

Select Panel 2 - Land and Buildings in Disrepair



BASSETLAW
DISTRICT COUNCIL
NORTH NOTTINGHAMSHIRE

March 2010

Scrutiny is an Independent, Councillor-led Function, Working with Local People to Improve Services.

Foreword

The growing concerns about increasing numbers of buildings and land falling into disrepair, blighting urban and rural communities of Bassetlaw, prompted its priority for greater scrutiny.

A cross party group of Councillors was formed which approached the task with great enthusiasm. Each member had specific areas of concern in their Wards and drew upon their knowledge to learn about the legal background, practices of individual departments and policies of the council. Well-known buildings and land across Bassetlaw, which had fallen into a dilapidated state, were highlighted and interest shown into any progress. In addition we received evidence from partner organisations and examples of best practice.

We found that there was no overarching policy in this area and that there was no single point of contact to report concerns. Councillors were not immune from this and there were many examples of frustration.

We thought that greater inter-departmental and inter-agency working could make improvements and there were opportunities to be had from exploring external funding and collaborative working.

The work of Eddie Dawson from Allerdale Borough Council was inspirational. He talked about a proactive approach and gave many examples of great success. The panel was reassured to learn from him that funding was less of an issue although there was the need to back up any action with determination. Although the use of legislation could result in some financial outlay we heard how this could be recouped from owners.

Closer to home, at Ashfield District Council, we heard how they had tried to get on top of the problem before it became too difficult. They had dedicated staff to give information, keep in contact with owners, encourage action and ultimately to resort to legislation.

The panel came to the view that they wanted this council to make firmer strides in resolving the eyesores, which had, in some cases, been unchallenged for over 20 years. The panel thought that a new approach was needed and were heartened that Heads of Services were supportive of this. Councillors were interested in the development of a 'priority list' and there is a keenness to remain involved.

Our thanks go to the Scrutiny Officer who worked very hard and helped steer us through the process.

This was a worthwhile subject to scrutinise and, I believe a process, which has been rewarding for all participants. It is hoped that this work will result in tangible changes to the way we approach buildings and land in disrepair, visible improvements and better outcomes for the people of Bassetlaw.

Councillor Bill Barker

March 2010



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1. Executive Summary

1.1 Summary of the Findings

This Panel was tasked by the Overview and Scrutiny Committee to review derelict land and buildings; including empty homes in the district. The Panel reviewed this by firstly gaining an idea of how big the problem was in Bassetlaw. A number of different methods were used to gather this information:

- An audit was sent to Councillors
- Council Tax provided the number of empty homes
- A list of sites that had been reported by the public to Environmental Health

Councillors reviewed the current legislation, the current strategy and examples of good practice. There is currently a range of legislation that can be used from Environmental, Planning, and Housing.

The review also looked at the problem of empty homes in the District and how these could be brought back into use. The Panel looked at Ashfield District Council's approach. They have successfully managed to get 22 properties from derelict to refurbishment in the last 9 months. This included a visit to Ashfield to see how the Empty Homes Register is set up and to meet the Empty Homes Officer.

The Panel also reviewed the work of Allerdale Borough Council in dealing with derelict buildings. This Council had used Section 79 of the Building Act 1984 to get owners to complete repairs or demolish sites. A workshop was arranged so that Officers could also benefit from Allerdale's experience. Allerdale Borough Council had dealt with over 150 properties over the last 15 years and has been recognised as good practice.

The Panel found that:

- Historically the Council had taken a less proactive approach; the Panel agreed there needed to be a more proactive approach. This process will involve working across Service areas with Councillors and Partner organisations, to change the culture. Throughout the Review there has already been quite a lot of work started behind the scenes and this has already seen some positive outcomes.

- The problem of derelict buildings and land is that it not only blights the local area but it attracts other problems related to anti social behaviour such as fly tipping, vandalism, forced entry and fire hazards. They also attract groups of young people to potentially dangerous sites and can be linked to further incidents of anti social behaviour in the neighbourhood. All in all this can make life for residents unpleasant.
- The lack of communication between interested parties. The enforcement route can be a lengthy period and often it was perceived that little was being done. Councillors said that they did not always know what action was being taken on sites in their patch and therefore they could not provide the residents with information when asked. There were also issues around ownership when several Officers were involved in a case from different departments.

The review has produced a raft of recommendations that will move the Council forward and address the issues highlighted. There is a change in the approach and a new strategy to enable more effective working in this area.

An Equality Impact Assessment has been carried out for this review. This can be viewed at www.bassetlaw.gov.uk under the Equality Section or by contacting the Policy and Scrutiny Unit on 01909 533189.

1.2 Scope of the Review

The scope of this review was to examine the impact of empty and derelict buildings and land in Bassetlaw. The Panel undertook a scoping exercise and the following points arose:

Proposed Scope	Proposed Action
<p>To review current legislation and the Council's mechanism.</p> <p>How long does it take? What are the delays? How proactive is the Council?</p> <p>Empty Dwellings Management Orders</p>	<p>Witness - Dave Armiger and officer from Legal</p> <p>Information pack</p>
<p>Multi Agency Approach Bassetlaw Multi Agency Derelict Building Group - How does it work?</p> <p>Environment Agency Their role</p>	<p>Bassetlaw Multi Agency Derelict Building Group (BMADB)- Witness from the group Fire Service – Mark Mortimore</p> <p>Witness - Pete Rutherford</p>
<p>Identify how big the problem is in the District</p>	<p>Audit Councillors about the problem sites in their wards. Visit problem sites across the District</p>
<p>Best Practice from other areas Derelict Buildings – Allerdale Empty Homes - Ashfield</p>	<p>Invite Ed Dawson from Allerdale Borough Council Invite Ashfield District Council to discuss their Empty Home Strategy</p>

1.3 Membership of the Review Panel

The following Councillors who were appointed to Select Panel 2 carried out the review:

- | | |
|------------------------------------|--------------------------------|
| • Councillor B. Barker (Chair) | • Councillor M.T. Gray |
| • Councillor J. Scott (Vice-Chair) | • Councillor J Potts |
| • Councillor M. Bennett | • Councillor Mrs. M.W. Quigley |
| • Councillor K. Bullivant | • Councillor J.B. Rickells |
| • Councillor G. Freeman | • Councillor R.A. Simpson |

1.4 Summary of the recommendations

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
1.	<p>That the Land and Building in Disrepair Strategy includes:</p> <ul style="list-style-type: none"> a) A stepped process/ action plan, showing the interdepartmental working across the Council. This would develop a more proactive approach, where early intervention could prevent buildings from becoming problem sites. b) A new Protocol, or enforcement policy for fly tipping on derelict land and buildings. c) That there should be greater sharing of intelligence with outside agencies like the Environment Agency about fly tipping. 	David Armiger Head of Community Prosperity	Officer Time	July 2010	The recommendation is accepted and we are moving to implement the recommendation
2.	That there is a lead Officer who would be responsible for following a clear communication strategy able to keep Councillors and residents informed about the action that has been taking place on the sites identified on the Priority Action List.	David Armiger Head of Community Prosperity	Officer Time	September 2010	The recommendation is accepted and we are moving to implement the recommendation

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
3.	That there is one point of contact for members of the public to report derelict buildings	David Armiger Head of Community Prosperity	No Financial Implications	September 2010	The recommendation is accepted and we are moving to implement the recommendation
4.	That a cross party Member working group is formed for a three year period to focus on the priorities of the Corporate Plan specifically derelict buildings and empty homes and that a performance report on the priority sites action list is presented on a quarterly basis. This working group will report to the Performance and Improvement Scrutiny Committee on a six monthly basis.	Mark Ladyman Director of Community Services	No Financial Implications	September 2010	Agreed

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
5.	That an information pack is devised and sent out appropriately to owners of empty homes once the free period of Council Tax ends. To provide helpful information about how to ensure their property does not get into disrepair and provide information about the possible action the Council may take if the property does fall into disrepair.	Julian Proudman Principal Environmental Health Manager/ Andrew Burton Head of Resources and Customer Services	Officer Time To design the leaflet. To be met within existing budgets	September 2010	<p>Environmental Health foresees no risks likely to prevent this recommendation being carried out if an appropriate list of properties can be obtained from Council Tax records. The information would have to be carefully tailored to different classes of empty property, and it may not be appropriate to include all properties (e.g. where former residents are now in care homes). The emphasis should be on advice and assistance rather than threats of formal action.</p> <p style="text-align: right;">Julian Proudman</p> <p>We need to be selective as to who gets the pack. Lots of empty house taxation can follow probate and the last thing we need to be doing to someone trying to dispose of a loved ones estate is hassle them with info about what happens to them if they dither.</p> <p>So officers need to tease out the type of property to send the pack to.</p> <p style="text-align: right;">Andrew Burton</p>

