

Brentwood Borough Council

Empty Homes Strategy 2021 - 2026

Draft April 2021

Introduction

In common with many other Councils, Brentwood faces an increasing shortage of affordable homes for its residents. This gives rise to increased homelessness and difficulty accessing affordable accommodation for many people. Empty properties seriously affect the lives of people in the vicinity and can be a magnet for anti-social behaviour and an unnecessary drain on public services. Tackling empty homes will not only help provide additional much-needed homes within the district but will contribute to the improvement of the local environment and benefit communities.

This Strategy aims to identify the causes of empty properties, why they remain empty and a clear action plan showing how we intend to reduce this number. The overarching aim of this strategy is to help alleviate the housing need within the district, to offer wider housing choice to residents and to reduce the detrimental effect empty properties can have within the community.

Objectives

In order to achieve our over-arching aim to bring empty properties back into use, this strategy focusses on the delivery of 4 key objectives:

- To identify and prioritise empty homes - for action to be taken.
- Provide advice and support - to help homeowners with their empty home.
- Monitor property owners' actions - to ensure that the home is no longer empty.
- Use of enforcement powers - to ensure the empty home is brought back into use where the owner has not voluntarily done this.

What is an empty property?

There are broadly two main types of empty residential properties; transactional empty properties and long-term empty properties. Transactional empty properties are generally empty up to six months, usually due to a change in tenant or ownership and are part of the normal cycle of people moving house; though they may be empty longer should they be subject to major renovation works. Although transactional empty properties are less of a priority to the council, they can still present a concern should their condition become a hazard or contribute towards a poor street scene.

In some instances, a property may be empty or appear empty, but is not classed as empty. A property does not have to be used all the time to be classed as occupied. For example, if it is:

- A second home or a holiday home.
- A property which is part of a wider regeneration programme and could be in the process of being developed or marked for demolition.
- A property which has pending planning permission, could be waiting refurbishment or could be waiting for new occupants to move in.
- A property where the owner is living elsewhere to provide or receive personal care.

Homes that have been recorded as empty for more than 6 months are classified as long-term empty by the Council. The Ministry for Housing, Communities and Local Government (MHCLG) classes problematic empty properties as those that are inactive in the housing market and have been empty for more than 6 months.

Why do properties become empty?

Properties that have been empty for more than six months usually have an underlying problem. When properties have been empty for more than two years, it is likely that they will stay empty and decline without intervention. Long term empty properties can become a hub for crime and attract vandalism and anti-social behaviour. They can become run down, fall into disrepair, have overgrown gardens and blight the surrounding properties and neighbourhood. Neighbouring owners may be particularly dissatisfied and may find their house value has diminished or may be difficult to let or sell. Bringing long term empty properties back into use is a priority for the Council and will contribute to increasing the supply of homes.

Most empty properties are privately owned. There are many reasons for properties being left empty, some are easily categorised, and other circumstances are more complex with owners having their own individual reasons for keeping their property empty. Some of the most common barriers that exist for owners of long-term empty properties that are preventing them from returning their property back into use include:

- Issues with inheritance and/or delays with probate.
- lack of finance to carry out necessary repairs and/or refurbishment; perceived problems associated with letting of properties.
- Owner unwilling to bring the property back into use.

The National Context

Since 2010 the Government has placed considerable emphasis on the importance of returning empty homes to use. Statistics published by the MHCLG put the number of empty homes in England in October 2017 at 605,897. Of these 205,293 were classed as long-term empty homes (empty for longer than six months).

In 2018 'Empty Homes 'a national campaigning charity published a report entitled 'Empty Homes in England'. This report identified an upward trend nationally for empty homes in 2018 after 10 years of a downward trend. It made several recommendations that have also been published in the House of Commons Briefing Paper no. 3012 June 2018, Empty Housing:

- Local authorities should have an empty homes strategy for their area, with the aspiration to reduce the number of long-term empty homes.
- Local authorities and social housing providers should seek funding and allocate resources to buy and refurbish empty properties for people in housing need.
- Local authorities should take a casework approach with owners of long-term empty properties to encourage, advise and support them to bring homes back into housing use. Employing dedicated empty homes staff can ensure that the council is able to act on information about homes, and build up expertise in working with owners, including taking enforcement action where necessary.
- Local authorities with concentrations of long-term empty homes should look at how they can support community-based neighbourhood regeneration approaches.
- Local authorities, particularly in high value areas, should conduct studies to understand the extent and impact of 'buy-to-leave 'empty or hardly ever used. Where it is an issue, they should review the measures they could adopt to incentivise people to sell or rent those properties, or not to buy properties in the first place with the intention of leaving them empty or hardly ever used.

Since April 2003, powers previously held by central government to vary the amount of council tax paid on some empty homes has been devolved to local level. The aim of this policy was to further incentivise the reoccupation of long-term empty homes by increasing council tax payable or by removing reductions or exemptions that were previously in place. Local authorities are now able to decide whether to apply a discount for properties empty for up to six months and those properties empty and in need of considerable renovation. There is also the option of imposing an 'empty

homes premium' whereby council tax levels are increased by a percentage depending on the length of time they have been empty.

