

APPENDIX A

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## **Overview and Scrutiny**

# **Review of Empty Properties in Lewisham**

Sustainable Development Select Committee

January 2009

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The **Sustainable Development Select Committee** scrutinises the Council's performance, and its Mayor and Cabinet's decisions, on issues relating to:

- the protection of the environment, including 'green' issues such as the conservation of natural resources; energy efficiency; conservation of natural resources; and the reduction of all types of pollution;
- economic development; support to businesses; employment and training;
- the formulation of the Council's planning policies, including the preparation of the Council's Local Development Framework and other local plans for the use and development of land, but excluding planning control and building control functions;
- highways, parkways, traffic and transport, urban regeneration and housing;
- public health and the environment including waste disposal, environmental health, street and market trading; and
- public protection, refuse collection and disposal, street cleaning, consumer protection, cemeteries and crematoria.

The Committee comprises the following members:

Councillor Sue Luxton (Chair)  
Councillor Brian Robson (Vice-Chair)  
Councillor Mark Bennett  
Councillor Robin Cross  
Councillor Ami Ibitson  
Councillor Sam Owolabi-Oluyole  
Councillor John Paschoud  
Councillor Philip Peake  
Councillor Alan Smith

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## 1. Introduction

- 1.1 This report is the product of a review of empty properties in Lewisham carried out between September 2008 and January 2009 by the Sustainable Development Select Committee.
- 1.2 The Committee decided to carry out a review as the subject of empty properties was:
- an issue of concern to members;
  - an issue of public concern;
  - relevant to the Sustainable Community Strategy priorities of 'Decent homes for all' and 'Clean, green and liveable'; and
  - relevant to issues of national importance, such as economic wellbeing; antisocial behaviour; and the supply of housing.
- 1.3 Members agreed that the review would hear evidence over two sessions, and would aim to:
- assess the extent of the problem of long-term empty properties (private residential or commercial) in the borough, and the methods of collecting and using information on empty properties;
  - investigate what the Council is currently doing to address the issue of empty properties, including which legal powers available to the Council are currently being employed;
  - investigate best practice outside of the borough in dealing with empty and underused properties; and
  - identify specific actions the Council and/or its partners might take to reduce the number of empty properties, and to assess what the benefits to the community of adopting these actions might be.
- 1.4 For the purposes of the review, the definition of a long-term empty property was taken as being a property that has not been occupied for six months or more. When reading this report, it should be assumed that the term 'empty property' refers to both private residential and commercial properties, unless specifically stated.

## 2. How the review has been carried out

- 2.1 The first of the two evidence sessions was held on the 2<sup>nd</sup> September 2008, and concentrated on the Council's existing approaches to dealing with empty properties. A panel comprising the following Council officers were present to answer questions from the Committee:
- Nick Long - Empty Homes Manager, Customer Services
  - Tony Mottram - Head of Private Sector Housing & Regulatory Services, Customer Services
  - Liz Bannister - Senior Town Centre Manager, Regeneration
  - Tim King - Development Control Manager, Regeneration
  - Charlotte Faint - Service Manager, Environmental Health

- 2.2 The second evidence session was held on the 7<sup>th</sup> October 2008, and sought evidence of alternative approaches to dealing with empty properties. The following witnesses provided evidence:
- David Ireland, Chief Executive, Empty Homes Agency
  - Maxine Wilson, Empty Property Manager, London Borough of Lambeth
  - Dianne Blazer, Team Leader (Residential Team), London Borough of Bexley
  - Michael Davey and June Olney, Forest Hill Traders Association
- 2.3 The review was also informed by substantial written evidence and research, including several surveys of other London boroughs to help put Lewisham's approaches in context. These surveys covered use of planning enforcement methods, shop improvement grants and resourcing of planning enforcement teams. Sources of evidence are referenced throughout this report.
- 2.4 Finally, the review sought contributions from residents, local societies and community groups, and from ward councillors. Requests were sent to a variety of relevant groups, and an article requesting contributions appeared in the local media. Ward councillors were also asked to feed in examples of properties in their wards that were known to be empty. The Committee were provided with a summary of contributions at the meeting on the 7<sup>th</sup> October.
- 2.5 A list of all contributors to the review is provided in Appendix C.

### **3. How significant is the problem in Lewisham?**

- 3.1 Statistically speaking, the problem of empty privately-owned residential properties in Lewisham is not especially significant relative to other areas. The Committee heard that the number of private sector homes left empty for more than six months stood at 258 for 2007-08<sup>1</sup> (out of 78,214 private homes in the borough), which compares favourably to other London boroughs. However, the difficulties in collecting accurate data on empty properties (see 4.1) mean that the figures need to be treated with some caution.
- 3.2 The Committee also heard from David Ireland, Chief Executive of the Empty Homes Agency, that the Council has built up a good reputation for its work in dealing with empty private residential properties – particularly in its use of Empty Dwelling Management Orders (EDMOs; see 7.2) and use of financial incentives (see Section 6). This is backed up in statistical terms by Lewisham's record in bringing empty residential properties back into use. In 2007-08, 300 were brought back into use<sup>2</sup>, which was the highest in the South East region. This was something of a 'bumper' year, however: the figure is usually around 200. A further reflection of success is the relatively

<sup>1</sup> This figures is calculated annually for the Housing Strategy Statistical Return to the Department for Communities and Local Government.

<sup>2</sup> The Council's performance in bringing empty private homes back into use has been measured through the Best Value Performance Indicator (BVPI) 64. However, it should be noted that this indicator has not been retained in the new set of 198 National Indicators. Further information on the new set of national indicators for local government can be found at: <http://www.communities.gov.uk/localgovernment/performanceframeworkpartnerships/nationalindicators/>

low proportion of previously developed land that has been vacant or derelict for more than 5 years: according to the 2006 baseline, 15.97 hectares of such land existed in Lewisham, which represents only 0.45% of the total area of developed land in the borough<sup>3</sup>.

