

## Report of the Assistant Director

## Compulsory Purchase Order 47 Albert Road

**1 Purpose of report**

The purpose of this report is to update members on developments with the compulsory purchase action in respect of 47 Albert Road, Wellingborough; to request that members approve the General Vesting Declaration (GVD) and property purchase, and delegate permission for officers to conclude the compulsory purchase process and subsequent sale of the property.

**2 Executive summary**

Following a prolonged history and attempts over many years to work with the owner of 47 Albert Road, Wellingborough to encourage refurbishment and reoccupation of the property, and the Services Committee decisions in July 2013 and 23 January 2018 to proceed with a compulsory purchase of the property, the case was referred to a Public Inquiry by the Planning Inspector on 4 February 2020. The case officer gave evidence on behalf of the council, although the owner failed to attend the hearing. The Planning Inspector announced their decision on 16 March 2020 and confirmed the Order. Council officers have now started the next stage of the process and committee approval is required to conclude the compulsory purchase process and subsequent resale.

**3 Appendices**

Appendix A: Site Plan

Appendix B: Planning Inspectors Decision

**4 Proposed action:**

- 4.1 **The committee is invited to RESOLVE that the General Vesting Declaration (GVD) is approved in respect of the Compulsory Purchase Order of 47 Albert Road, Wellingborough (and associated land as shown edged in bold in Appendix A) under Section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981.**
- 4.2 **The committee is invited to RECOMMEND that the compulsory purchase is concluded.**
- 4.3 **The committee is invited to RECOMMEND that all final decisions regarding the purchase and resale be delegated to the Assistant Director (Corporate Landlord) in conjunction with the Section 151 Officer.**

## **5 Background**

- 5.1 Following a number of complaints and unsuccessful attempts to work with the owner of 47 Albert Road, Wellingborough; in July 2013 Services Committee approved action to be commenced regarding the compulsory purchase of the property. Informal attempts continued to encourage the refurbishment and reoccupation, but these failed. At Services Committee in December 2014 approval was given to proceed with compulsory purchase of the property. A further update was provided to Services Committee on 23 January 2018.
- 5.2 Officers pursued the compulsory purchase action, whilst still trying to informally work with the owner. The case resulted in the Planning Inspector holding a Public Inquiry on 21 November 2019. This was adjourned as the objector failed to attend. A further Public Inquiry was scheduled for 4 February 2020. The objector again failed to attend but the Inspector continued with the Inquiry. Evidence was given by the council's lead officer and also by Counsel.
- 5.3 The Planning Inspector announced their decision to confirm the order on 16 March 2020.
- 5.4 Officers, in conjunction with the legal advisors (NPLaw), have progressed the next stages of advertising the decision and publishing the required notices, but now require Member approval to progress with the purchase and subsequent resale of the property.

## **6 Discussion**

- 6.1 It has proven impossible to date to engage constructively with the current owner, so informal discussions are no longer a feasible option. The current external condition of the property is poor and detracts from the general street scene. The front garden is overgrown and the front window is partially boarded up. Officers haven't been able to enter the property since October 2018, and at that time it was in poor cosmetic condition internally, with no signs of occupation. The last payment of Council tax was received in March 2006.
- 6.2 By proceeding to conclusion with the CPO and progressing with the GVD, this will bring the property back into suitable repair and condition, and will improve the local environment. It should also abate the number of complaints received over the years from local residents about the condition of the property.
- 6.3 Capital budget has been allocated to empty properties work, including compulsory purchases, and there is sufficient budget to cover the purchase, compensation, legal fees, and associated costs of completing this compulsory purchase. However, members should be aware that if the compulsory purchase is not concluded, all costs incurred to date cannot be capitalised and will have to be paid from revenue budgets.

- 6.4 If it is agreed that the CPO is to be concluded and a GVD progressed, the necessary legal work will be completed alongside a negotiation with the current owner to finalise the detail of the purchase of the property.
- 6.5 The subsequent resale of the property on the open market would allow recovery of the property's market value. Any resale of the property will need to have covenants attached requiring refurbishment and reoccupation of the property within a specific timescale. Alternatively, consideration could be given to the option of it being retained by the council for homeless accommodation.