New Homes Bonus

Launched in April 2011 the New Homes Bonus is a grant paid by central government to local councils for increasing the net level of housing. This bonus is currently for every additional home paid each year for four years. The bonus is based on the amount of extra Council Tax revenue raised for new builds, conversions and long-term empty properties brought back into use.

The scheme is intended to act as an incentive for local authorities to have effective empty property strategies. Rewards are only paid for a net increase in housing, meaning that local authorities could miss out on rewards for new homes built if empty property levels are allowed to increase.

At a time when local government grant funding has significantly reduced, this provides an added incentive to bring properties back into use.

Local Context

The following table includes the 5 categories of empty homes for the purposes of Council Tax collection and was correct as at March 2021.

Category of Empty Home	Definition of the category	Number of Empty Homes	Of which Owned by the Council
Empty and Unfurnished	Properties that are empty and unfurnished and have been for more than 6 months. These properties form part of the new homes bonus calculation.	286	25
Uninhabitable for more than 6 months	Properties that are undergoing structural alteration and/or major repair to make them habitable. These properties do not form part of the new homes bonus calculation but are relevant for in terms of potentially bringing back into use. This discount applies for a maximum of 12 months. If still empty after the 12 months expires the property will then become empty and unfurnished and fall under the first tab of empty and unfurnished.	18	0
Long Term Empty Premium	Properties that have been empty and unfurnished for more than 2 years continuously and are now subject to the long term empty premium (currently an additional 50% Council Tax charge). These properties form part of the new homes bonus calculation.	108	3 (Relates to Brookfield Close)
Second Homes	Furnished second homes.	114	0

Category of Empty Home	Definition of the category	Number of Empty Homes	Of which Owned by the Council
Empty and Exempt	Properties that are empty but are exempt from Council Tax for a particular reason. The most common being Class F, properties where the liable person has passed away and the property is now empty. This applies until probate is granted. Once probate is granted property is then Class F2 for a maximum of 6 months. Whilst exempt under these codes the property does not have an impact on the new homes bonus. If still empty after the 6 months expires the property will then become empty and unfurnished and fall under the first tab of empty and unfurnished.	296	0

For the “Empty and Exempt” category the following tables confirms the exemption codes that have been used (as at March 2021).

Exemption Code	Number of
B - Owned by Charity	9
D - Person in Detention	0
E - in Hospital/Care Home	49
F - Left Empty by a Deceased Person	155
F2 - 6 months following Probate Granted	56
G - Prohibited by Law	4
H - Held by Minister of Religion	2
I - Away Receiving Care	4
J - Away Providing Care	2
L - Mortgage in Possession	0
R - Vacant Caravan Pitch	2
T - Unoccupied Annex	13
Total	296

Our Approach to Empty Properties

The Council will work to prevent properties becoming empty over the long term by responding to enquiries about empty properties from the public, undertaking publicity in the local press, participating in local landlord events and forums, and through promotion of its work on the council websites.

Where properties do become empty, the council will try and locate owners and starting with an informal approach will work with them cooperatively in an attempt to bring properties back into use. Generally this will take the form of offering advice and guidance. Where this is not successful the

council will move onto enforcement against the owner to require the property be brought back into use.

The Council’s approach to tackling empty properties is summarised in the table below.

Objective	Action
Identify and prioritise empty properties	Target empty properties based on the length of time they are empty. Owners are identified and the reason why the property is empty is established.
Provide advice and support	Advice and assistance is provided to the owner to establish the most appropriate course of action to bring the empty property back into use. In some circumstance’s grant funding can be Identify and prioritising empty properties.
Monitor property owners’ actions	Empty properties are monitored to ensure that there are brought back into use within the agreed and appropriate timescales.
Use of Enforcement Powers	Where other interventions have failed, enforcement action is considered and taken where appropriate to ensure the property is brought back into use.

The Council follows as investigation process in order to trace owners of empty properties with a view to encouraging them to bring their properties back into us. However, in some circumstances it is not always possible to identify or make contact with owners, or owners are reluctant or unable to bring properties back into use. Under these circumstances, if there is an imminent risk to health and safety the council will consider a number of enforcement options.

The options available include, but are not limited to:

- **Enforced Sale** – Allows the council to force the sale of a property to recover debts owed to the council that are registered as a charge on the property.
- **Empty Dwelling Management Orders (EDMO)** – Enables the council to secure occupation and responsible management of some privately owned house and flats that have been empty for two years or more.
- **Compulsory Purchase Orders (CPO)** – Enables the council to purchase and sell an empty property for the purpose of providing housing accommodation or facilities connected to housing accommodation.

A summary of the various enforcement powers that are available to the council in respect of property maintenance and addressing long term empty concerns are described in Annex A

Delivery Plan

The success of this strategy will be measured against the delivery plan set out in Appendix Two.