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
6.	<p>That an Empty Homes Strategy should include the following considerations:</p> <ul style="list-style-type: none"> a) The introduction of a Private Sector Leasing Scheme. b) That there is dedicated staff time to set up and maintain an Empty Homes Register to highlight priority properties for action and to increase bringing empty homes back into use c) Local Area working and pooling resources with neighbouring authorities such as Ashfield District Council, Mansfield District Council and Newark and Sherwood who already work in partnership to tackle Empty Homes. 	Claire Frost Strategic Housing Manager	Officer Time	July 2011	<p>Private sector leasing scheme: This is an option that we will be actively considering within the empty homes strategy to bring empty homes back into use. Work with A1 housing will commence to establish a procedure.</p> <p>Empty Homes Register: The Housing Information Officer has been highlighted to set up and maintain the register initially, close work with CT and Environment Health is essential to prioritize dwellings and maintain the register.</p> <p>Local Area Work: Cross boundary working is essential to highlight and pool any "Good & Best" practices. Another visit to Ashfield DC is being arranged for the Housing Information Officer to establish working practices and to develop a working relationship with the LA.</p>

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
7.	That the Strategic Housing Unit explore funding Opportunities with the Government Office for the East Midlands (GOEM) and others to bring Empty homes back into use	Claire Frost Strategic Housing Manager	Officer Time	September 2011	<p>Ongoing for all aspects of housing - to be pursued through the single conversation route</p> <p>Any future funding for this will almost certainly come down through the Sub Regional HMA route and Meden Valley Making Places has been cited as a suitable delivery vehicle (though it remains to be seen if the HMA Board will agree this).</p>
8.	That the Multi Agency Derelict Building Group clarify their Terms of Reference and be formally approved by all the constituent Authorities and that it is supported by a regular meeting programme	David Armiger Head of Community Prosperity	Officer Time	April 2011	The recommendation is accepted and we are moving to implement the recommendation

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
9.	That an article to launch the revised approach to derelict land and buildings including the new point of contact telephone number should be included in the Bassetlaw News and on the Website and that this is supplemented with regular press releases	Jonathan Brassington Communication Coordinator	Officer Time	September 2010	No significant risks to delivery. An article outlining the Council's approach to derelict land and buildings will be published in Bassetlaw News and on the Website (when requested by Responsible Project Officer). Regular press releases will be issued when Communications Team are informed that action is to be taken/has been taken
10.	That the Officer Group should include representation from the following sections: Environmental Health, Planning, Building Control, Licensing, Community Safety, Debt Recovery and Council Tax (Property Inspectors)	Mark Ladyman Director of Community Services	Officer Time	September 2010	This is being embedded into Officers work programme

	Recommendation	Responsible Officer	Financial Implications	Delivery Timescale	Risks to delivery/ Officer Comment
11.	That the Officer Group compiling the Priority Action List completes an appropriate form of risk assessment with regard to the financial risk the Council may be exposed to when taking action on sites.	Mark Ladyman Director of Community Services	Officer Time	September 2011	This is being embedded into Officers work programme
12.	That Environmental Health data is included in future analysis of anti-social behaviour and the strategic intelligence assessment	Gerald Connor Community Safety Coordinator	Officer Time	April 2011	The data will be included in the both areas if it is collected and managed electronically, which allows the data to be manipulated as appropriate. Data needs to be current and validated with easy access and retrieval. This would allow for the data to be included as a headline within the SIA, but for more advanced tactical analysis geo-coding would be required as a minimum

2. Background

2.1 National Context

Current Government Perspective

The Department for Communities and Local Government reports that empty homes account for 3 per cent of the housing stock. The overall vacancy rate has reduced by 9 per cent since 1997 from 763,234 to 697,055. Of the 697,055 vacant properties in 2008, 293,728 were identified as private sector vacancies of six months or longer.

The Government acknowledges the importance of maximising the use of the existing housing stock so that this minimises the number of new homes that need to be built each year. Empty homes not only restrict housing supply, they also detract from the quality of the local environment and can cause significant problems for local residents.

Poorly maintained empty properties attract vermin, cause damp and other problems for neighbouring properties and are magnets for vandals, squatters, drug dealers and arsonists. The [Royal Institution of Chartered Surveyors](#) (external link) estimates that properties adjoining poorly maintained empty properties can be devalued by 18 per cent.¹

The Government believes that boarding up long-term empty properties to prevent them being broken into is not a sustainable solution. The only effective answer is to get them back into occupation and in that way help to meet housing need where appropriate.

Local authorities are increasingly engaging with owners to find the right solutions. This can take the form of offering incentives such as renovation grants or loans or advice on selling, leasing and tax issues. Such approaches are dependent on goodwill and co-operation from owners and where this is achieved can be highly effective. However, local authorities may also resort to enforcement action where it has not been proved possible to achieve re-occupation of empty properties through voluntary means. Local authorities have, for many years, been able to call upon statutory last resort powers to require the sale or renovation of empty properties. The most commonly known powers are compulsory purchase and enforced sale.

¹ Communities and Local Government's Empty Homes Policy

In 2006, the Government introduced an additional last resort power - [Empty Dwelling Management Orders \(EDMOs\)](#). An EDMO is an order that, once approved, gives the council the right to possession of your property without affecting your right of ownership. Once an EDMO has been made, the council may do most things you would normally be entitled to do with the property, such as entering it to inspect its condition. The council does not take over ownership of the property but is entitled to possession of it and to manage it.

The Local Government White Paper, *Strong and Prosperous Communities 2006* ² identified the need for local authorities to take a more strategic approach to housing as part of their place shaping role. The Housing Green Paper, *Homes for the future: more affordable, more sustainable 2007* ³ called on all Local Authorities to play a stronger role in addressing the housing needs of all residents.

It encouraged authorities to develop their strategic housing role by using the full range of housing and land use planning powers. They should be working with partners to meet the needs of residents by ensuring the delivery of new and affordable housing whilst making the best use of existing stock.

The Empty Homes Agency

The Empty Homes Agency was set up 1992 as a housing association with charitable status, however it does not own or manage any empty property. The Empty Homes Agency is an independent campaigning charity, which exists to highlight the waste of empty property in England and works with others to devise and promote solutions to bring empty property back into use. It was created in response to the high number of empty properties and the crisis with homelessness

The Empty Homes Agency reports that of England's 762,000 empty homes nearly half of them are long-term empty. They argue that ignoring the potential of empty homes to meet housing supply is a costly environmental mistake. Creating new homes from empty property saves substantial amounts of embodied carbon dioxide over building new houses, and minimises the amount of land used for development.

² [Strong and Prosperous Communities](#)

³ [Homes for the future: more affordable, more sustainable](#)

The Empty Homes Agency believes that with unprecedented housing need, and unfolding environmental crises, the waste of empty homes cannot be allowed to continue.

The Empty Homes Agency believes that a considerable portion of the Government's house building target for England could be met from bringing long-term empty homes back into use. If just half of them were returned to use it would provide 162,000 new homes (nearly a year's worth of the Government's housing growth target) and obviate the need for building on 4,500 hectares of land. However, while the Government has numerous targets and performance indicators for building new houses there is no national target for returning empty homes to use, and the Government has abolished its only empty homes performance indicator.⁴

2.2 Local Context

Bassetlaw is a rural district with two main towns, namely Worksop and Retford. There were 2502 empty homes as of October 2009 of these, 684 had been empty for longer than 6 months and 274 had been empty for longer than 2 years. This does not include the 513 empty commercial properties. The Economic downturn has been a contributing factor in the increase of empty properties in the District, with house prices falling and fears about unemployment.