- 3.3 Members were also made aware that the figures mentioned above – or those referring to empty commercial properties – could be distorted by the inclusion of properties that have been cleared for development as part of the extensive regeneration plans across the borough.
- 3.4 As with private residential properties, there are limitations to the data available on empty commercial properties. Information available from the Business Rates team lists all commercially rateable empty premises at any one time (which includes voluntary and charitable premises, public buildings, garages etc); data is not readily available indicating only properties empty *for more than six months*. The Committee heard that the figure stood at 724 as at the 5<sup>th</sup> of June, although this number is constantly changing. The abolition of the discount on business rates for owners of empty commercial properties from April 2008 means that the Business Rates team are now working more proactively on empty properties (for example by undertaking land registry searches on long-term empty properties).
- 3.5 Members were also advised that more localised information on numbers of empty commercial properties is provided through the Annual Shopping Centres Survey carried out by the Planning Policy team<sup>4</sup>. The town centres surveyed are the twelve with a dedicated Town Centre Manager<sup>5</sup>. The survey is carried out over a few days and therefore provides a snapshot of the situation in the twelve town centres; as with the Business Rates figures in 3.4, it does not distinguish between properties recently vacated and those empty for more than six months. Furthermore on a single visit survey such as this, officers cannot always be certain that a property is permanently vacant or temporarily unoccupied, unless there are obvious signs such as the property being boarded up. Results for 2007-08 were as follows:
- North: 33 (New Cross Gate and New Cross; Deptford; Evelyn Street)
  - South: 23 (Catford; Bellingham; Downham)
  - West: 50 (Brockley Cross; Honor Oak Park; Forest Hill; Sydenham)
  - Central: 22 (Lewisham Town Centre; Hither Green).
- 3.6 The total of 128 is well above the Local Area Agreement target of 78, and represents an increase on the previous year's figure. There is a lack of comparative data available to benchmark against other boroughs, however.

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<sup>3</sup> This figure is calculated for a new performance indicator, NI 170, which has in effect replaced the BVPI 64 referenced in 4.1. The baseline figure of 15.97 hectares comprises sites at the Silwood Triangle (3.54 ha.), Bell Green Gas Works (9.86 ha.), Thanet Wharf (0.59 ha.), Kent Wharf (0.46 ha.), 102-120 Lee High Road (0.7 ha), 2 Baring Road (0.55 ha.) and Grinstead Road (0.27 ha.).

<sup>4</sup> The survey feeds into the Key Performance Indicator (KPI) for town centre vacancies.

<sup>5</sup> These are: New Cross Gate; New Cross; Deptford; Evelyn Street; Catford; Bellingham; Downham; Brockley Cross; Honor Oak Park; Forest Hill; Sydenham; Lewisham Town Centre; and Hither Green.

### 3.7 **Local awareness of empty properties**

Despite the statistics showing that *in relative terms*, Lewisham does not have a significant empty properties problem, the Committee heard contributions from members, residents and local societies<sup>6</sup>, which showed the impact a single empty property can have on residents' lives and the attractiveness of their neighbourhood as a place to live. Concern was expressed over graffiti, fly-tipping, squatting, pest infestations, damage to adjacent properties, decline in value of neighbouring properties, as well as general concern over the unsightliness of dilapidated or boarded up properties.

3.8 In addition, the Empty Homes Manager explained that empty properties can be the catalyst for more serious crimes such as identity theft, drug use, arson, handling stolen goods, cultivating cannabis, and burglary<sup>7</sup>. In this sense, empty properties are an important part of the so-called 'Broken Windows Theory', which suggests that people's behaviour is strongly influenced by what they observe around them. The origins of the theory lie in the observation that a few broken windows in an empty building can lead to more windows being broken, more vandalism, and ultimately more serious crimes such as those listed above<sup>8</sup>.

3.9 The Development Control Manager confirmed to members that the rise in planning enforcement action carried out on empty properties this year (see 7.10) has been in direct response to an increase in complaints from residents. Many of the examples cited by members also stemmed from complaints by local residents.

3.10 **The Committee acknowledged the relative success of the Council in tackling the issue of empty private residential properties. In particular it noted and welcomed Lewisham's status as the leading issuer of Empty Dwelling Management Orders (see 7.2) in the country.**

3.11 **However, members also noted the rise in complaints from residents around empty properties and acknowledged that it remained an issue of concern for many.**

### 3.12 **Impact of the economic downturn**

Already there is evidence of a rise in the number of empty residential and commercial properties, which in national terms is currently at a nine-year high<sup>9</sup>. The number of homeowners having their homes repossessed in the first half of 2008 rose by 41% compared to the same period in the previous

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<sup>6</sup> Contributions were received from the Ladywell, Forest Hill and Lee Manor Societies, Ladywell Village Improvement Group, Forest Hill Traders Association, Sustainable Arts Foundation for Enterprise (SAFE) and Deptford Action Group for the Elderly (DAGE). In addition, a number of individual residents and councillors made submissions to the review.

<sup>7</sup> Research by the Empty Homes Agency suggests that around two-thirds of illegal entries into shops and commercial properties is a result of access either from or through empty space above or next to the property.

<sup>8</sup> The original observation was made in an article entitled '*Broken Windows: The Police and Neighbourhood Safety*', by George Kelling and James Wilson, which appeared in the March 1982 edition of *The Atlantic Monthly*. This was elaborated on further in '*Fixing Broken Windows: Restoring Order and Reducing Crime in our Communities*', by Kelling and Catherine Coles (1996).

<sup>9</sup> Cited by the Empty Homes Agency, based on a response to a parliamentary question in October 2008: <http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmhansrd/cm081014/text/81014w0019.htm>

year<sup>10</sup>; this figure, according to the Council for Mortgage Lenders, is likely to rise further as recession looms.

- 3.13 Members heard that the Empty Homes Agency are braced for a significant rise in the number of empty properties over the next few years. The Committee heard from David Ireland that landlords may find it harder to get tenants able to afford rents, meaning properties lie empty – and by the time the market has improved properties may have fallen into disrepair. The economic climate may also lead to more owners being unable (or unwilling) to carry out remedial works to deteriorating empty properties without financial assistance. He also advised that local authorities look into short-term agreements with housing associations and co-operatives, or even property guardian companies<sup>11</sup>, over the next few years.
- 3.14 **In light of this evidence – and the Mayor’s request for scrutiny committees to consider how the Council should respond to the challenges presented by the economic downturn – the Committee recommends that the Council reviews the resources allocated to dealing with empty properties to ensure it can meet the additional challenges ahead.**

