

CHELTENHAM BOROUGH COUNCIL

COMPULSORY PURCHASE ORDER 2024

168 Arle Road, Cheltenham, GL51 8LR

STATEMENT OF REASONS

Description of the Land

1. 168 Arle Road, Cheltenham, (“the Property”) is a semi-detached three bed house of standard construction, built in the 1930’s. It is located in the St Peters ward of Cheltenham in a suburban area surrounded by a mixture of housing types and local shop. The local authority is Cheltenham Borough Council (“the Council”)
2. A fire occurred at the Property on 4th June 2021 and caused extensive damage to the roof structure in particular, leaving the Property exposed to the elements, exposing burnt rafters, broken roof tiles and smashed windows, and making the property uninhabitable. Following the fire, the owner/occupier of the Property Mr Lindsay Cleeveley (“the Owner”) was arrested for arson and has since been detained under the Mental Health Act 1983 in Wotton Lawn, a secure hospital accommodation in Gloucester.
3. At the time of the fire, a land registry search identified the Registered Proprietor of the Property to be the late mother of Lindsay Cleeveley, Mrs Doreen Margaret Rose Cleeveley who died in 2014. With legal assistance Probate was later sought in 2022 and the property is now registered at HM Land Registry in the sole name of Lindsay Cleeveley.
4. The Property has been vacant since the fire and is continuing to deteriorate as it is exposed to the elements. Due to his practical and financial situation the Owner has been unable to carry out works to remedy the situation by making the Property wind and watertight or rebuilding.
5. The Council became aware of the situation at the time of the fire and has since been approached by neighbours concerning:
 - broken windows and doors causing a lack of security to the property and attracting further vandalism;
 - teenagers having been witnessed by neighbours smashing windows and exiting the Property with items from it;
 - the security of adjoining and neighbouring homes due to anti-social behaviour and that the vacant and now derelict Property would encourage further anti-social behaviour; .
 - further deterioration of the Property and general lack of maintenance to the external appearance of the Property causing a loss of amenity to the neighbourhood
 - potential structural damage and damp ingress to the adjoining property as the Property remains open to the elements and continues to deteriorate;

- the Property I remaining a blight on and potentially devaluing other property in the neighbourhood

Power to Acquire Land

6. The Council has made a Compulsory Purchase Order (the Order) under section 226(1)(a) of the Town and Country Planning Act 1990 to acquire the Property.

Section 226(1)(a) states:

(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area... —

(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,

(1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects—

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

7. The Council therefore has the power to acquire land pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 where this will facilitate improvement, development or redevelopment, which will in turn lead to social, economic or environmental benefits to the whole or a part of its area.

Purpose of Acquiring Land: to promote social, economic and environmental well-being of the area

8. The Property has been vacant since the fire in June 2021 and is:-
 - having a detrimental effect on the neighbourhood due to lack of repair;
 - resulting in the further deterioration and dilapidation of the Property;
 - attracting trespass and antisocial behaviour; and
 - risking causing damage to the adjoining property.
9. Neighbours have complained to the Council throughout the period since the fire about the effect it is having on their properties and the general well being of the area. Complaints have been received about the broken roof tiles, smashed glass to the front of the property vandalism and anti-social behaviour; and there are concerns that the property will significantly deteriorate further due to it being open to the elements. The attached neighbouring property is now being affected by damp coming through from the fire damaged property which is causing damage to plasterwork and mould growth and is very stressful for the occupants.
10. Works in default were undertaken by the Council on 29th June 2021 under the Local Government (Miscellaneous Provisions) Act 1982 to board the remaining

windows and doors and to clear the broken tiles, glass and waste to the front of the property. As the roof has been significantly damaged the Property will be repeatedly affected by rain and wind and will continue to deteriorate further.

11. Since the fire the owner has not been in a personal or financial position to undertake any remedial works required pursuant to Notices served and it is understood that the costs of the remedial works required to the Property following the fire are not covered by insurance, due to the act of arson invalidating the policy of insurance.
12. Following the service of warning letters and continued lack of action, a further formal notice was served in December 2021 under section 215 of the Town and Country Planning Act 1990. The notice required that works be undertaken by the end of February 2022 to rectify the adverse effects the property was having on the amenity of the neighbourhood. To date the Notice has not been complied with and there is no reason to believe that it will be due to the personal and financial situation of the Owner.
13. This vacant property is causing a blight to the economic social and environmental well-being of the area due to its derelict state and lack of repair. It is attracting trespassers and leading to vandalism and anti-social behaviour. It is also causing significant distress to the neighbours. Several notices have been served by the Council under section 29 of the Local Government (Miscellaneous Provisions) Act 1982 on the owner in order to undertake works to prevent unauthorised entry and protect public health, namely:
 - On 11th March 2022, a notice was served to replace a stolen manhole cover on the drive in the interests of Health and Safety of visitors to the Property
 - On 19th October 2022, a notice was served requiring steel shuttering to be provided to secure the perimeter of the Property to prevent further unauthorised entry
 - On 3rd August 2023, a notice was served to require replacement of a stolen support to the front porch to prevent collapse in the interests of Health and Safety of visitors to the Property