However properties can become empty for a variety of reasons:

- High levels of disrepair especially in older houses, the costs of repairs.
- Properties that have been inherited or bought cheaply, but do not have the means to carry out renovations or want to sell without seeing some gain for their investment.
- Properties that have remained unsold for a long period of time.
- Fears about renting the property out
- Disputes over ownership
- Resident moves in residential care
- Delays or disputes in the administration of the estate when an owner has died
- The property is abandoned

⁴ Empty Homes Agency website

The problem of derelict buildings is multi faceted and is not just about the blight on the landscape. They attract anti-social behaviour; fly tipping, fires and this can worsen the situation. There is the loss of assets in the community and the cost for other local services to police it.

The Overview and Scrutiny Committee decided to review Buildings and Land in Disrepair in July 2009 and to include empty homes in the scope. There were some key sites that had been a long-term problem and Councillors were keen to examine the Council's approach and compare with best practice from other authorities.

Currently the Council's approach is best described as reactive and has preferred to work with property owners to resolve the issues. Environmental Health deals with the majority of the cases, however some of the cases involve other departments like Planning, Building Control and Legal.

There are two divisions in Environmental Health, these are:

- Environmental Health Services Neighbourhood Division
- Environmental Health Services Regulatory Division

Enforcement is carried out through the neighbourhood division and has two teams to cover the district. There is also an enforcement team in Planning.

3. Method of Review

3.1 Summary of Review Meetings

The review was carried out using several approaches. The Panel invited a range of witnesses to present at meetings as shown below. The Chair and Officers visited Ashfield District Council to meet the Empty Homes Officer and to see their Empty Homes Register and carried out an audit.

Meeting	Witness	Evidence Gathered
12 th October 2009	David Armiger – Head of Community Prosperity	Current process at Bassetlaw for buildings and land in disrepair
19 th October 2009	Power point presentation from Allerdale	Best Practice using 1984 Building Act
3 rd November 2009	Jackie Harvey – Senior Environmental Health Team Leader Ashfield District Council	Ashfield District Council's Empty Homes Strategy
	Julian Proudman – Principal Environmental Health Manager	Empty homes in Bassetlaw
	Graham Jackson – Senior Housing Manager	
12 th November 2009	Peter Rutherford – Environment Agency	The role of the Environment Agency
26 th November 2009	Mark Mortimore – Fire Service (West Bassetlaw)	The Multi- Agency Derelict Buildings Forum
	Wayne Cook – Fire Service (East Bassetlaw)	

Meeting	Witness	Evidence Gathered
15 th December 2009	Panel Members only	Considering the evidence already heard and the way ahead
20 th January 2010	Mark Ladyman – Director of Community Services	Discuss developments since the start of the Panel
	Angela Edwards – Lead Officer for Cleaner Greener	
27 th January 2010	Eddie Dawson - Building Control Officer Allerdale Borough Council	Eyesores to Assets
10 th February 2010		Draft Recommendations

The Panel received evidence in written form from:

Witness	Evidence
David Yates – Council Solicitor	Legal Overview
Graham Hooper – Clerk to the Justices	Magistrates – sentencing and costs for fly tipping.
Jackie Harvey – Senior Environmental Health Team Leader Ashfield District Council	Empty Homes Register

Their help and co-operation with the review is gratefully acknowledged.

3.2 External Visits

The Chair of the Select Panel Councillor B. Barker, along with Strategic Housing Manager, Principal Environmental Health Officer and Policy and Scrutiny Officer went to Ashfield District Council to meet Jackie Harvey Senior Environmental Health Officer and the Empty Homes Officer. The aim of the visit was to see the Empty Homes Register and to glean information about how this could be started (a briefing note detailing the visit is in the appendices).

The Empty Homes Register is laid out in the following way:

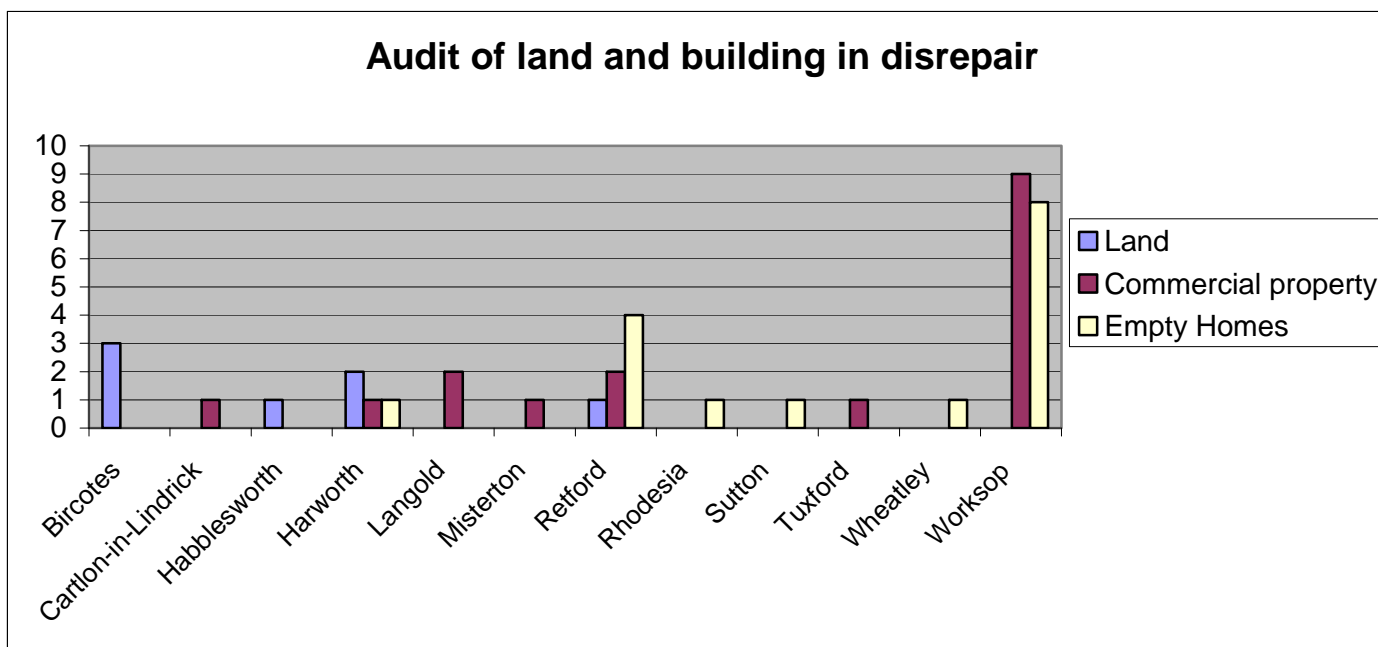
Owner	Address	Exemption Code	Date became Empty	Date of Visit	State of property	Occupied	Date Letter sent	Information Received

The Council Tax department provides the Empty Homes Officer with a monthly sheet of all the empty properties in the District. The exemptions codes are included and the date the property was vacated. At Ashfield they use the Flare software to collate all the information about the property including complaints and reported incidents.

The Empty Homes Register is a public document but as there are Public Exemption Categories, information is provided on request, to protect those exemptions. Developers and buyers may request information on empty properties with a view to making owners offers. The Empty Homes Officer can easily identify the priority properties and trigger the stepped action plan that sends out letters and highlights those that need enforcement action.

3.3 Summary of the Audit

The review also carried out an audit by asking Councillors to provide details of derelict land or buildings in their Wards. This was to ascertain the size of the problem in the District. Councillors reported forty sites through the audit across the District. It revealed that there were some long-standing problem sites that also attracted anti social behaviour. A copy of the audit is attached in the Appendices. The Panel also looked at examples of best practice.



4. Addressing the Scope: Evidence for Recommendations

4.1 To review current legislation and the Council's mechanism

Legislation

There is a raft of legislation available to Councils to deal with derelict buildings a list of legislation is available in the Appendices. Currently the key pieces of legislation is the Town and Planning Act 1990, Section 215, which states:

Section 215 Power to require proper maintenance of land

- (1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.
- (2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.
- (3) Subject to the following provisions of this Chapter, the notice shall take effect at the end of such period as may be specified in the notice.
- (4) That period shall not be less than 28 days after the service of the notice

This allows the Council to require the owner to address unsightly land or the external appearance of the property. Land or buildings that are seriously detrimental to the amenity due to their visual appearance (buildings in disrepair, overgrown land, large accumulation of waste etc.) Environmental Health Officers can write to the owner advising them of the work to be carried out. If the works does not take place a notice can be served. The Council may carry out the work by default and charge the owner and/or prosecute him.