#### **4. Awareness of the number of empty properties in Lewisham**

- 4.1 The lack of certainty on the number of empty properties across the borough is not a problem confined to Lewisham. The Committee heard from several Council officers that accurate data on empty properties can be notoriously difficult to collect: it is not always immediately obvious whether a property is empty or not, for example – especially when some owners can go to great lengths to conceal the fact that a property is unoccupied. Other properties empty for more than six months may have owners who intend to occupy the property in the near future, for example those working abroad on long-term contracts. Foreign ownership of property can be problematic and a number of commercial properties in the borough are registered off-shore. As explained in 3.13, numbers are also likely to rise in light of the recent economic slowdown.
- 4.2 Evidence presented to the Committee suggested that awareness of the numbers of empty properties in the borough – especially residential ones – could be improved by encouraging more residents to report cases of empty properties, and also by improving information sharing across the variety of teams and departments with responsibilities for dealing with empty properties.
- 4.3 In terms of encouraging the public to report cases of empty residential properties to the Council, the Committee were shown the information available to the public on the Council website relating to empty properties. Members also heard from officers about the Business Property Database, which holds details of empty commercial properties in an area (see 5.2). Most queries regarding empty residential properties will be met initially by the

<sup>10</sup> The Guardian, Friday 8<sup>th</sup> August, 2008.

<sup>11</sup> Property guardian companies take on empty properties awaiting renovation or demolition, and once they have made the buildings safe, take on tenants (known as ‘guardians’) for reduced rent.



Empty Homes Manager, and most relating to empty commercial properties which fall within one of Lewisham's twelve town centres will be addressed by the relevant Town Centre Manager<sup>12</sup>.

- 4.4 The Committee also heard about methods of publicity employed in Bexley, where mailshots are sent to residents containing details of who to contact should they have an empty property to lease or wish to buy or rent an empty property themselves. Information is available at frontline services and advertisements are placed in local papers which include information on grants available. A landlords forum is also held, which Empty Homes officers attend to ensure that landlords are aware of the options available to them in dealing with empty properties<sup>13</sup>.
- 4.5 **Members felt that more could be done to boost public awareness of how empty properties can be reported or dealt with. The Committee therefore recommends that the Council publicises further the work being carried out to reduce the numbers of empty properties in the borough, in order to:**
- a) **encourage residents to report empty properties to the Council; and**
  - b) **prompt owners to seek support from the Council in bringing their empty properties back into use.**
- 4.6 **In particular, the feasibility of introducing a similar scheme to the 'Every Home Counts' (run by eight local authorities in Surrey and Hampshire<sup>14</sup>) with neighbouring boroughs should be investigated.**
- 4.7 Members noted officers' evidence that the sheer variety of approaches and powers used by the Council in dealing with empty properties inevitably demands excellent information sharing across teams and departments – and also between local authorities. In terms of the latter, the Committee heard about the successful example of the South East London Housing Partnership (involving the boroughs of Lewisham, Greenwich, Bexley, Bromley and Southwark) as a forum for sharing best practice.
- 4.8 The Committee heard several suggestions of ways in which data collection of empty properties could be improved. One simple example was to reconvene a working party to co-ordinate the work of the various teams working on empty properties, which should meet quarterly to share information on work being carried out and to discuss the best ways to deal with particular cases.
- 4.9 Another example given was to delegate some enforcement powers to other officers, such as the Empty Homes Manager or Town Centre Managers, to speed up the resolution of cases. Similarly, direct access to registers held by

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<sup>12</sup> There are four town centre managers working across twelve town centres across the borough:

- North: New Cross Gate; New Cross; Deptford; Evelyn Street.
- South: Catford; Bellingham; Downham.
- West: Brockley Cross; Honor Oak Park; Forest Hill; Sydenham.
- Central: Lewisham Town Centre; Hither Green.

<sup>13</sup> A landlords forum was also held in Lewisham in September.

<sup>14</sup> See <http://www.everyhomecounts.info/> for further information.

some or all of the Business Rates, Council Tax and Electoral Registration teams could be delegated to officers dealing with empty properties. The Committee heard that at Bexley, officers dealing with empty properties from Bexley work very closely with the Council Tax teams, and when complaints are received about a property, they will use Council tax records to establish how long it has been empty. Officers also use the records to see if any money is owed to the authority for Council tax, as a charge can then be applied for money owed. The Committee were informed, however, that there should be some caution in relying too heavily on Council Tax records as shops above flats are not included, nor are properties which are abandoned before they have been fully built.

- 4.10 The Committee also heard from witnesses at Bexley and Lambeth about how close working with refuse collectors can help to improve awareness of empty properties. Refuse collectors will inform the Empty Homes Manager of properties where there is no waste left out for collection; often the Council tax team will also be informed as it costs more to have a property registered as empty and unoccupied (10% discount applied) rather than as a single person registered as living there (25% discount).
- 4.11 **The Committee recommends that the Council improves its sharing of information between the various services involved in dealing with empty properties. In particular, the Committee recommends that the Council:**
- a) **ensures regular joint meetings are held to help services to develop joint approaches to dealing with current cases;**
  - b) **delegates access to Council tax and business rates registers to the Empty Homes Officer and/or Town Centre Managers; and**
  - c) **requires refuse collection teams to provide details to the Empty Homes Officer/Town Centre Managers of properties where waste is consistently not left out for collection.**
- 4.12 The Committee were also informed that the Mayor of London recently pledged an audit of empty properties in London in 2009, as part of a commitment of an additional £60million to tackle the number of empty properties in the capital. Further details on how this audit will be carried out have not yet been announced, but it is likely to provide more accurate data than is currently available.

## **5. Bringing empty properties back into use – without using enforcement measures**

- 5.1 At the first evidence session in September the Committee heard that the Council prefers to use a facilitative approach to dealing with empty properties, but will resort to enforcement measures where urgent action is needed or where owners of empty properties do not engage with the Council to try and reach a solution. Most properties are brought back into use without enforcement action – last year only around 10% of private residential properties were brought back into use through enforcement action.
- 5.2 The Committee were advised that for owners or agents keen to sell or let an empty commercial property – or businesses looking to rent commercial

properties – the Business Property Database<sup>15</sup> is a useful tool for putting them in touch with an owner or prospective tenant. The Council's Economic Development team has commissioned this service from South London Business (SLB) for over two years. The database provides details of commercial properties vacant in the borough, thereby serving as a first port of call for interested businesses or potential investors or agents. The Economic Development team – via the Town Centre Managers and Business Support Unit – work closely with SLB to try to make the database more comprehensive by canvassing all the commercial property agents in the borough to ensure they include all their vacant commercial premises. An additional advantage of the database is that it covers the whole of the borough rather than just areas with a Town Centre Manager.

