designed to stop a person (including an absent property owner) from continuing with conduct which has a detrimental effect and unacceptably affects victims and the community. In circumstances where it can apply a notice can be served to require buildings to be put into an acceptable state, in terms of appearance. For a CPN to be issued there must be reasonable grounds that the conduct of the individual is having a detrimental impact on the quality of life of those in the locality, and that it is unreasonable, and the conduct is persistent or continuing in nature.

Typically led by: Environmental Health

Section 215 of the Planning Act 1990

These powers can and do get used by the Council to enforce the tidying up of land or buildings where they are causing a detrimental impact to the surrounding area, and the issue is clearly not short term in nature. Although a Section 215 Notice does not in itself bring an empty home back into use, it can address the blight to a wider area that the empty home is causing. It can also spur some owners into more positive action around returning the home to use.

Notices issued under Section 215 of the Town and Country Planning Act will specify the steps that the recipient must take to comply with the Notice and the timescale for doing so. These steps can for example include removing vegetation, repairing different parts of a building, or requiring a building to be repainted or re-rendered. If the recipient of the Section 215 Notice does not carry out the steps specified in the Notice, the Council can pursue legal proceedings through the Magistrates Court.

Typically led by: Development Management (Planning)

Example



Before and after clearance works secured via a Section 215 Notice in the Borough. In this case the Council took direct action to ensure the Notice was complied with. A legal charge for the costs of these works was then attached to the property

Local Government (Miscellaneous Provisions) Act 1982

Where buildings are unoccupied and not effectively secured against unauthorised entry or become a danger to the public, Environmental Health can undertake works to prevent unauthorised entry for the purpose of preventing the property becoming a danger to public health. For example, this could include boarding up the property.

Typically led by: Environmental Health

Environmental Protection Act 1990

Under Section 80 of this Act the Council can take action to stop a premises causing a Statutory Nuisance to another property. Certain conditions need to be met but an example could be where water ingress from an empty home is affecting a neighbour.

Typically led by: Environmental Health

Building control – unsafe structures

The Building Act 1984 includes provisions relating to buildings and structures that have become dangerous. In more extreme cases this can be where there is a imminent risk of collapse, in other cases it can be where a structure presents a hazard such as a loose roof tile or leaning garden wall. Upon notification the dangerous element would be inspected by a Building Control surveyor and depending on the nature and severity, Building Control could either: -

- 1) Require the owner of the property to make safe any immediate dangerous parts of the structure or if the owner cannot undertake this work, carry out the necessary work and recharge the owner or their insurance company; or
- 2) Where the structure is assessed as being potentially dangerous, issue a formal notice requiring the necessary remedial works to be carried out within a stipulated timescale. In the event that action is not taken by the owner then a Court Order can be sought, in which case the Council may undertake the work and recover the cost from the property owner, either directly or through a charge being placed against the property.

Typically led by: Building Control

Empty Dwelling Management Orders (EDMO)

An EDMO can be made where a property has been empty for six months or more and is a nuisance to the locality. The Council can take over management of the property for up to seven years, carrying out work required before letting.

EDMOs are typically resource heavy, involving a considerable administrative burden when compared to other options. An EDMO is open to appeal at any stage and many properties would be exempt (for example where the owner is temporarily residing elsewhere, or where the owner is giving/receiving care). There is also the difficulty in recovering the costs of renovation within the seven-year period allowed by the order.

Any decision to use an EDMO would have to have regard to the factors above to ensure it is a viable and appropriate option for the Council. Ultimately an EDMO does not change ownership of the property so at the end of the seven years it would return to the same ownership of who left it vacant and neglected in the first instance.

Typically led by: Fareham Housing

Enforced Sale

The Law and Property Act 1925 allows local authorities to recover debts owed to them where they have been registered as charges on the property. Where owners fail to pay debts relating to work in default carried out in respect of the Prevention of Damage by Pests Act 1949, Housing Act 2004 and Building Act 1980, the Council can be granted the power to sell by service of relevant notices and verification by the Land Registry. In these instances, the debt takes priority charge, even over an existing mortgage.

Typically led by: Dependant on where the debt lies

Compulsory Purchase Orders (CPO)

Where the Council can make a compelling case in the interest of the public for a home to be compulsory purchased, and where other methods of returning the home to use have been tried and failed, a CPO provides the final sanction to facilitate the renovation and reoccupation of the most problematic of empty homes.

There are various requirements on the Council that would apply if it were to pursue a CPO, this includes showing a clear intended use of the home and that there are the resources to follow through with the process. Owners of compulsory purchased homes may be entitled to compensation for the loss at a level equivalent to the open market value and may be entitled to additional compensation. The Council would also then incur the cost for works to the property to bring it to a lettable/marketable state.

Typically led by: Likely to be multi-department led

Proportionate & Appropriate Action

Each case of a long-term empty property brought to the Council's attention will be assessed by officers and treated on its individual merits.

Encouragement tools (as identified under Objective 1) will be used in the first instance. If these do not bring about success then an assessment will be made on whether further enforcement tools are justified, proportionate and appropriate. This will be a balance taking account the impact the empty home is having, and the costs/risks and merits in progressing any form of enforcement action.



Case by Case

Every case will differ and have its own nuances. The justification and any decisions to act will be made on a case-by-case basis by the relevant determining body at the Council.