Following the services of these notices, the Council undertook works in default in order to prevent further unauthorised entry and to remedy the items of disrepair caused by continued anti-social behaviour. The powers available in the 1982 Act are limited and are insufficient to enable the Council to restore the Property to a condition which would remedy the negative economic, social and environmental impacts of its current condition

14. If the Council does not take action to purchase and renovate the Property, it is reasonable to believe that in the given circumstances the Property will be left in this condition for the foreseeable future which would have a severely negative impact on the neighbourhood as a whole and also on the attached property.
15. The Council's intention is that when purchased and renovated, the Property will form part of the Council's housing stock and be managed by the Council. Renovation of the Property will make the Property safe and habitable and will ensure that the property is re-occupied to prevent further deterioration.

16. The works the Council will carry out will improve the amenity of the local environment by bringing a derelict property back into a good condition, in-keeping with the surrounding properties. This will also help to improve the social well being as neighbours will no longer be affected by the derelict property and the negative visual and social impact it is currently having on the amenity of the neighbourhood. It will also improve the economic well being of the area as it is likely to increase the saleability of adjoining and neighbouring properties and will prevent further anti-social behaviour and decline in the area.
17. The renovation of the property to modern standards will improve its energy efficiency and therefore help support the borough-wide net zero 2030 target and the aims of the Climate Pathway. Renovation carried out by the Council is likely to involve a significant reduction in carbon emissions and will have a lower carbon impact than building a new property.
18. Renovation and reuse will also help to increase the level of housing accommodation available, making a small contribution to alleviating housing pressures, whilst improving the environmental wellbeing and amenity of the area.

Justification for Compulsory Purchase with reference to Equality Act 2010, Humans Rights and the Public Interest

19. The Department for Levelling Up, Housing and Communities guidance 2019 “Guidance on compulsory purchase process and the Crichel Down Rules” states that a compulsory purchase order should only be made where there is a compelling case in the public interest. The Council must be sure that the purposes for which it is making the order are proportionate to the interference with the human rights of those with an interest in the land affected and that the overall aim of making the order is in the public interest.
20. In deciding to take compulsory purchase action an acquiring authority must have regard to the provisions of Article 1 of the First Protocol (protection of property) and Article 8 (Right to a private and family life) of the European Convention on Human Rights. The Council has to weigh the human rights interest of public need as against private property rights and to consider that sufficient justification exists for the making of this CPO so that the interference with those rights is proportionate.
21. The Property is vacant and the Owner is currently being held at Wotton Lawn hospital in Gloucester. The Owner has not complied with prior notices served upon him by the Council and the Property will continue to deteriorate and have a negative impact upon the adjoining property and local area. It is considered that it is highly unlikely that the Owner will be able to undertake the works required to bring the Property back into a habitable condition. If the Owner is granted release from the hospital he will not be able to reside at the Property as it is uninhabitable and it is possible that he may be assessed as needing appropriate supported accommodation.
22. In relation to Article 1 and Article 8, the Property is not occupied by the Owner and acquisition of the Property by the Council will ensure both the repair and re-occupation of the Property. It will also contribute to the promotion of the economic, social and environmental well-being of the area; and will bring the Property back into use as residential accommodation. The Council has already incurred expenditure in making the Property secure and safe but further

intervention and expense of that nature is likely to be required unless a mechanism for the full renovation of the Property is found. The Owner will receive the market value of the property if the CPO is confirmed and the Property is acquired by the Council. The making of the CPO and repair of the Property will ensure that the financial outlay and use of CPO powers has a wide public benefit in terms of economic, environmental and social wellbeing. Accordingly, the making of the Order is considered to be proportionate, justified and in the public interest.