- 5.3 The Committee also heard from the Senior Town Centre Manager that owners keen to let out their empty commercial properties often do not know who to contact. Building up awareness of the Business Property Database would go some way to remedying this.
- 5.4 **Members noted the role of the Business Property Database in helping to reduce numbers of empty commercial properties in Lewisham. However, the Committee heard evidence to suggest that the database is not as comprehensive as it should be, and recommends that the Council makes additional efforts to:**
- (a) boost the numbers of empty commercial properties included on the database; and**
  - (b) raise awareness of the database among businesses and residents.**
- 5.5 **Members also heard evidence from voluntary and community organisations keen to access empty commercial properties. The Committee recommends that further work is carried out to encourage owners to make empty commercial properties accessible to community and voluntary organisations, where no commercial letting is imminent. As well as providing benefit to the local community, this can also have benefits to the owners by reducing the risk of vandalism to the property.**
- 5.6 The Committee also heard about the work of the Empty Homes Manager in facilitating a lease or purchase of an empty residential property between interested parties. An example given to members was the case of a family seeking to move into the Manor Park area of Lee; the Empty Homes Manager managed to put the family in touch with an owner of a dilapidated second home who agreed to sell the property.
- 5.7 Aside from advertising available commercial properties using the Business Property Database, the Committee heard that the Town Centre Managers also proactively try to attract new businesses into the area, and support existing businesses to ensure that they stay in operation and continue to make use of the buildings they own or rent. Town Centre Managers try to encourage the owners of commercial premises to use, rent or sell the flats above commercial properties; about half of the residential properties brought back into use each year are flats above commercial premises. A recent

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<sup>15</sup> The database can be found on the council website at the following link:  
<http://www.lewisham.gov.uk/Business/CommercialProperty/>.

successful case highlighted to the Committee was that of five flats above a large commercial building on Lewisham High Street being brought back into use.

- 5.8 The Committee discussed the variety of barriers facing the Council in reducing the number of empty commercial properties in the borough. One such barrier can be the resistance of owners to let or sell a property – in some cases this may be down to charging unrealistically high rents, in others it may be because an occupying business might provide competition to another business which they operate locally, or because the owner is hoping to get permission to redevelop or convert the property at some point in the future.
- 5.9 The upshot of this is that interested businesses or voluntary organisations are prevented from accessing commercial premises at affordable rents – as suggested by the Ladywell Village Improvement Group. However, unless there is a justification for use of enforcement powers (these are set out in Section 7), Town Centre Managers are unable to force an owner or agent to engage. It is hoped, however, that the abolition of the business rate relief for empty commercial properties (see 6.7) may prompt some action.
- 5.10 It is not just the resistance of owners or agents which leads to long-term empty commercial properties. A lack of demand can be a prime factor, with commercial properties in small parades much harder to re-let than those on high streets: a growing preference for larger out of town shopping centres has made smaller parades less attractive for retailers. Contributions from local societies to the review have shown that the types of businesses in a local area are important to residents. This is backed up by research carried out by Town Centre Managers, which shows that local people want specialist retailers such as greengrocers or butchers. However, despite the efforts of the Council and local traders associations (such as the Forest Hill Traders Association), it has been extremely difficult to attract or retain such businesses in smaller parades.
- 5.11 Despite the inherent difficulties in tackling a lack of demand in the borough's town centres, local societies and Forest Hill Traders did suggest that there was scope to do more to attract larger businesses to some of the smaller shopping areas in the borough. In addition, the Forest Hill Society suggested that more office workers shopping locally could help to boost the area; therefore more effort should be made to attract private sector organisations to use empty office space (the example of Heron House in Forest Hill was cited), or the Council could use empty offices for its own staff. Shoppers might also be attracted by the relaxation of parking restrictions in the area.
- 5.12 The Committee also heard from the Ladywell Village Improvement Group that progress in dealing with empty commercial properties could be particularly slow in areas not covered by a Town Centre Manager. **The Committee recommends that the Council looks at providing support to areas which do not currently have a Town Centre Manager.**
- 5.13 The Committee received a number of written submissions and photographs detailing the visual impact of empty commercial properties on shopping areas. Members also heard that Section 215 notices (see 6.7) are used in Manchester to 'mask and cloak' derelict sites with murals or canvas.

- 5.14 **Members acknowledged the complex issues facing the Council in dealing with empty commercial properties, but recommend that the Council looks at ways of minimising the detrimental visual impact of empty properties on the surrounding area. The committee noted that when a retail outlet becomes vacant in a shopping centre, the management moves quickly to install smart, unobtrusive boarding over the front. A similar scheme, working in conjunction with local traders, artists and town centre managers could help to reduce vandalism and the visual impact of empty properties.**

## **6. Financial incentives for owners of empty properties**

- 6.1 The Committee was informed of the success of the Council's Private Sector Leasing Scheme. The scheme, which is widespread amongst local authorities, enables the Council to rent a property from a private owner and sub-let it to homeless families, on a two to three year lease. Tenants will claim part or full housing benefit, which covers the local authority's rental costs. The Council has a private sector leasing scheme operating in Lewisham, which has let over 400 properties to homeless families since 2005. The Private Sector Leasing Scheme was responsible for returning over half of the 300 empty residential properties returned to use last year.
- 6.2 The Committee also heard about the grants available for residential property owners. These are helpful where owners or agents are keen to resolve the problem of a long term empty property but the property is not in an inhabitable condition. Funding for grants to tackle empty residential properties is provided through the South East Regional Housing Partnership, funded by the London Housing Board and the Greater London Authority. Currently empty homes grants of up to £50,000 are available to owners of empty residential property – on the condition that the property is offered to Council nominations at affordable rents for five years. Over the last twelve months, the Council has provided around £400,000 in grants to tackle empty homes; its effective use of grants was highlighted by David Ireland at the second evidence session.

### **Case Study: flats above shops**

The Town Centre Manager team has worked successfully with the Empty Homes Manager and Planning Enforcement across the Borough to encourage owners to redevelop empty flats above shops. Recent examples include flats in Lewisham High Street, Hither Green, Ladywell Village, Catford and Deptford High Street. The availability of grants to bring domestic or commercial units back into use has proved a great incentive.

