This report recommends the making of a Compulsory Purchase Order as a last resort in respect of a property that has been vacant for nearly 14 years.

FOR DECISION

1. **INTRODUCTION**

1.1 No.1 Alba Place is a long-term vacant property. All officers’ attempts to engage with the owner to encourage him to return the house to occupation have been rejected. There are substantial Council Tax arrears which date back to 2000. The Executive Director of Finance, Information Systems and Property is currently seeking enforced sale to recover unpaid Council Tax. Should the owner seek to prevent the sale by paying the outstanding charging orders, approval is sought to make a Compulsory Purchase Order in respect of the property.

2. **BACKGROUND**

2.1 This is a small mews cottage comprising a garage and entrance door on the ground floor, an open plan living room and kitchen on the first floor and a bedroom and bathroom on the second floor. Ownership details are included in Appendix 2 to this report which contains the Council’s ‘Statement of Reasons’ for pursuing compulsory acquisition. The property has been vacant since April 1995.

2.2 The Environmental Health Service first became aware of the condition of the property in 2003 when a rodent infestation had to be treated. This required the service of a notice and the carrying out of works in default of the owner.

2.3 Since 2003 the Council’s Empty Property Officers have tried to correspond with the leasehold owner, providing advice and
encouragement to return the property to beneficial use. He seldom responds to any correspondence. Offers of grant aid have been made and details of people interested in purchasing the property have been provided. The house remains empty with no sign of any refurbishment. Although it is not currently an ‘eyesore’, this is largely due to the intervention of neighbouring residents who redecorated the front elevation at their own expense several years ago.

2.4 Substantial Council Tax arrears have accrued in respect of the property and the Council has obtained charging orders to secure these debts against the property.

2.5 As an inspection of the house was necessary to inform the decision on what action to take, a notice of entry was served on the owner, last August requiring access to the house. He failed to respond or provide access and, therefore, a warrant for entry was obtained from the District Judge. The warrant was executed on 4 September and a full inspection and assessment under the Housing Health and Safety Rating System (HHSRS) was carried out. Photographs of the property are attached as Appendix 1.

2.6 The house was found to have the following hazards:

- **Category 1 hazards:** Dampness and mould growth; Excess cold; Falls between levels; Falls associated with stairs and steps.
- **Category 2 hazards:** Personal hygiene, Sanitation and drainage; Fire; Structural collapse and failing elements; Food safety.

3. **NEED**

3.1 There is a clear need to deal with this property. The house is deteriorating and it is likely to cause damage to adjacent premises from dampness and decay. This deterioration will continue and is likely to accelerate if no action is taken to carry out renovations. The property also represents a wasted housing resource in an area of high demand.

4. **CONSULTATIONS**

4.1 Financial and Personnel services have been consulted on this report.

4.2 The Chief Legal Officer comments that the legal implications are set out in the report.
4.3 Councillor Fiona Buxton, as Cabinet Member for Housing Services, Adult Social Care, Public Health and Environmental Health, has been consulted and supports this proposal.

5. OPTIONS

5.1 If the Council is to intervene in this property, several options are available:
   A. The Council could seek to enforce sale of the property to recover unpaid Council Tax using the powers of a mortgagee as specified in the Law of Property Act 1925;
   B. The Council could take action under the Housing Act 2004 to secure the renovation and re-occupation of the property;
   C. The Council could make a Compulsory Purchase Order (CPO) under either section 17 of the Housing Act 1985 or section 226 of the Town and Country Planning Act 1990. This would enable the Council to take possession of the house and then sell it on for refurbishment or redevelopment with a condition that it be used for housing purposes within a specified period.

5.2 The Council Tax Business Manager is currently applying for charging orders for the last three financial years to recover arrears of nearly £9,000. He has agreed to pass the case to Legal Services for them to apply to the Court for an order of sale of the property. This is a relatively swift process insofar as the Court will fix a hearing date and, if an order is granted, the Council can then sell the property. However, should the owner choose to settle the outstanding debt, there will no longer be grounds for enforced sale and the property will remain vacant.

5.3 Under Option B, an Improvement Notice under sections 11 and 12 of the Housing Act 2004 could be served on the owner requiring all necessary works to remedy the Category 1 and 2 hazards present. If such a notice is not complied with, the Council is empowered to carry out works in default at the owner’s expense. If the owner fails to pay the costs of works in default, the Council will have the option to foreclose and require the sale of the house. Once the works are completed, if the owner does not cooperate in returning the house to occupation, the Council could then make an Interim Empty Dwelling Management Order (EDMO). This Order would allow the Council to do any other works required to make the house suitable for occupation and then to let it and collect the rent (subject to various conditions). Officers have already served an Improvement Notice under section 11 of the Housing Act 2004 as there is a statutory duty under the Act to take appropriate action when one or more Category 1 hazards have been identified.