23. Section 149 of the Equality Act 2010 established a public sector equality duty. This requires the Council in the exercise of its functions to have regard to a number of requirements including the need to seek to minimise disadvantage to groups or persons with protected characteristics. Due to the Owner's illness, he possesses protected characteristics. In preparing this report, account has been taken of those protected characteristics including his capacity to take decisions and his ability to address the need to rebuild the property. The Council have been working closely with the Owner's social workers at Wotton Lawn since his admission to ensure that he is being supported and guided through the process. An assessment carried out by an independent social worker in March 2024 has concluded that the Owner retains mental capacity for property and financial affairs decisions. In addition, the Owner has access to support in respect of taking decisions. The prognosis in respect of his continued stay at Wotton Lawn is unclear. The Owner cannot reside at the property if he were to leave Wotton Lawn as it is uninhabitable and the Owner is not able to undertake the repairs. The Owner receives health and social care support and has access to legal advice. It is considered that the making of a CPO will not disproportionately affect the Owner due to his protected characteristics.
24. By authorising this Order the Council is therefore of the opinion that a compelling case exists in the public interest.
25. The Council has since 2nd May 2023 made all reasonable efforts to negotiate the purchase of the Property from the Owner which were initially rejected. Valuations have been undertaken and offers made to the Owner which reflect the advised market value of the Property and the Owner has now agreed to sell the property to the Council and conveyancing is ongoing. It is considered necessary to continue the process of Compulsory Purchase in case the purchase of the property through negotiation fails and action is still necessary to improve the condition of the property and amenity of the neighbourhood. The compulsory purchase process can be halted at any time should the purchase/negotiations continue to be successful.

Justification for the extent of the scheme to be disregarded for the purposes of assessing compensation in the 'no scheme world'

26. An up-to-date valuation of the Property will be obtained and the Owner will receive the market value of the Property if the CPO is confirmed and the Property is acquired by the Council.
27. Compensation will be assessed in accordance with the requirements of the Land Compensation Act 1961 as it applies to this Property.

Proposals for Use / Development of Land

28. Once acquired, the Council will renovate the Property, bringing back into use existing housing stock to provide housing and will improve energy efficiency and local amenity. The proposed acquisition and use for residential accommodation, also promotes safety and security and gives people access to decent and affordable housing. Bringing this Property back into use will help to strengthen the community and help to resolve local issues caused by the Property being vacant and in disrepair.
29. The Council has sufficient funds to meet all the expenses including legal costs and fees associated with the Property purchase and refurbishment, any compensation claims associated with the acquisition of the Property and to meet other heads of claim as appropriate.

Current Planning Position

30. This is an existing residential property with planning permission for that purpose.
31. Following the service of warning letters and continued lack of action, a formal notice was served under section 215 of the Town and Country Planning Act 1990 (as amended) on 24th December 2021 to improve the amenity of the area. The notice required that works be undertaken by the end of February 2022 to rectify the adverse effects the Property was having on the amenity of the neighbourhood. To date no works have been undertaken. The purchase and renovation of the Property will satisfy the requirements of this notice and improve the amenity of the area.

Special Considerations

32. The property is not a listed building and is not situated in a conservation area. There are no special considerations affecting the Property.

Obstacles / Prior Consents

33. No obstacles or prior consents have been identified before the scheme can be implemented.

Government Department Views

34. No views have been expressed by any Government department concerning proposed development of the order site.

Information on Occupiers

35. The Property has been vacant since the fire in June 2021 and is uninhabitable. The Owner currently resides in Wotton Lawn Hospital in Gloucester. If he is granted release from the hospital he will not be able to reside at the Property and it is likely that he will be assessed as needing appropriate supported accommodation.

Steps Taken to Negotiate Acquisition of the Land by Agreement

36. The Council wrote to the owner on 2nd May 2023 to put forward an offer based on independent valuations received of the Property. The Owner receives health and social care support and has access to legal advice. The Council's first offer however was rejected by the owner.
37. Correspondence with the social workers supporting the Owner indicated that the Owner may now wish to make a counter-offer and up-to-date valuations were sought by the Council and a further offer was made. Whilst this offer was rejected, the Owner made a counter offer which was accepted by the Council and solicitors have now been instructed. It is possible that the Council may now be able to successfully purchase the Property and further action may then become unnecessary. However, if negotiations fail, then its compulsory purchase will allow the property to be renovated and occupied for the benefit of the locality.

Other Relevant Decisions

38. There are no other relevant decisions.

Associated Documentation & Policy Support

39. If there is a public inquiry into objections to this Order, the Council intends to refer, or put into evidence, the following documents:
- section 215 notice served under the Town and Country Planning Act 1990 on 24th December 2021
 - s29 notice served under Local Government (Miscellaneous Provisions) Act 1982 on 18th June 2021
 - s29 notice served under Local Government (Miscellaneous Provisions) Act 1982 on 29th June 2021
 - s29 notice served under Local Government (Miscellaneous Provisions) Act 1982 on 11th March 2022
 - s29 notice served under Local Government (Miscellaneous Provisions) Act 1982 on 19th October 2022
 - s29 notice served under Local Government (Miscellaneous Provisions) Act 1982 on 3rd August 2023
 - Housing and Homelessness and Rough Sleeping Strategy 2023-2028