A particular example concerns the owner of a large commercial building along Lewisham High Street, who had run a pharmacy business there for nearly twenty years. For most of this time the domestic space above the shop lay empty, due to economic constraints and the owner's busy life. Through a joint approach from the Town Centre Manager and Empty Homes Manager the commercial premises were significantly improved and five flats were brought into use. The financial incentives and joint officer support contributed to the successful outcome of this project.

- 6.3 The Committee was shown details of a sub-regional bid recently submitted by the South East London Housing Partnership<sup>16</sup> for part of the £60million pledged by the London Mayor to tackle long-term empty residential properties<sup>17</sup>. The bid covers loans and grants, publicity, non-recoverable costs of issuing Empty Dwelling Management Orders (see 7.3) and Compulsory Purchase Orders (7.15-19), and three enforcement experts to support local authorities.
- 6.4 Town Centre Managers are able to offer shop improvement grants to commercial property owners in the areas listed below. The funding for these grants can come from a variety of sources, and are usually linked to a specific area or initiative; there is currently no programme covering all town centres in the borough.
- Catford town centre (funded by the Council)
  - Deptford High Street (funded by the London Development Agency)
  - Evelyn Street (funded through a Section 106 agreement)
- 6.5 The Senior Town Centre Manager informed the Committee that Shop Improvement Grants are usually between £5,000 and £10,000. In areas not covered by grants, the Town Centre Managers could assist (assuming the area in question has one) or the Business Support Unit via the Business Advisory Service, although no specific budget exists.
- 6.6 Lewisham is by no means alone in not offering shop improvement grants across the whole borough: a survey of London boroughs<sup>18</sup> revealed that only six of the twelve which responded currently provide a scheme, and only one of these covers the whole borough.
- 6.7 A further 'incentive' for an owner of an empty property to take action is the government's decision to abolish the business rate relief for empty commercial properties from April 2008. The Committee heard that this has proved a controversial move, with the early signs suggesting that collection rates for business rates in Lewisham and other areas have been hampered<sup>19</sup>. The recent economic downturn has meant that owners of long-term empty commercial properties – now hit with, in some cases, five figure business rate bills – are less able to pay and therefore more likely to be evasive in dealing with the Council's attempts to collect. Where business rates are not being paid, land registry searches are made to establish ownership; where the owner is registered at the property and the property is empty, tracing that

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<sup>16</sup> Further information on the South East London Housing Partnership can be found at: <http://www.selondonhousing.org/>

<sup>17</sup> Although the announcement from the GLA represents a five-fold increase in funding, the focus – which is on the most dilapidated buildings, and also those on the English Heritage list of at-risk listed buildings – presents a challenge for Lewisham and other South East London boroughs, as there are few listed buildings in the area suitable for residential use.

<sup>18</sup> The fifteen boroughs surveyed were the twelve other Inner London Boroughs (Camden, Hackney, Haringey, Hammersmith & Fulham, Islington, Kensington & Chelsea, Lambeth, Newham, Southwark, Tower Hamlets, Wandsworth and Westminster) and three neighbouring boroughs (Bexley, Bromley and Greenwich). Responses were received from twelve of the fifteen boroughs.

<sup>19</sup> Collection rates for last year (prior to the abolition of the discount for empty properties) were 99.4%, but it is anticipated that this may fall this year, in line with other councils.

owner can be extremely difficult. However, where an owner is traced, bills can be backdated.

## 7. Enforcement measures for dealing with empty properties

- 7.1 The Committee heard that where an owner refuses to engage with the Council to bring their empty property back into use, the Council might use – or threaten to use – a range of enforcement measures, especially when complaints have been made by local residents or the situation requires urgent action. Enforcement action tends to be carried out by the Environmental Health, Building Control or Planning Enforcement teams (usually in conjunction with the Empty Homes Manager or one of the Town Centre Managers).
- 7.2 As mentioned in 3.2, Lewisham is the leading local authority in the country in use of Empty Dwelling Management Orders (EDMOs), issuing five out of the twelve issued nationwide. If a residential property has been empty for more than six months, the Council can write to the owner serving an Interim EDMO, giving them up to a year to bring the property back into use. This can then be revoked once a solution has been found, or replaced by a Final EDMO, which allows a local authority to take over the management of a property for up to seven years. The Committee heard that the Government has encouraged local authorities to use EDMOs more regularly as a means of tackling empty residential properties, and the resources are in place to deal with applications quickly.

### Case Study: empty residential property

A number of complaints were received from neighbours about the deterioration of an empty residential property in Catford. The Empty Homes Manager traced the owner – a local man in his 80s – through the Land Registry. It transpired that the property had been vacant since the 1950s, and the condition had begun to deteriorate over recent years as the owner had been less physically able to maintain the property himself.

An Interim EDMO was served on the property in October 2006. The owner was keen to resolve the situation, and after advice from the Empty Homes Manager, applied for an empty homes grant. The Council was able to provide a £25,000 grant to cover part of the £70,000 of repairs. Holes in the roof were repaired, rotting windows replaced, and the inside of the house gutted and refitted.

A homeless family of four have already agreed to move into the property, and the Empty Homes Manager is currently awaiting final handover of the keys.

- 7.3 Members did hear, however, that there are limitations to the use of EDMOs. The Empty Homes Manager explained to the Committee that the costs of issuing a Final EDMO can be prohibitive, as the financial responsibility for repairs or renovation pass to the local authority. Costs could in theory be recouped through rental income over the seven years, depending on the original costs of repairs and potential rental income. Sometimes the threat of

issuing an EDMO (or another form of enforcement action) can be enough to persuade an owner to take action, however.