5.4 The owner of a property subject to an Improvement Notice has a
right of appeal to the Residential Property Tribunal (RPT). If the Council wishes to make an Interim EDMO, it has to apply to the RPT for authority to do so and the owner has the right to oppose the application.

5.5 The use of this power is a viable option but, in this case is not the preferred option. The owner refuses to communicate with the Council and officers consider that he is unlikely to change his approach when notices are served. If an Interim EDMO is made, the Council would have powers to manage the property but could not establish a new tenancy without the agreement of the owner. He is unlikely to give such agreement. This would then mean that the Council would need to make a Final EDMO with the considerable amount of bureaucracy that would involve. The Council would also have to put in place arrangements to manage the house and produce a management scheme including financial arrangements. At the end of the statutory period for a Final EDMO (7 years) the Council would probably need to make another Order or, at that point, to make a CPO.

5.6 Officers consider that the substantial amount of work involved with making an Interim and then a Final EDMO is not justified in this case. The owner is unlikely to ever take his responsibilities seriously and the Council could find itself managing the property for many years and still end up having to make a CPO in order to achieve a final solution.

5.7 Where the Council makes a CPO, any interested party may register an objection to the Order, in which case there will be a public local inquiry to determine the matter.

5.8 The powers of acquisition under the Housing Act are widely drawn. They include the power to acquire houses for improvement only, without any gain in the number of housing units available, and the power to acquire for the purpose of selling on to a third party. Therefore it is appropriate to use the compulsory purchase powers contained in section 17 of the Act.

5.9 It is a requirement that, where an authority makes a CPO, it must provide, as part of its submission to the Secretary of State, a Statement of Reasons for the intended action. The Statement of Reasons is attached as Appendix 2.

5.10 In making the recommendation, officers have taken into account the condition of the property and the fact that the owner lives outside the jurisdiction, is difficult to contact and consistently fails to communicate with the Council.
6. **FINANCIAL IMPLICATIONS**

6.1 The Group Finance Manager for HHASC comments that there are revenue costs associated with making a CPO, especially if the case goes to a public local inquiry, however all revenue costs relating to this CPO will be met by the West London Housing Partnership.

6.2 It is expected that the capital receipt from the private sale of the property will meet the capital cost and, if the sale can be finalised as quickly as anticipated, that both the receipt and the capital outlay will be in the same financial year (2009/10). The property is expected to both be purchased and sold at a current market value of approximately £550,000 and it is recommended that this sum is added to the capital programme for 2009/10 to reflect this. However, break-even isn't guaranteed as it will depend on the timing of acquisition and subsequent sale and the degree of compensation to the dispossessed owner.

6.3 Compensation paid following a CPO comprises the market value of the property plus a Basic Loss Payment (BLP). The BLP is the lower of 7.5% of the value of the property or £75,000. No BLP is payable if, at the time when the CPO is made, there is an outstanding un-complied notice on the property under Section 11 or 12 of the Housing Act 2004 or Section 215 of the Town and Country Planning Act 1990. At the time of writing there is an outstanding notice on the property under section 11 of the Housing Act 2004.

6.4 The Council will seek to recover outstanding Council Tax debts from the proceeds of the sale of the house.

7. **LEGAL IMPLICATIONS**

7.1 The Chief Legal Officer comments that the legal power to make the CPO is contained in section 17 of the Housing Act 1985. Under the Crichel Down Rules, if a property is bought under compulsory purchase powers, but then sold, it should usually be offered back to the original owner. However, in this case the Rules will not apply, as the purpose of the CPO is to take the property from someone who will not maintain and use it. The other legal implications are set out in the report and the Statement of Reasons.

7.2 The Council, when deciding to acquire the property using a CPO, has to have regard to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and to Article 8. This protects the individual’s right to a home and, since nobody is living in this property, there is no breach of the Article.
7.3 Article 1 of the First Protocol protects people’s property rights. A public authority cannot take away someone’s property except where this is allowed by law and it is in the public interest. There is also a requirement for the proposed action to be objectively and reasonably justified. The Housing Act 1985 provides the legal basis for this action and officers consider that it is in the public interest due to the impact on the local area and the need for housing in this area of very high demand.

8. PERSONNEL IMPLICATIONS

8.1 There are no personnel implications from this report.

9. EQUALITIES IMPLICATIONS

9.1 There are no equalities implications from this report.

10. RECOMMENDATION

10.1 As mentioned above, the Executive Director of Finance, Information Systems and Property is currently seeking an order for sale to recover Council Tax arrears.

10.2 Cabinet is recommended that, in the event that enforced sale is compromised by the owner electing to pay outstanding debts and the property remains vacant, the Council makes a Compulsory Purchase Order under Section 17 of the Housing Act 1985 on 1 Alba Place, London W11, for the reasons set out in the Statement of Reasons in the exempt appendix, with a view to selling the property on for refurbishment and use for housing.

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Background papers: None

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Appendix 1

Front elevation

Livingroom floor