In 2005 the Government brought out some guidance on how to use section 215, it states in that document that a key term used in the legislation is 'amenity' and it means:

‘Amenity’ is a broad concept and not formally defined in the legislation or procedural guidance, i.e. it is a matter of fact and degree and, certainly common sense. Each case will be different and what would not be considered amenity in one part of a local planning authority (LPA) area might well be considered so in another. LPAs will therefore need to consider the condition of the site, the impact on the surrounding area and the scope of their powers in tackling the problem before they decide to issue a notice. LPAs should not be excessively concerned with producing an overly technical definition of ‘amenity’ though. Experience has shown that where a notice is appealed against or a prosecution is pursued, a clear and well-presented case will usually be sufficient to ensure that the appeal is refused.

Town and Country Planning Act 1990 Section 215 Best Practice Guidance

The Building Act 1984, Section 77 and 78 enables the Council to require the owner makes the property safe (Section 77) or to enable the Local Authority to take emergency action to make the property safe. There is a specified time limit and the Council can carry out the work and charge it to the owner. Prosecution in Magistrates Court is also possible.

The Housing Act 1985 and the Housing Act 2004 is also a useful tool for empty houses and gives the Local Authority powers to deal with long term empty properties as well as derelict houses. These include:

- To require a property owner to renovate their property
- In the case of a property owner failing to carry out the necessary renovation the Council can carry out the work and recover the costs including enforced sale
- Empty Dwelling Management Orders that give the Council the power to manage the property for an interim period

The Bassetlaw Approach

The Panel found that:

- The Council currently has in place a Private Sector Housing Strategy 2008-2015, which includes a Private Sector Housing Enforcement Policy. There is also a Cleaner Safer Greener Strategy, which covers empty properties.
- The responsibility to keep property and land in repair lies with the property owner or landowner. It only becomes a problem when owners fail to carry out their responsibilities, has no resources to do so or the identity of the owner is unknown.
- There is no shortage of legislation; the difficulty is the practicality of putting it into action and the time it takes. It can be difficult to get owners to comply without more assertive actions.
- Environmental Health is notified of complaints about problem sites, these gain priority and a dialogue is opened with the owner if known, to try and encourage compliance.
- If the property is unsecured, then the Council can board up a property on behalf of the owner and then charge the work to the owner.

Historically the Council has used a more discursive and reactive approach, to try and cajole owners into action and has used legislation sparingly. The tools available can involve other services in the process such as Planning and Building Control. This has meant that there have been several Officers involved and information has not been readily available. It also has meant that some cases have become long and drawn out affairs.

The Council has been adverse to risk and therefore some of the powers available have not been used. There have been concerns about the financial implications for the Council when carrying out works or demolitions.

The Panel found it encouraging that recently there has been a change in approach and action has resulted in two key sites being dealt with by the owners. The owner of the old clothing factory on Retford Road, which provides a main corridor into Worksop, had, after being served a Section 215 notice, eventually demolished the buildings. Similarly, the owner of a disused pub has cleared the site of the rubbish left by fly tippers and has secured the site.

This was as a result of pressure brought to bear on the owner by Officers, Local Councillors and the threat of legal action.

Summary

The Panel found that the process of tackling derelict buildings and land is disjointed; it lacks an overarching structure that covers all of the processes needed. It was not clear who takes responsibility for the sites reported and there was no clarity of individuals taking responsibility. This led to callers being passed from pillar to post when trying to report buildings or gain information about action on a site.

The Panel recognised that in the past the lack of action was driven by the concern of the cost, such as the use of legislation that could incur a financial penalty or carrying out works to property. The Panel feels that it is of such community importance that challenges are made and action is taken.

A different approach in itself would not necessarily generate high expenditure but needs to be carefully orchestrated. The full cost would need to be considered but the risk would be worth taking in some cases. If powers were used creatively the Council would be able to recoup any costs incurred.

The Panel believes that there needs to be one or two high profile cases with positive outcomes in order to spread the message to landowners that the Council will take action if necessary. It is hoped that this will result in greater compliance.

Recommendations:

- That the Land and Building in Disrepair Strategy includes:
 - a) a stepped process/ action plan, showing the interdepartmental working across the Council. This would develop a more proactive approach, where early intervention could prevent buildings from becoming problem sites.
 - b) a new Protocol, or Enforcement Policy for fly tipping on derelict land and buildings.
 - c) that there should be greater sharing of intelligence with outside agencies like the Environment Agency about fly tipping.
- That there is a lead Officer who would be responsible for following a clear communication strategy able to keep Councillors and residents informed about the action that has been taking place on the sites identified on the Priority Action List.
- That the Officer Group compiling the Priority Action List completes an appropriate form of risk assessment with regard to the financial risk the Council may be exposed to when taking action on sites.

4.2 Identify how big the problem is in the District?

The review wanted to identify the size of the problem in Bassetlaw and so it was decided that Councillors would be asked to provide information about buildings and land that were derelict in their wards. This resulted in 40 sites being reported by Councillors. Environmental Health also had a list of sites that had been reported to them, these included empty factories, public houses and dumpsites.

Council Tax captures the number of empty properties, there are 2502 empty homes (at 01/10/09), 684 had been empty for longer than 6 months. There are potentially other buildings that have not been reported. A cross department group meets to discuss how to tackle the priority sites. There have been 13 sites prioritised and the Council is working to resolve them.

The Panel were keen to stop empty buildings from becoming derelict ones, they identified that the Council provides an exemption period for empty properties of generally up to 12 months (a full list of the exemptions is available on website at <http://www.bassetlaw.gov.uk/>). The Empty Homes Register at Ashfield provides an opportunity to identify priority sites for action and possible sites that may pose possible future problems. This allows time to inform the owner and advise them how to prevent their properties becoming in a state of disrepair.

Recently a cross-departmental Officer Group has been established to discuss priority sites and the action to be taken. This group has prioritised 13 key sites that are to be tackled in the coming year. This helps to focus resources to resolve the issues of these sites. New sites will be considered, as the list is exhausted, any necessary interim action will be carried out to ensure the building is secure.

Summary

The Panel decided the general public needed greater awareness of the changes being proposed and their part in making improvements. It was thought to be of such importance that it warranted ongoing awareness and scrutiny from Members.

Recommendations:

- That there is one point of contact for members of the public to report derelict buildings.
- That an article to launch the revised approach to derelict land and buildings including the new point of contact telephone number should be included in the Bassetlaw News and on the Website and that this is supplemented with regular press releases
- That a cross party Member working group is formed for a three year period to focus on the priorities of the Corporate Plan specifically derelict buildings and empty homes and that a performance report on the priority sites action list is presented on a quarterly basis. This working group will report to the Performance and Improvement Scrutiny Committee on a six monthly basis.

4.3 Multi Agency Approach

The Panel welcomed the recent changes and acknowledged that individually there was a lot of good work taking place but not really a joined up approach. So an internal Officers' group has been formed to promote joint working across the Council. The Council is keen to involve partners and there are currently two Multi Agency Problem Solving Groups one for the East and one for the West of the District. These groups are not just about buildings but a whole range of problems that arise.

The Bassetlaw Multi Agency Derelict Building Group (MADBG) was formed in 2009 and was born out of the concern for the state of some of the derelict sites and the impact these sites had on the local community and the general image of the district. The group consisted of local services such as the Police, Fire and Rescue together with Council Officers to initially highlight the negative effects on the community and the financial impact these buildings have upon agencies. The group has not been formally recognised and is in the process of agreeing a fresh set of terms of reference.

The Fire Station Manager for West Bassetlaw provided evidence to the Panel and reported that a large number of calls were linked to empty land and property. The cost for each call that a fire appliance attends is over £1000. Anti social behaviour was also linked to these sites impacting on Police resources and community safety. This group will link into the Council's approach and will enable a partnership approach to priority sites.

Summary

The Panel support the continuation of the Bassetlaw Multi Agency Derelict Building Group, and would encourage that following the group being formally constituted, that there is active participation by all partners on a regular basis.