- 7.4 The Committee heard that a number of enforcement options are available to the environmental health service in dealing with empty properties. For example, Sections 79-81 of the Environmental Protection Act 1990 enables the Council to issue a notice to the owner of an empty property, requiring them to resolve any 'statutory nuisance' that the property may be causing. In the case of empty properties, statutory nuisance might include, for example, rubbish, damp, pest infestation or graffiti. Where the notice is not complied with after 21 days, the work can be carried out by the local authority in default, and costs can be recouped.
- 7.5 Another example is Section 29 of the Local Government Act 1982, which enables a local authority to carry out work on an empty property to prevent the building from being entered illegally, or from becoming a danger to public health. Costs of any work carried out are recoverable.
- 7.6 The Committee also heard about the use of Section 215 Notices (part of the Town and Country Planning Act 1990), which can be used when the condition or appearance of an empty property is detrimental to the surrounding area or neighbourhood. The Notice requires appropriate maintenance of the land/property, and can specify what action is needed to remedy a problem within a specific time period. The Committee were told that it is normally easier to demonstrate that a property is detrimental to local amenity than it is a danger to public health.
- 7.7 The Committee took evidence from Dianne Blazer from the London Borough of Bexley, which has a strong reputation for its use of the Town and Country Planning Act (TCPA) in dealing with empty properties. The Committee heard that approximately 25 Town and Country Planning Act (TCPA) notices are served each year, of which around ten concern empty properties. Bexley takes into account the wide variety of enforcement options open to a local authority, rather than just focusing on a particular notice. The value of Section 215s are in the relatively low volume of work involved in issuing them, and their success in persuading owners to take positive action. Where an owner does not comply with the notice, Bexley will carry out the work and charge the owner with the cost of the works plus an additional charge of 30% of costs.
- 7.8 Officers also heard that officers from Bexley had themselves learned from Hastings Council's use of Section 215 notices. Because government guidance about use of the TCPA is clear in its focus on property which detracts from the local amenity, officers in Hastings build up substantial evidence of a property's negative impact on an area – by taking photos of the property and the rest of the street, for example, or by talking to local people to establish whether they feel that the property has a negative impact on the area. This helps to secure a successful application of a notice and guard against successful appeals: Hastings has issued hundreds of notices with limited appeals (all of which have been successfully dealt with), while Bexley has only had one appeal against a notice (which concerned a time issue rather than the state of the property) upheld. Finally, the Committee were advised that the Council needs to be fair and consistent in its use of notices; if there are three problem properties in one street, all three need to be dealt with.



- 7.9 Use of Section 215 notices in relation to empty properties is variable across London. A survey of other London boroughs<sup>20</sup> showed that seven out of the thirteen boroughs which responded to the survey did not use Section 215 notices for targeting empty properties. Of these seven, however, three were planning to start using them to help deal with empty properties.
- 7.10 Section 215 Notices in Lewisham are issued by the Council's small planning enforcement team, which on average receives some 600 complaints each year about potential breaches in planning control. The Committee were informed that Section 215s are the main planning enforcement method used to deal with empty properties; three have been served so far this year in Lewisham, with another two pending. This is already an increase on the three notices issued in 2006-07 and two issued in 2007-08. The Committee heard that the increase has been in response to an increased number of complaints regarding untidy land and neglected premises.

#### **Case Study: issuing Section 215 notices**

Section 215 Notices were recently issued against two adjoining properties in New Cross Road. Both properties consisted of unused shop premises with empty residential accommodation above, and both were boarded up. The Notices require that the boarding be removed and any broken glazing is repaired, and it is hoped that this cosmetic treatment will act as a catalyst for bringing the premises back into beneficial use. Moreover, to complement the requirements of the Notices the Environmental Health section has inspected the properties with a view to applying for either a Empty Dwelling Management Order or a Compulsory Purchase Order.

- 7.11 **The Committee welcomes the news that the Council has started to use Section 215 notices more in the last year to tackle empty properties. Nevertheless, members expressed concern that it has taken so long for the Council to appreciate the value of Section 215 notices in tackling empty properties, and that the numbers of Notices currently being delivered is still low compared to many other boroughs. In addition, the success of Bexley in dealing with empty properties is not solely based on use of Section 215s, but the range of powers contained within the Town & Country Planning Act.**
- 7.12 **Therefore the Committee recommends that the Council explores the full range of powers available under the Town & Country Planning Act to deal with empty properties, with a view to increasing further the use of enforcement notices in relation to empty properties. The committee further noted that in some boroughs the Empty Homes officer deals with Section 215 notices for derelict properties, while planning just focus on issuing Section 215s for planning permission infringements. The committee recommends that the Council consider whether this separation of responsibilities could lead to higher levels of planning enforcement for empty properties.**

<sup>20</sup> The fifteen boroughs surveyed were the twelve other Inner London Boroughs (Camden, Hackney, Haringey, Hammersmith & Fulham, Islington, Kensington & Chelsea, Lambeth, Newham, Southwark, Tower Hamlets, Wandsworth and Westminster) and three neighbouring boroughs (Bexley, Bromley and Greenwich).

- 7.13 The latter recommendation is further backed up by a survey of other London boroughs' planning enforcement teams, which showed that the number of enforcement officers in Lewisham (three, comprising one permanent and two temporary officers) compares unfavourably to the average of 5.5 fulltime planning enforcement officers across the 22 London boroughs surveyed. The low number of planning enforcement officers at Lewisham means that most of their time is spent on reactive enforcement inquiries (estimated at 85%), and only a proportion of these will involve empty properties. Two of the local authorities which responded combine their planning and environmental enforcement teams within the same service.
- 7.14 The Committee heard that the low number of planning enforcement officers in Lewisham was compounded by the previously high turnover of staff. This is partly explained by the relatively low salary (£22-23,000 per year), and partly by the perception of the role as a good stepping stone to a career in planning. The Committee noted that a growth bid for two extra staff had been rejected in May 2008.
- 7.15 Although Compulsory Purchase Orders (CPOs) have not historically been used in Lewisham to deal with long-term empty properties, the Council has experience of using CPOs as part of regeneration programmes. The Committee were advised by the Empty Homes Manager that although there are many success stories in the borough where empty properties have been brought back into use and owners have been co-operative, more could be done with additional funding.

#### **Case study: empty domestic property**

A residential property in Forest Hill had been empty for a number of years, and complaints about the condition of the building had been made by neighbours. The Empty Homes Manager traced the owner of the property through the Land Register, and a twelve month Interim EDMO was issued in December 2007.

On inspection, it was estimated that around £70,000 worth of repairs were needed to make the property inhabitable. The owner agreed to carry out works, although these have since stalled. The Interim EDMO runs out in December 2008; it will not be financially viable to issue a full EDMO at this point, as the estimated money that could be recouped through rent over the seven years (£30,000) would be less than the cost of repairs.

The property remains empty, and work unfinished.