Progress on the outcomes of this strategy (i.e. the number of empty homes that have been brought into use) will be reported annually to the Environment, Enforcement and Housing Committee alongside the update on the Council’s Housing Strategy delivery plan and performance measures.

Appendix One – Enforcement Powers

The following information confirms the legal powers that the Council has available to deal with the problems associated with Empty Homes. The powers to be used will depend upon the concern and the best legal route to secure the required action.

The Housing Act 1985

This Act empowers local authorities to acquire land, houses or other properties from private individuals, for the provision of housing accommodation. The acquisition must be shown to have a quantitative or qualitative housing gain. This power can be used to compulsorily purchase empty homes.

A raft of legislation supports this power including:

- Compulsory Purchase Act 1965 – to serve a Notice to Treat to acquire the property and post confirmation procedure,
- The Compulsory Purchase (vesting declarations) Act 1981 – to make a General Vesting Declaration under to acquire all necessary interests in the land and property included in the confirmed Compulsory Purchase order,
- Acquisition of Land Act 1981 - compulsory purchase procedure,
- Land Compensation Act 1961 - amount and assessment of compensation.

The Housing Act 2004

The Housing Act (HA) 2004 provides a number of options for a local authority to take action to bring an empty home back in to use. This includes:

- Improvement Notice (s11)
- Prohibition Order (s20)
- Hazard Awareness Notice (s28)
- Emergency Remedial Action (s40)
- Emergency Prohibition Order (s43)
- Demolition Order (s265 1985 Act as amended)
- Clearance Area (s289 1985 Act as amended)

The HA 2004 also granted local authorities a powerful tool for returning empty homes into occupation - Empty Dwelling Management Orders (EDMOs). EDMOs can enable local authorities to let out empty homes for up to 7 years, without the consent of the owner. The local authority will be able to carry out repair works on the property and recover their costs from the rental income. If however, the repair works are significant, the costs may not be able to be recovered during the maximum 7 year rental period. In this case, an EDMO would not be feasible. Consequently, analysis of all costs has to be undertaken before an EDMO should be applied for.

Building Act 1984

Sections 77 to 79 can be used to require the owner of a dilapidated and/or dangerous building to undertake remedial work for and sites or in emergency situations the local authority can carry out the works and later recover the costs of the works from the owner.

Town & Country Planning Act 1990

This legislation can be used to gain entry to or dispose of a property.

Environmental Protection Act 1990

Section 79 to 81 applies where a premises causes a health risk or nuisance and repair work is required to make it safe.

Prevention of Damage by Pest Act 1949

Section 4 might be used to serve a notice on the owner or occupier requiring reasonable steps to be taken to destroy rats and mice on the land.

Local Government (Miscellaneous Provisions) Act 1982

Section 29 is used where a property is not effectively secured against unauthorised entry or is likely to become a danger to public health. The local authority may undertake works to prevent unauthorised entry to the building or prevent it becoming a danger to public health.

This legislation may also be used to request information from the owners of properties and anyone (including companies) who have an interest in the property.

Anti-social Behaviour, Crime and Policing Act 2014

Local authorities can serve notices on owners of empty properties that are in a poor condition.

Public Health Act 1961

Section 34 allows local authorities to serve notice on an owner to remove a nuisance or gives local authority power to do so in the default of the owner.

The Local Government Act 2003

The Local Government Act 2003 has introduced the ability for local authorities to limit the reduction of council tax on holiday / second homes to 10%, reduce other empty property discounts and vary the discount exemption classes. The Act also enables councils to share council tax data between departments to make empty homes strategies more effective.

Local Land Charges Act 1975

Where an Owner has not complied with certain Statutory Notices, the local authority may undertake works in default of a Notice and recharge the cost of the works to the Owner. This debt may be registered as a Local Land Charge.

Law of Property Act 1925

Where there is a financial Charge registered in Part 2 of the Local Land Charges Register, a Local Authority has the power to enforce that Charge via the Enforced Sale Procedure.

The power to carry out an enforced sale is within the Law of Property Act 1925. This is essentially a method of debt recovery and a measure of last resort; however, it can be used as a tool for regeneration in certain circumstances. Section 20 of the Limitations Act 1980 sets out that enforced sales action must be taken within 12 years of the right to receive the money arising.

Human Rights Act 1998

When deciding whether to go forward with an Enforced Sale Procedure or Compulsory Purchase Order, consideration must be given to the Human Rights Act 1998. In particular, selling property belonging to a third party engages Article 8 of the Act, namely 'the right to respect for private and family life ..., home and ... correspondence.' Also, Article 1 of Protocol 1 is also engaged, namely '... the peaceful enjoyment of possessions ...' Therefore, interference is only permitted if

such action is considered proportionate. The individual's property rights have to be balanced against the general benefits to the community if the property were to be brought back into use.

Data Protection Act 2018

The Data Protection Act 2018 seeks to strike a balance between the rights of the individual and the competing interests of others with legitimate reasons for using personal data.