The Panel recognises the importance of gathering data from across the different sections of the organisation in order, to provide a base of information. The review identified that Environmental Health regularly deal with anti social behaviour in their role and consider this data should also be included for analysis.

Recommendations:

- That the Multi Agency Derelict Building Group clarify their Terms of Reference and be formally approved by all the constituent Authorities and that it is supported by a regular meeting programme
- That Environmental Health data is included in future analysis of anti social behaviour and the strategic intelligence assessment

4.4 The Environment Agency's role

The Environment Agency reports to the Department for Environment, Food and Rural Affairs (Defra) and is an Executive Non-Departmental Public Body. It is broken into regions and the Midlands Region covers Nottinghamshire, Leicestershire and Derbyshire and is financed by funding, fees and grant aid. They currently spend £20 million on enforcement and this includes specialist equipment. The Environment Agency's budget is to be cut by 20% in the next financial year.

There are several different functions of the Environment Agency; these include flood defences, fishing, regulation of big business, waste management regulation and licensing, water quality and enforcement.

There is an Enforcement and Prosecution Policy; the raft of offences and the responses is huge so it is a published document. This makes it open and transparent so everyone knows what the response to actions will be. The action is proportionate to the crime committed and to remain consistent the same approach is always adopted. The policy is written in such a way that there can be mitigation. The Environment Agency targets those who pose the greatest risk and the procedure involves a rigorous warranted process that includes retraining and refreshing on a regular basis every 2 years.

The Environment Agency has a fly tipping protocol, which clarifies at what stage they intervene. As a general rule they deal with hazardous waste and lorry loads rather than car boots.

There has been a culture change towards a more proactive and joined up approach at the Environment Agency. One of the key areas of focus is intelligence gathering; they are now using the National Intelligence Model (NIM) that is also used by the Police. The idea is to seize the opportunity, by using shared intelligence, crime analysis and mapping to target areas and people by working with a host of Enforcement Agencies and Local Authorities. This means that other agencies are also observing suspects. For example, if the Environment Agency is focusing on a fly tipper who has no driving license and is seen driving, they report the incident to the police who make the arrest and therefore this can be deemed to be a result.

They are also involved in covert surveillance, which involves following people, helicopters and cameras that can capture facial recognition and number plates from a mile away. If it can be proven that profits have been made from illegal activities, then any benefits of those crimes can be retrieved. The Environment Agency can claim 37.5% of

the proceeds reclaimed when they use their own financial and legal teams, unlike fines that go straight to the treasury.

In Nottinghamshire there are partnership projects such as “Maid Marion”. In 2007 there were 20,000 incidents of fly tipping and £1 million was spent on the clean up. The project resulted 19 people caught fly tipping and brought a 20% fall in the number of incidents. It costs around £2,500 to prosecute a fly tipper and these costs are rarely recouped and sentencing is often derisory with small fines or conditional discharges. There is some evidence of success in Mansfield, fly tippers on Eakring Road and Booker Lane received 150 hours community service and £2,000 costs. Environment Agency Officers can also stop and search suspect vehicles, but a range of other enforcement bodies, such as Driver and Vehicle Licensing Agency (DVLA), Vehicle and Operator Services Agency (VOSA), Trading Standards, and Border Control, can also carry these out. This allows a target to be stopped and inspected and results show that 50% of those stopped have their vehicles confiscated.

In Bassetlaw, three fly tippers were caught on Red Lane and are now awaiting prosecution. A prosecution has taken place for fly tipping in Sturton le Steeple and the offender was given a £360 plus £150 costs. The Environment Agency is also pursuing prosecutions relating to the Vesuvius Foundry site in Worksop and Three Corner Paddock in Retford.

The issue of fly tipping was a recurring feature of the review; derelict land and buildings attract flytipping. The Panel believed that this was a high priority and that the Overview and Scrutiny Committee should keep a watching brief and return the topic for future reviews.

Summary

The Panel recognised importance of the Environment Agency's role and the importance of sharing information between organisations. It would encourage clarification of the roles and responsibilities and closer working practices.

Recommendations:

- That the Land and Building in Disrepair Strategy includes:
 - a) a stepped process/ action plan, showing the interdepartmental working across the Council. This would develop a more proactive approach, where early intervention could prevent buildings from becoming problem sites
 - b) a new Protocol, or Enforcement Policy for fly tipping on derelict land and buildings
 - c) that there should be greater sharing of intelligence with outside agencies like the Environment Agency about fly tipping
- That Environmental Health data is included in future analysis of anti social behaviour and the strategic intelligence assessment.

4.5 Best practice from other areas

Allerdale Borough Council

An example of best practice in the area of derelict buildings is Allerdale Borough Council, who has successfully used section 79 of the Building Act 1984. In the last 15 years they have worked on over 150 properties. It was in the early nineties that Eddie Dawson (Housing and Area Renewal Officer) volunteered to look at derelict buildings. The Council had tried the persuasion approach, but nothing much was happening. He had been made aware of section 79 that states:

Ruinous and dilapidated buildings and neglected sites

79. (1) if it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof:

- a) To execute such works of repair or restoration or**
- b) If he so elects demolish**

99 (2) authorises the local authority to do either

The Building Act 1984 Section 79

The officer decided this could be used to tackle derelict buildings both private and commercial. Out of over 150 properties 4 were demolished, and the Council has renovated 2 properties. Of these the Council has taken action to recover their costs + 15%. This sometimes is in the form of a charge on the land, which means that once the land is sold, the Council is entitled to their costs. However in over 90% of the cases the owners have completed the work themselves.

There are many examples of the successes in Allerdale one example is shown below:

Before



After



This pair of abandoned mid terraced rural cottages caused complaint for several years. The owner was a serial dilapidated property owner and took no heed to requests for action. Allerdale Borough Council therefore prepared and served Section 79 notices. The owner did nothing and the Council were preparing to prosecute for non-compliance when the local newspaper ran an article following representations by a neighbour. The neighbours regular and articulate complaints helped keep the issue in their sights and a local businessman saw the article and realised he knew the uncooperative owner and made him an offer he could not refuse. He bought and renovated the properties, one for his daughter to live in and one to let.

Another example is of a derelict button factory, which was in a dilapidated state. The officer sent numerous letters to the owners and put pressure on them to do something with the site. The schedules were prepared in accordance with Section 79 of the 1984 Building Act and then the owner began to demolish the site. The County Council had some European funding so they bought the land and built some workspaces.

Before



After



Allerdale Council now uses other tools to gain information about ownership, Section 215 of the Town and Country Planning Act and other legislation. They benefit from good working relationships with the Legal Department and have the support required for prosecuting non-compliance. The review highlighted the need to be able to select the right tool for each case and how to manage the risk to the authority. It also showed how one officer with a creative approach was able to achieve successes.

Ashfield District Council

Ashfield currently have 1993 empty properties on the Empty Homes Register 176 are actionable with the aim to bring them back into use. There has been an increase in empty properties, which is due to the recession, absent landlords and the lack of resources to carry out renovations. Ashfield is part of the Sub Regional Housing Group and produced an Empty Homes Strategy for dealing with derelict buildings and empty homes and this has been successful. The register was implemented as part of this strategy and to meet the requirements of Housing Act 2004. Ashfield District Council has recently refreshed the Empty Homes Strategy due to the success and learning since the Strategy was launched, and is currently going through the Consultation process.

The Empty Homes Officer maintains and monitors the register with the intention of getting empty homes back in use. They work closely with Council Tax who provides them with the information on a weekly basis and this has benefited Council Tax, as the Empty Homes Officer is able to provide up-to-date information about properties that are no longer empty so that Council Tax can collect Council Tax promptly. This has led to around £60,000 more revenue. They have a good working relationship with Council Tax and are developing relationships with Planning too. Planning has assisted the Empty Homes Officer by serving a Section 215 of Town and Country Act on some owners. Good communication is key with both Council Tax and Planning.

There is a 3-step process for houses that have been empty for longer than 6 months.

1. Initial letter offering advice and encouraging the owner to get the house back in use.
2. Second letter states a requirement of action and the possible options
3. Third letter states the intention to take action

The Empty Homes Officer visits the property and takes photographs and collects information about the property from other local services such as Police, Fire and Rescue, which helps build a body of evidence. If a debt has accrued more than £800 the Council can enforce a sale. In some cases the Council can opt to demolish as the land is worth more than the building or the necessary repairs.