- 7.16 The Committee heard from Maxine Wilson from the London Borough of Lambeth, which has undertaken a successful CPO programme in recent years. Faced with a number of properties which had been empty for between 10 and 34 years and a large number of complaints and petitions had been received. The worst 18 cases were acquired under Compulsory Purchase Orders (CPOs). The original plan was to sell the properties to Local Housing Associations, but Lambeth found that this was not always financially viable, so instead opted for a Preferred Landlords Scheme<sup>21</sup>. From those 18

<sup>21</sup> Preferred landlords' take on an empty property purchased under CPO, refurbish it and then usually sell, but the Council retains the option to bid for the property. The landlords are private

properties, 41 units were produced: some were taken on by Housing Associations, while one owner saw the Council was serious about taking action so sold the property independently.

- 7.17 The Committee heard that Lambeth saw CPO as very much a last resort, and would only use it according to strict criteria around the length of time it had been left empty; the detriment to the environment; the number of complaints received; and the risk to the Council in not acting. CPO applications have to be approved by the Secretary of State.
- 7.18 A survey of London boroughs showed that usage of CPOs in relation to empty properties was widespread: of the thirteen boroughs which responded (out of fifteen<sup>22</sup>), ten are currently using CPOs to deal with empty properties. Of the remaining three, two had used CPOs on empty properties in the past. Several respondents commented on the time and expense required to carry out a CPO; one borough suggested that up to £30,000 should be set aside per property to cover costs. The Committee noted, however, that the threat of issuing a CPO can often be enough to persuade an owner to take action: experience at one borough suggests that by threatening twenty owners with a CPO, eighteen owners will take action and only two orders would actually need to be carried out. This was backed up by David Ireland, who advised the Committee that fair but rigorous use of enforcement powers will give local authorities credibility and force landlords to take notice. Manchester City Council has established a reputation for being prepared to use CPOs as a last resort – which has meant owners are far more likely to engage with the Council from the outset.
- 7.19 **The Committee recommends that the Council introduces a Compulsory Purchase Order (CPO) programme to deal with the owners of long-term empty properties, on the proviso that CPOs are only used as a last resort after other approaches have failed. This would require an initial pot of capital to start the scheme, but proceeds from the sale of properties would be re-invested back into the scheme. The Committee also noted evidence from other London boroughs which suggested that the threat of using a CPO is sufficient to prompt the vast majority of landlords to engage with the Council in bringing their properties back into use.**
- 7.20 The Committee also heard briefly about building control enforcement powers available to the Council to deal with an empty property considered a physical danger to the public. Section 69 of the London Building Acts (Amendment) Act 1939, for example, allows local authorities to deal with buildings in a poor state (which long-term empty properties often are) ‘in the interests of amenity’. Section 64 of the same Act allows the local authority to apply to a Magistrate’s Court for an order to require the owner to carry out work on a building which is deemed to be unsafe (or demolish it). Where the danger is immediate, Section 61 specifically allows the Council to carry out remedial work without waiting for the owner to address the problem themselves.

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sector landlords, as Registered Social Landlords (RSLs) can’t cover the purchase and refurbishment costs.

<sup>22</sup> As with the other surveys carried out for the review, the survey covered the twelve other Inner London Boroughs (Camden, Hackney, Haringey, Hammersmith & Fulham, Islington, Kensington & Chelsea, Lambeth, Newham, Southwark, Tower Hamlets, Wandsworth and Westminster) and three neighbouring boroughs (Bexley, Bromley and Greenwich).

However, it was made clear that empty properties can be an eyesore long before they are structurally unsound so using these legal powers can be a slow process.

- 7.21 It was also explained to the Committee that where work has had to be carried out by the Council – for example in order to make an empty property safe – and the owner is unable to repay the costs, the courts can place the costs against the value of the property and force its sale<sup>23</sup>. Two properties in Lewisham are currently approaching auction following an application to the courts by the Council, but it was emphasised to the Committee that this option would only be exercised as a last resort.
- 7.22 The Committee were keen to establish whether officers considered that the legislative powers open to them to deal with empty properties are sufficient. The consensus among witnesses was that powers are adequate, although delays in enforcing them can be frustrating, as can resource limitations. Several witnesses highlighted the power to place a charge against the value of a property for work carried out as being particularly useful. David Ireland from the Empty Homes Agency pointed out that the legislative powers have grown in recent years, and it is more of a question of how the powers are used, rather than whether they are adequate.
- 7.23 It was also pointed out to the Committee that many enforcement powers do not guarantee that a property will be brought back into use, merely that its appearance will improve or it will be brought back into a habitable condition.

**If you would like further information on this review, please contact Joel Hartfield on 020 8314 9941.**

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<sup>23</sup> Under the Law of Property Act 1925.

## Appendix A: Summary of recommendations

1. The Committee acknowledged the relative success of the Council in tackling the issue of empty private residential properties. In particular it noted and welcomed Lewisham's status as the leading issuer of Empty Dwelling Management Orders (see 7.2) in the country. **(3.10)**
2. However, members also noted the rise in complaints from residents around empty properties and acknowledged that it remained an issue of concern for many. **(3.11)**
3. Members heard that the Empty Homes Agency are braced for a significant rise in the number of empty properties over the next few years. In light of this evidence – and the Mayor's request for scrutiny committees to consider how the Council should respond to the challenges presented by the economic downturn – the Committee recommends that the Council reviews the resources allocated to dealing with empty properties to ensure it can meet the additional challenges ahead. **(3.14)**
4. Members felt that more could be done to boost public awareness of how empty properties can be reported or dealt with. The Committee therefore recommends that the Council publicises further the work being carried out to reduce the numbers of empty properties in the borough, in order to:
  - a) encourage residents to report empty properties to the Council; and
  - b) prompt owners to seek support from the Council in bringing their empty properties back into use.