Various departments will potentially be involved in any decision to act in relation to an empty home. For more extreme enforcement/interventions the appropriate regulatory and decision-making bodies would be involved. This might include one or more of the following: -

- Licensing & Regulatory Affairs Committee
- Planning Committee
- Executive (Executive meeting or individual Executive decision)

Proportionate and Appropriate – Things to consider

The following factors provide an indication of what will be considered before more formal action (as identified under Objective 2) would be progressed by the Council in relation to an empty property.

Legislation: Is it justified & appropriate?

The ability and appropriateness to progress enforcement action will firstly be governed by the relevant legislation and whether there is justification for formal action to be taken. Officers in the respective departments have good awareness and knowledge of the legislation and will seek further legal advice when required.

Personal Circumstances: Is it justified & appropriate?

On some occasions the personal circumstances of the individual homeowner will need to be considered. More heavy-handed interventions and enforcement action may be less appropriate if there are emotional or health issues to be considered in the case. This with awareness of the distress that could be caused to the homeowner and balancing that against the impact the empty home is having. It may also be a factor considered by a judge should the case result in court action.

Harm vs. Action: Is it proportionate?

A key balance will be whether the proposed action is proportionate to the harm being caused by the empty property. The extent of harm will therefore need to be considered. This might take account of: -

- How many other people are detrimentally affected?
- How bad an impact is it having on others?
- What is the visual appearance of the empty home?
- Is that visual appearance visible from the public domain and to what extent?
- Are there any true safety risks, if so to whom and what extreme?
- What would a 'do nothing' approach result in?

Sliding Scale of concern	Low	Med	High
Length of time empty	Less than 2 years	2-10 years	10+
Impact on others	Impact largely limited to a small number of immediate neighbours & impact minimal	Impact extended to a larger group, e.g., cul-de-sac, or where property is adjoining others	Impact to other individuals is significant, directly causing detrimental impact to other properties/persons.
Visual Appearance (building)	Visually unattractive but no structural concerns	Visually unattractive with some failure	Significant disrepair causing damage to property
Visual Appearance (wider site/vegetation)	Visibly overgrown but contained to rear of property	Visibly overgrown and visible from public domain	Visibly overgrown, impacting on neighbours and having wider visual amenity impact
Visual Impact	Local residential road	Feeder road within residential area	Main through route in borough and prominent from streetscene
Significant disrepair affecting neighbours or others	Some disrepair	Structural issues contained within property	Structural/disrepair issues proven to affect neighbours
Misuse of property (including squatters, fly tipping, etc.)	Potential for misuse of property	Some evidence of misuse or ASB	Regular recurrent misuse or ASB incidents, or where associated safety issues will arise

Objective 1 of the Strategy (working with owners to address issues) will typically be applied when the empty home has generated issues predominately at the low end of the sliding scale (as articulated on the table at page 15). Empty home cases where several high impact issues apply are more likely to involve the Council considering or applying direct action or intervention using one or more of the 'tools' identified under Objective 2 of the Strategy.

As indicated on page 14, cases will be considered on an individual basis. Even when it is deemed that the harm is significant, the most proportionate action would be considered depending on the particulars of the case.

Cost: Is it justified & appropriate?

Costs also need to be considered. Any action taken by the Council (even encouragement tools set out in Objective 1) will incur a cost. The more direct enforcement actions outlined in Objective 2 will incur more significant costs, with Compulsory Purchase typically being the costliest.

Costs considerations: -

- Officer time in dealing with a case
- Cost of any legal advice or input
- Cost of any external tracing services
- Actual expenditure associated with more direct/enforcement tools being utilised
- Likelihood of receiving monies/costs back

Tracing the untraceable

On some occasions there will be no registered owner of a property, or a registered owner who is untraceable. This presents additional challenges and costs to progressing more direct intervention in an empty property case. When these issues arise, it will have to be weighed up against other factors such as the extent of harm caused.

Concluding Summary

- The quantity of long-term empty homes in Fareham Borough remains relatively low
- The majority are empty for understandable or logical reasons
- The majority do not cause any significant issues to neighbours or the wider community
- There are a small minority of empty homes cases where there is no understandable or logical reason for the property to be empty
- Some empty homes could provide a home for an individual or family (helping toward housing need)
- There are a very small number of empty properties that present a blight to the wider area or detrimental issues for immediate neighbours
- There are various 'tools' available to the Council to address problematic cases
- 'Encouragement tools' look to work with owners to bring a home into use or encourage the occupation of the home through Council Tax premiums payable
- 'Enforcement tools' are potentially available through various legislation, managed by various departments, and overseen by various decision-making bodies at the Council
- Any action against a long-term empty home will be considered on a case-by-case basis
- Any action should be proportionate and appropriate
- Any decisions to take action should acknowledge the cost of action and whether it is a prudent and appropriate use of Council resources

Contact Details

If you have any queries about a property you believe to be long term empty in Fareham Borough, then you can contact the Council at:

Email: emptyhomes@fareham.gov.uk

Telephone: (01329) 263100

Please note that email is the preferred method of communication as this will then allow Officers to understand what communication or involvement the Council may have already had about a particular property. As this can often involve multiple Council departments, we are likely to need to investigate this further before being able to provide an initial response.

Pending Adoption