In the last nine months Ashfield District Council has taken 41 properties from derelict to refurbished. The residents are becoming more aware that the Council is not prepared to leave properties empty. These buildings attract vandalism and anti social behaviour, therefore the Council can enforce that properties are boarded up and made secure within a specific time.

Difficult cases are those properties subject to probate, or where the identity of the owner is unknown. This can result in a long process, as the Council needs to establish ownership.

Ashfield District Council tries to assist home owners as many of them don't have the money to renovate, especially if it is a second home, inherited from a deceased family member or if it was bought to let. The Council provides some incentives to help landlords, the "Registered Reference Tenant Scheme", which helps registered landlords find tenants that have been approved.

Ashfield District Council is also working towards a Private Leasing Scheme that homeowners can opt into. The scheme offers a guaranteed rent, even if below the open market rate and an assurance the property will be returned in a reasonable condition. The properties would be leased for up to 5 years and the cost of any works would be offset during the leasing period.

The Empty Homes Officer also works in partnership with Mansfield District Council who has an Empty Homes Officer in place and Newark and Sherwood District Council who do not have such a post as part of the Sub Regional Working Group. This group deals with empty properties, private sector forum and enforcement. These neighbouring Councils share similar problems and Landlords; through partnership working they are able to share information and expertise.

Summary

The Panel were very interested in Allerdale Borough Council's approach in particular the robust way in which derelict buildings were approached; the positive use of legislation and the enthusiasm was refreshing.

Above all the Panel were impressed with the achievements and would encourage the development of a similar approach at Bassetlaw District Council.

The evidence heard from Ashfield District Council, in particular, their strategic direction; the dedicated staff and the stepped action plan similarly impressed the Panel.

Ashfield had been able to tap into funding streams and the Panel would encourage similar explorations into what might be possible for Bassetlaw. The Panel felt that the provision of a similar Private Sector Leasing Scheme should be encouraged, not only would it benefit empty home owners but would also benefit those waiting for homes in the District.

Recommendations:

- That an Empty Homes Strategy should include the following considerations.
 - a) The introduction of a Private Sector Leasing Scheme.
 - b) That there is dedicated staff time to set up and maintain an Empty Homes Register to highlight priority properties for action and to increase bringing empty homes back into use
 - c) Local Area working and pooling resources with neighbouring authorities such as Ashfield District Council, Mansfield District Council and Newark and Sherwood who already work in partnership to tackle Empty Homes
- That the Strategic Housing Unit explores funding Opportunities with Government Office for the East Midlands (GOEM) and others to bring Empty homes back into use
- That an information pack is devised and sent out appropriately to owners of empty homes once the free period of Council Tax ends. To provide helpful information about how to ensure their property does not get into disrepair and provide information about the possible action the Council may take if the property does fall into disrepair.

5. Conclusion

This review has been focussed on the large topic area of derelict land and buildings, and empty homes. The review has not been exhaustive but has covered these areas in some depth.

- Empty homes and regeneration are key priorities and have been identified in the Council's Corporate Plan.
- The review has examined the current practices in the Council; it was evident that despite a lot of good work that often the process was protracted.
- There was an averseness to risk taking which was common in other authorities; therefore many of the powers had not been used because of the financial risk to the authority although there are ways to recover the costs for most actions. There were concerns raised about how information about the action being taken was conveyed to Councillors and residents and this led to a perception of inaction.
- There were also issues raised about a more joined up working approach across departments.
- It became apparent that empty properties also attracted anti social behaviour problems and that fly tipping was a key problem. This meant that these sites could become eyesores very quickly. This could be avoided if owners secured the sites to prevent access for the fly tippers.
- The review highlights that where possible owners should be encouraged to prevent empty property from becoming dilapidated by boarding up the property and securing the site. In the case of empty homes, simple maintenance of the property and the garden can prevent unwanted visitors.
- The evidence gained from the Environment Agency shows that fly tipping is a national problem but that in Nottinghamshire there have been successes through partnership working. Further development of sharing intelligence and partnership working are encouraged for future successes. The Panel also noted that prosecutions cost the Council a substantial fee and very often the costs are not recouped and the penalties are small fines. The Panel would like magistrates to be educated about the real costs and implications of fly tipping,

- The Panel benefited from the expertise and experience of other Local Authorities and this has enabled the Panel to see new ways of working and use of the current resources available. This includes working with other agencies and building on established foundations.
- The Multi Agency Derelict Building Group is in its infancy but has the potential for linking into the Council's the Land and Building in Disrepair Strategy and supporting each other in tackling the issues.
- The Panel accepts that a great deal of work is already underway, including a new Officers Group to work together on 13 top priority sites and an interdepartmental working group is currently working on a strategy for derelict building and land. A new Strategic Housing Team will be writing an Empty Homes Strategy and working towards bringing more homes back into use.

6. Appendices

Appendix 1. Table of legislation

Dangerous or dilapidated buildings or structures	Building Act 1984, Sections 77 & 78	<p>To require the owner to make the property safe (Section 77) or to enable the Local Authority to take emergency action to make the property safe.</p> <p>There is a specified time limit and the Council can carry out the work and charge it to the owner.</p> <p>Prosecution in Magistrates Court is possible</p>
	Housing Act 2004	<p>To require the owner to make the property safe. Section 189 applies if the property is unfit for human habitation.</p> <p>Section 190 applies in other cases of serious disrepair.</p>
Unsecured properties (if it poses the risk that it may be entered or suffer vandalism, arson or similar	Building Act 1984, Section 78	To allow the Local Authority to fence off the property
	Local Government (Miscellaneous Provisions) Act 1982, Section 29	To require the owner to take steps to secure the property or to allow the Local Authority to board it up in an emergency
	Environmental Protection Act 1990, Section 80	<p>Any premises in such a state as to be prejudicial to health or a nuisance; can be served notice to abate the nuisance.</p> <p>Where an abatement notice has not been complied with the local authority may, whether or not they take proceedings, abate the nuisance and do whatever may be necessary in execution of the notice.</p>

Vermin (If it is either present or there is a risk of attracting vermin that may detrimentally affect peoples health)	Public Health Act 1961, Section 34	To require the owner to remove waste from the property
	Prevention of Damage by Pests Act, Section 4	Notices can be served where there has been an accumulation of rubbish that has led to problems with rodents See above
	Public Health Act 1936, Section 83	
	Environmental Protection Act 1990, Section 80	
	Building Act 1984, Section 76	To require the owner to remove waste so that vermin is not attracted to the site
Unsightly land and property affecting the amenity of the area	Public Health Act 1961, Section 34	To require the owner to remove waste from the property
	Town and County Planning Act 1990, Section 215	<p>To require the owner to address unsightly land or the external appearance of the property.</p> <p>Land or buildings that are seriously detrimental to the amenity due to their visual appearance (buildings in disrepair, overgrown land, large accumulation of waste etc.)</p> <p>EH Officers can write to the owner advising them of the work to be carried out</p> <p>If the works does not take place a notice can be served</p> <p>The Council may carry out the work by default and charge the owner and/or prosecute</p>

	Building Act 1984, Section 79	To require the owner to take steps to address a property adversely affecting the amenity of an area through it's disrepair Rubble or other materials from a collapse or demolition that again is seriously detrimental to the neighbourhood again can have a notice served to the owner to clear the debris.
Long-term vacant property that is detrimental to the area	Housing Act 2004	To grant the Local Authority the powers of Compulsory purchase
	Local Government Planning & Land Act 1980	Public Request to Order Disposal. PRODs are a legal power that anybody can use to force the sale of publicly-owned empty homes or abandoned land in England and Wales. It enables anybody to request that the Secretary of State investigate why publicly-owned properties or land have been left empty.
	Environmental Protection Act 1990 Section 79 – 82	<p>If a property is defective and it is causing problems to your property there are powers to ensure owners carry out repairs. A notice is served. Time specified and the Council can do the work by default and charge the owner if not complied within the time limit.</p> <p>Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”) imposing all or any of the following requirements—</p> <p>(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;</p> <p>(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,</p> <p>and the notice shall specify the time or times within which the requirements of the notice are to be complied with</p>