In particular, the feasibility of introducing a similar scheme to the 'Every Home Counts' (run by eight local authorities in Surrey and Hampshire<sup>24</sup>) with neighbouring boroughs should be investigated. **(4.5-6)**

5. The Committee recommends that the Council improves its sharing of information between the various services involved in dealing with empty properties. In particular, the Committee recommends that the Council:
  - a) ensures regular joint meetings are held to help services to develop joint approaches to dealing with current cases;
  - b) delegates access to Council tax and business rates registers to the Empty Homes Officer and/or Town Centre Managers; and
  - c) requires refuse collection teams to provide details to the Empty Homes Officer/Town Centre Managers of properties where waste is consistently not left out for collection. **(4.11)**
6. Members noted the role of the Business Property Database in helping to reduce numbers of empty commercial properties in Lewisham. However, the Committee heard evidence to suggest that the database is not as comprehensive as it should be, and recommends that the Council makes additional efforts to:

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<sup>24</sup> See <http://www.everyhomecounts.info/> for further information.

- (a) boost the numbers of empty commercial properties included on the database; and
- (b) raise awareness of the database among businesses and residents. **(5.4)**

7. Members also heard evidence from voluntary and community organisations keen to access empty commercial properties. The Committee recommends that further work is carried out to encourage owners to make empty commercial properties accessible to community and voluntary organisations, where no commercial letting is imminent. As well as providing benefit to the local community, this can also have benefits to the owners by reducing the risk of vandalism to the property. **(5.5)**
8. The Committee recommends that the Council looks at providing support to areas which do not currently have a Town Centre Manager. **(5.12)**
9. Members acknowledged the complex issues facing the Council in dealing with empty commercial properties, but recommend that the Council looks at ways of minimising the detrimental visual impact of empty properties on the surrounding area. The committee noted that when a retail outlet becomes vacant in a shopping centre, the management moves quickly to install smart, unobtrusive boarding over the front. A similar scheme, working in conjunction with local traders, artists and town centre managers could help to reduce vandalism and the visual impact of empty properties. **(5.14)**
10. The Committee welcomes the news that the Council has started to use Section 215 notices more in the last year to tackle empty properties. Nevertheless, members expressed concern that it has taken so long for the Council to appreciate the value of Section 215 notices in tackling empty properties, and that the numbers of Notices currently being delivered is still low compared to many other boroughs. In addition, the success of Bexley in dealing with empty properties is not solely based on use of Section 215s, but the range of powers contained within the Town & Country Planning Act.

Therefore the Committee recommends that the Council explores the full range of powers available under the Town & Country Planning Act to deal with empty properties, with a view to increasing further the use of enforcement notices in relation to empty properties. The committee further noted that in some boroughs the Empty Homes officer deals with Section 215 notices for derelict properties, while planning just focus on issuing Section 215s for planning permission infringements. The committee recommends that the Council consider whether this separation of responsibilities could lead to higher levels of planning enforcement for empty properties. **(7.11-12)**

11. The Committee recommends that the Council introduces a Compulsory Purchase Order (CPO) programme to deal with the owners of long-term empty properties, on the proviso that CPOs are only used as a last resort after other approaches have failed. This would require an initial pot of capital to start the scheme, but proceeds from the sale of properties would be re-invested back into the scheme. The Committee also noted evidence from other London boroughs which suggested that the threat of using a CPO is sufficient to prompt the vast majority of landlords to engage with the Council in bringing their properties back into use. **(7.19)**

## Appendix B: Summary of legal powers

The Committee considered the following legal powers available to local authorities in dealing with empty properties:

### **Compulsory Purchase Orders (CPOs)**

This is the strongest power available to local authorities in bringing an empty property back into use, and can only be used as a last resort. The power to issue a CPO rests with the Secretary of State. A local authority applying for a CPO must be able to demonstrate that:

- the CPO is in the public interest;
- other methods have been tried (and failed) to return the property to use;
- it has clear intentions for the use of the property; and
- it has the resources to carry out the CPO.

The owner of a property purchased through a CPO has to be compensated for the loss of the property; compensation is paid by the local authority at the open market value of the property. Compensation is payable by the local authority to the owner at the open market value of the property.

### **Empty Dwelling Management Orders (EDMOs)**

A local authority can serve an Interim EDMO to the owner of a residential property which has been empty for more than six months. An Interim EDMO gives the owner up to a year to bring the property back into use. The order can be revoked once a solution has been found, or replaced by a Final EDMO, which allows a local authority to take over the management of a property for up to seven years.

### **Environmental Protection Act 1990**

Sections 79-81 of the above Act enable a local authority to issue a notice to the owner of a property which is causing a 'statutory nuisance' (for example, graffiti, a pest infestation, or damp). Where the notice is not complied with within 21 days, the work can be carried out by the local authority in default, and costs can be recouped.

### **Law of Property Act 1925**

Where a local authority has had to carry out work on an empty property (for example to make a property safe, or resolve a 'statutory nuisance'), and the owner is unable to repay the costs, the courts can place the costs against the value of the property and force its sale.

### **Local Government Act 1982**

Section 29 of the above Act enables a local authority to carry out work on an empty property to prevent the building from being entered illegally, or from becoming a danger to public health. Costs of any work can be recouped under the Law of Property Act 1925.

### **London Building Acts (Amendment) Act 1939**

The above Act provides London boroughs with three different powers with which to address empty properties:

- Section 69 gives a local authority the power to deal with buildings in a poor state 'in the interests of amenity'.
- Where a building is unsafe, Section 64 allows a local authority to apply to a Magistrate's Court for an order to require the owner to carry out remedial work on a property, or demolish it.

- Where an unsafe building represents an immediate danger, Section 61 specifically allows the Council to carry out work without waiting for the owner to address the problem themselves.

**Town and Country Planning Act 1990**

Where the condition or appearance of a property is detrimental to the surrounding area or neighbourhood, Section 215 of the above Act allows a local authority to issue the owner of a property with a notice requiring appropriate maintenance of the land/property. The Notice can also specify what action is needed to remedy a problem within a specific time period.



## Appendix C: Acknowledgements

The Committee would like to thank the following for their contributions to the Review:

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 David Gibbs, Business Rates Manager, LBL  
 Harry Haward, Deptford Action Group for the Elderly  
 David Ireland, Chief Executive, Empty Homes Agency  
 Tim King - Development Control Manager, Regeneration, LBL  
 Ladywell Village Improvement Group  
 Lesley Lee, Head of Strategy & Performance, Regeneration, LBL  
 Nick Long - Empty Homes Manager, Customer Services, LBL  
 Ruth McCrossen, Performance & Improvement Manager, Customer Services, LBL  
 Gavin McGregor, Political Assistant, Green Group  
 John Miller, Head of Planning, LBL  
 Cllr Mark Morris  
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