	Local Government Act 1972 Section 120	The Council will acquire land by agreement for any of its statutory functions or for the benefit, improvement or development of its area
Long-term vacant property that does not meet the current housing standards	Housing Act 2004	To require the owner to carry out the necessary repairs to bring the property up to the current housing standards.
Properties that have been vacant in excess of 6 months were negotiation has been unsuccessful in returning the property to use.	Housing Act 2004, Section 134	To grant the Local Authority the powers to take over the management of a property initially under an interim management order then under a final management
	Housing Act 2006 Empty Dwelling Management order (EMDO)	
	Local Government Act 2000 Section 2 (1)	Provides local authorities with a power to take any steps which they consider are likely to promote or improve the economic, social, or environmental well-being of their local community
	Local Authorities Land Act 1963	<p>Subject to provisions in this Act, a local authority may, for the benefit or improvement of their area, erect any building and construct or carry out works on land.</p> <p>A local authority may repair, maintain and insure any buildings or works erected, constructed or carried out under the power conferred by subsection 1 of this section and generally may deal with any such building or works in a proper course of management</p>
	Housing Act 2004	Power to purchase land or property to meet housing need to acquire property for housing and to convert building s into housing

Appendix 2. Briefing note of the visit to Ashfield District Council

Visit to Ashfield District Council

The Chair of Select Panel Councillor B. Barker, along with Strategic Housing Manager, Principal Environmental Officer and Policy and Scrutiny Officer went to Ashfield District Council to meet Jackie Harvey Senior Environmental Health Officer and the Empty homes Officer. The aim of the visit was to see the Empty Homes Register and to glean information about how this could be started.

The Empty Homes Strategy had been updated and was currently going through the Consultation process.

The register is a public document but as there are Public Exemption Categories, information is provided on request, to protect these exemptions.

Developers and buyers may request information on empty properties with a view to making owners offers.

Council Tax provides Empty Homes Officer (EHO) a monthly sheet with all the empty properties in the District. The exemptions codes are included and the date the property was vacated.

Exemptions are:

- Belongs to a Church
- Flats above shops
- Demolished
- Second homes
- Tied Accommodation
- Received an Empty Home Grant
- If they have been let
- Owner is a nursing home
- Waiting for an Empty Home Grant

Layout of the register

Address	Date became Empty	Date of Visit	State of property	Occupied	Date Letter sent	Information Received

The have software called Flare which assists in the process of highlighting information. If a complaint about a property is reported this software links it to the case notes and if actions has been taken.

Not all the properties are on the list are followed up houses that are up for sale or let would not be pursued but would be monitored to see when the house is brought back in use. This helps the Empty homes Officer ensure that Council Tax is collected as soon as the house is back in use. This has brought the Council an extra £60,000 in Council Tax.

There is a coordinated action enforcement group made up of Officers across the Council, Community Protection, neighbourhood Services – commercial Environmental health, Legal, Planning enforcement and Licensing Officer.

There is a monthly meeting to prioritise those properties where enforcement is necessary. These are those that have not responded to the stepped approach, letter 1 and 2, visit and telephone call. The property is visited and photographed in some cases this can result in a response from the owner or landlord. This builds up the case so that if enforcement is necessary the evidence is available. It can also reveal properties that are not empty but have been reported as empty.

There is a Sub Regional Housing Group that shares procedures with Newark and Sherwood and Mansfield District Councils who are in partnership with Ashfield. These procedures could be made available to us.

There is an Empty Property Forum covering the East Midlands.

To start the register it could be a part time admin post collating the information and sending out letters. This could be funded by applying to GOEM empty homes is a national priority. Also could ask partners to put in to fund initial post i.e. Fires Service and Police etc.

To find out about empty properties ask public to report them. One Council sent out a flyer to residents to identify empty properties.

Ashfield have a standard letter and a questionnaire to send out in the first instance to find out information. A leaflet is included about the action that can be taken.

There is then a more aggressive letter sent if no response.

We could share service see if we could join forces with other authorities.

Empty Properties is also a local target for Local Area Agreement.

Section 16 Local Government Act allows them to get information about owners from Mortgage company's so they can bill the owners for boarding up property.

They showed us some the cases that they had resolved. It requires persistence and a prescriptive strategy; this does not necessarily lead to enforcement action.

Appendix 3. Audit Information

Audit Sheet by Ward of Derelict Land and Buildings

Ward	Location	Type (land, derelict building or empty home)	Issues related to site	How long has it been in disrepair
Bircotes	White house Road (Essex Stores)	Land	Fly tipping	2000
Bircotes	Snipe Park Wood	Land	Fly tipping, in a general mess	2002
Bircotes	Thoresby close/Arundel Drive	Land	Overgrown Land (BDC Site). Fly tipping and burnt out cars	Since flats were built
Carlton-in-Lindrick	Greenway	Derelict Shop	Complaints from neighbours. Reported to Environmental Health. Owner has not been identified.	15/20 years
Habblesthorpe	North of Main Street (before old people's bungalows)	Land	Unkempt and derelict	
Harworth	Former Miners Welfare, Harworth Whitehouse Road	Derelict Building	Became empty, vandalised and finally burnt down. Environmental Health are proposing a Notice under section 79 of the Building Act to require the site to	May 2009

Ward	Location	Type (land, derelict building or empty home)	Issues related to site	How long has it been in disrepair
			be cleared	
Harworth	36 Dorchester Road	Empty Homes		
Harworth	Rutland Drive Garage (BDC Site)	Land	Looks a mess things being dumped	
Harworth	Recreation Ground Next to BMX Track	Land	Neglected, open to fly tipping	1998
Langold	Former Firebeck Colliery, Costhorpe.	Derelict Building	Owners are carrying out works to secure buildings to prevent trespass (although this is probably impracticable). Negotiations involving the wider development of the site together with surrounding sites are taking place	
Langold	Langold Hotel,	Boarded up Building		
Misterton & West Stockwith	Old Nat West Bank	Derelict Building		Over 10 years

Ward	Location	Type (land, derelict building or empty home)	Issues related to site	How long has it been in disrepair
Retford	Three Corner Paddock, Retford_	Land	This is an unauthorised waste tip, now being dealt with (rightly) by the Environment Agency.	
Retford	53 Albert Road	Empty Homes		
Retford	61 Cobwell Road	Empty Homes		
Retford	19 Artillery terrace	Empty Homes		
Retford	175 Albert Road	Empty Homes		
Retford North	39-43 Moorgate	Derelict Building	Detracts from Amenity (Listed Building	10 Years
Retford North	Banana Warehouse, Moorgate Retford	Derelict Building	Long term safety issues (listed Building)	25 years +
Rhodesia	44 Mary Street	Empty Homes		
Sutton	55 Portland Place	Empty Homes		
Tuxford	Newcastle Arms Tuxford	Boarded up Building	Listed Building	

Ward	Location	Type (land, derelict building or empty home)	Issues related to site	How long has it been in disrepair
Wheatley	Corner House Top Street	Derelict Building/Land	Over grown and an eyesore	Long time
Worksop	Mansfield Hosiery Retford Road. Worksop	Derelict Building	Notice served under section 215 Town and Country Planning Act requiring renovation or demolition. Notice was appealed, but the appeal was withdrawn and an undertaking was given to the Council. Work to be completed by November 2009. Demolition work is scheduled.	
Worksop	Foresters Arms Worksop	Derelict Building	Planning application for development of site has been refused. Head of Environment and Housing has written to owners, formal action may then follow	
Worksop	Netherton Road opposite Shop	Derelict Building		Years
Worksop	Former Norma Tools	Derelict Building	Fire Service had	

Ward	Location	Type (land, derelict building or empty home)	Issues related to site	How long has it been in disrepair
	Site, Shireoaks Road		concerns, but no enforcement action is currently being proposed. The site will be monitored.	
Worksop	Derelict Blacksmiths Workshop. Old Gateford Road,	Derelict Building	Site of some anti-social behaviour. Planning applications have been submitted. Owner is hoping to redevelop the site.	
Worksop	Gateford Public House, Gateford Road Worksop	Boarded up Building		
Worksop	French Horn, Potter Street Worksop	Boarded up Building		
Worksop	Black Swan, Merecroft Worksop	Boarded up Building		
Worksop	48 Portland Street	Empty Homes		
Worksop	89 Watson Road	Empty Homes		
Worksop	45 Retford Road	Empty Homes		

Ward	Location	Type (land, derelict building or empty home)	Issues related to site	How long has it been in disrepair
Worksop	43 Harrington Street	Empty Homes		
Worksop	4 Newcastle Street	Empty Homes		
Worksop	25 Harrington Street	Empty Homes		
Worksop	14 St Annes Way	Empty Homes		
Worksop	126 Mansfield Road	Empty Homes		
Worksop East	Bracebridge Community Centre	Derelict Building	Arson	Over a year

Appendix 4. Briefing Note

BRIEFING NOTE

This briefing note contains all the information gathered as requested by Members.

Jackie Harvey - Ashfield District Council

The requirement to hold an empty properties register is found in the Housing Act 2004 it contains provisions about the occupation of privately owned empty homes. The device for securing occupation of empty homes is known as an Empty Dwelling Management Order. Once the legislation has been commenced, an Empty Dwelling Management Order would enable a Local Housing Authority, in certain circumstances, to take management control of a dwelling in order to secure occupation of it.

The legislation is intended to operate alongside existing procedures for securing occupation of empty homes. It would provide a back up to voluntary leasing arrangements operated by many Local Housing Authorities and Registered Social Landlords and offer an alternative to enforcement action under other legislation.

The provisions are contained in **Chapter 2 of Part 4** of the Housing Act. They are similar to provisions for management orders in respect of privately rented accommodation subject to licensing contained in **Chapter 1 of Part 4** of the Act. However, there are some important distinctions reflecting the different problems posed by empty homes. The provisions came into commencement in April 2006. In order to comply with the requirements of the Housing ACT 2004 an empty property register needs to be formulated to address the needs/purpose of the Act.

The National Register of Licensed houses - this register is to list all licensed Houses In Multiple Occupation, which requires licensing within Districts/Boroughs and is collated on a national basis for central government statistical returns.

You are welcome to access our register at any time to see how we set it out, perhaps with one of your team who may need to compile their own register. We hold it at the Kirkby-in-Ashfield Offices in the event that a request to view it is listed via a freedom of information request, this will exclude exempted properties (such as away receiving medical care) to protect an absent owner were necessary. Ideally we will have an electronic version for public access, however due to various exemptions this is not workable at this time, but we hope to list it on the ADC website in the future.

The register has enabled an edited version listing only suitable empty properties to be provided to interested parties (e.g. Property/Developers) to develop informal progress on bringing units back into use. This has proved it is of intermittent value but has helped a number of houses to be refurbished. As a result of the database owners of empty homes have been written to and been given advice regarding bringing them back into use and confirming their intentions in relation to the property. Working through the register has also enabled the Homes Renovations Officer to identify a number of cases where the owners have had their property classed as uninhabitable for Council Tax purposes and so pay no Council Tax, with no incentive to refurbish such properties they 'stagnate' and remain empty. Pressure in such cases to change this classification can often result in property being forced back into use.

The Regional Assembly money we receive if used for energy efficiency and decent homes for vulnerable people as well as addressing areas of empty homes and private sector works, a new proposal has just been passed to Government Office (East Midlands). Existing staff could take on the empty homes visits, perhaps you would just need fixed term contract to get the register rolling over the first 12 months so that you can physically start addressing empty homes issues in and around your authority. The indicators (N187) is tackled by our sustainability team at this time, tied in with GEOM. works to deal with insulation, thermal comfort etc.

Fly Tipping

District wide between 1 November 2008 and 31 October 2009, 1036 incidences of fly tipping were recorded whilst in the same period the previous year, namely between 1 November 2007 to 31 October 2008, there were 1115 incidences of fly tipping were recorded. This equates to an overall reduction of 7% indicating a downward trend.

The amount and type of waste fly tipped dictates whether the Council, the Environment Agency or a combination of both is responsible for investigating and pursuit of any action. The break down of responsibility has been agreed nationally to ensure a consistent and uniform approach to fly tipping is maintained across England and Wales.

Details of incidents reported to the Council falling solely within the responsibility of the Environment Agency are passed through to the Environment Agency for investigation and action and vice versa. Different agreement will exist in Scotland.

Environmental Health Neighbourhood Team district officers are responsible for investigating and enforcing any fly tipping incidents defined as falling under the responsibility of the Council to follow up.

Enforcement action takes several forms - it may be a warning letter, a fixed penalty notice, a formal warning or prosecution. The last prosecution for fly tipping in Bassetlaw was 2006 - resulted in a conviction. Bassetlaw may and do issue fixed penalty notices in response to fly tipping.

Council Tax - Andrew Bayliss

As of 1/10/09, the information provided here includes those properties registered as 2nd homes

- a) How many homes are empty (as at 1/10/09) - **2502**
- b) How many have been empty for longer than 6 months (i.e. pre 01/4/09) - **684**
- c) How many have been empty for longer than 2 years (i.e. pre 01/10/07) - **274**
- d) How much Council tax debt is outstanding on these properties. - **Total £243,850 (£171,525 of this is pre Liability Order, so no Court action - £72,324 is post L.O and is at various stages, i.e. arrangement, bailiff etc)**

We currently have a number of properties subject to a charging order in relation to Council Tax arrears. As yet none of these have been the subject of an enforced sale.

Appendix 5. Briefing notes from Graham Hooper

Information gained from Graham Hooper Justices' Clerk for Nottinghamshire.

Prosecutions for fly tipping are commonly instigated by local authorities under section 33 Environmental Protection Act 1990. As you know, this is an offence, which carries on summary conviction a fine not exceeding £50,000 or imprisonment of a statutory maximum. (The offence in statute indicates a maximum term of 12 months imprisonment although currently magistrates' courts are limited to the imposition of 6 months imprisonment). The offence is also triable by Judge and jury at the Crown Court and conviction on indictment may lead to imprisonment for a term not exceeding 5 years or to an unlimited fine, or to both.

In dealing with offences of this type magistrates' courts would have to have regard to current guidelines that have been issued. The Sentencing Guidelines Council in relation to environmental offences has issued no guidelines. There are some examples of decisions of higher courts in relation to environmental crime but most of that guidance is general. Any court dealing with such an offence would be expected to assess the seriousness of the offence by

consideration of the degree of culpability of the defendant and the level of harm caused by the commission of the offence. Harm may be actual harm or potential harm. Culpability may be determined by assessment of whether or not the defendant acted alone or in concert or whether he was an employee of another individual under instruction. The degree of harm may relate to the nature of the waste disposed of and the likely consequences of the offence.

Further guidance is issued to magistrates in relation to individuals who commit such offences in order to reduce the costs of their business. The Sentencing Guidelines Council have indicated that financial penalties should reflect the financial advantage gained by the commission of the offence and that generally speaking it would not be appropriate to impose a fine which allowed a commercial enterprise to profit from illegal activity.

Sentencing decisions are for the courts alone. Magistrates, District Judges and Crown Court Judges have an unfettered discretion to sentence and in view of the wide variation of seriousness that might present itself to the court in relation to offences of this type sentences may vary significantly.

G Hooper - Court Costs

The award of costs against the accused is covered by section 18 of the Prosecution of Offences Act 1985. The court has broad discretionary power to order the accused, on conviction, to pay such costs of the prosecution, which appear to be "just and reasonable". There is extensive case law on the proper interpretation of this term. The sum ordered must be fixed on the day the case is concluded and cannot be fixed by way of assessment of the sum due at some later date. Prosecutors must therefore be in a position to explain the costs they seek at the time of conviction.

Prosecutors should set out the cost of bringing the proceedings. This is primarily concerned with the preparation of the case and the legal costs of advice and advocacy. Expenses incurred in obtaining expert advice etc can be included. If the prosecuting authority paid for the services of an investigator, such costs can be recovered. However if the investigation was carried out by an employee of the prosecuting authority and the authority would have had to meet the salary costs of the employee whether he/she was involved in the investigation or not, the salary costs cannot be recovered.

When deciding what sum is just and reasonable the court must take into account the means of the offender and if the person is of limited means and the overall penalty will be reduced because the amount due would create an undue burden, the first sum to be reduced will be the costs of the prosecutor.

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