## **7 Legal powers**

Section 226 of the Town and Country Planning Act 1990 and Section 17 of the Housing Act 1985 give local authorities the power to acquire buildings and land through compulsory purchase. The Planning Inspector has also now confirmed the Compulsory Purchase Order.

## **8 Financial and value for money implications**

- 8.1 For 2020/21 a capital budget of approximately £316,740 is available to address the issue of long-term empty dwellings in the borough.
- 8.2 The cost of implementing the compulsory purchase order will cover:
- a) The market value that must be paid for the property concerned;
  - b) a basic loss payment of 7.5% of market value (unless certain statutory notices have been served in respect of the property and they weren't complied with at the date the CPO was confirmed);
  - c) The costs associated with the public inquiry;
  - d) Newspaper notices;
  - e) Valuation Fees;
  - f) Land Registry search;
  - g) Legal fees of for the services of NP Law and Counsel;
  - h) Stamp Duty Land Tax;
  - i) Any costs of sale such as auctioneer's or estate agent's fees.
- 8.3 The costs listed in 8.2 c) to i) above can only be paid out of the capital budget if the CPO is completed and an asset is acquired for the council.
- 8.4 The costs of administering and enforcing the Order will be in part compensated by the following, although (d) and (e) are not cashable savings:
- a) Facilitating the recovery of any outstanding council tax due;
  - b) Payment to the council of a New Homes Bonus equivalent to the level of the council tax for the individual houses for a period of 4 years;
  - c) Saving of the cost of officer resources in responding to problems from, and complaints about the houses;
  - d) Eliminating the intensive, but unproductive, communications with the owner, who to date has not cooperated with the council.

## **9 Risk analysis**

- 9.1 Many of the attempted CPOs made on empty properties have not progressed to compulsory purchase because the owners have taken the necessary action to bring them back into use or have sold the property. As a result of this the revenue costs incurred, of approximately £3,700 per property, cannot be capitalised and paid out of the empty property capital budget. These costs then have to be paid out of existing revenue budgets which are closely monitored to mitigate the risk of overspending. Whilst CPO actions pose a risk to revenue budgets, there are significant wider community benefits in undertaking this work and the long term community investment benefits have to be balanced against the short term revenue risks.
- 9.2 If the council fails to pursue the proposed CPO it is likely that the problems caused by the property concerned, and potential associated negative publicity may arise.
- 9.3 The CPO has been confirmed by the Planning Inspector, so they are satisfied of the council's actions.
- 9.4 The council may not realise the CPO valuation of a property when it is re-sold resulting in a cost which needs to be covered by the capital budget. This risk is largely mitigated by obtaining an accurate valuation of the property prior to completion of the CPO. If a decision is made to retain the property as part of the homelessness strategy, capital would be required for refurbishment. However, there is a capital budget for this.

## **10 Implications for resources**

The empty property compulsory purchase order has been managed by NP Law in partnership with officers. This is because NP Law offer a specialist Compulsory Purchase Order service with has been used successfully in the past. It is possible that District Law may take over the final stages of the property transaction.

## **11 Implications for stronger and safer communities**

The action identified above will bring about improvement and reoccupation of an unsightly empty property which can blight an area, detract from neighbouring properties and become a focus for anti-social behaviour. It also delivers a positive message to residents that the council will take action where necessary to invest in improving the environment. This can also assist obtain swifter results through informal actions with owners of other similar properties. This particular property had been the subject of complaints about its appearance, alleged rodent activity, and related issues over a number of years. Bringing empty properties back into use also assists meet demand for housing in the borough.

**12 Implications for equalities**

None identified.

**13 Author and contact officer**

Matt O'Donnell, Team Leader (Health Protection)

**14 Consultees**

Vicki Jessop – Assistant Director  
Adrian Piper – Assistant Director (Corporate Landlord)  
Amanda Wilcox – Principal Environmental Health Manager  
Victoria Philipson – Principal Property and Projects Manager  
Julie O'Connell – Finance Manager

**15 Background papers**

Services Committee Reports of:

- [15 July 2013](#)
- [15 December 2014](#)
- 23 December 2018



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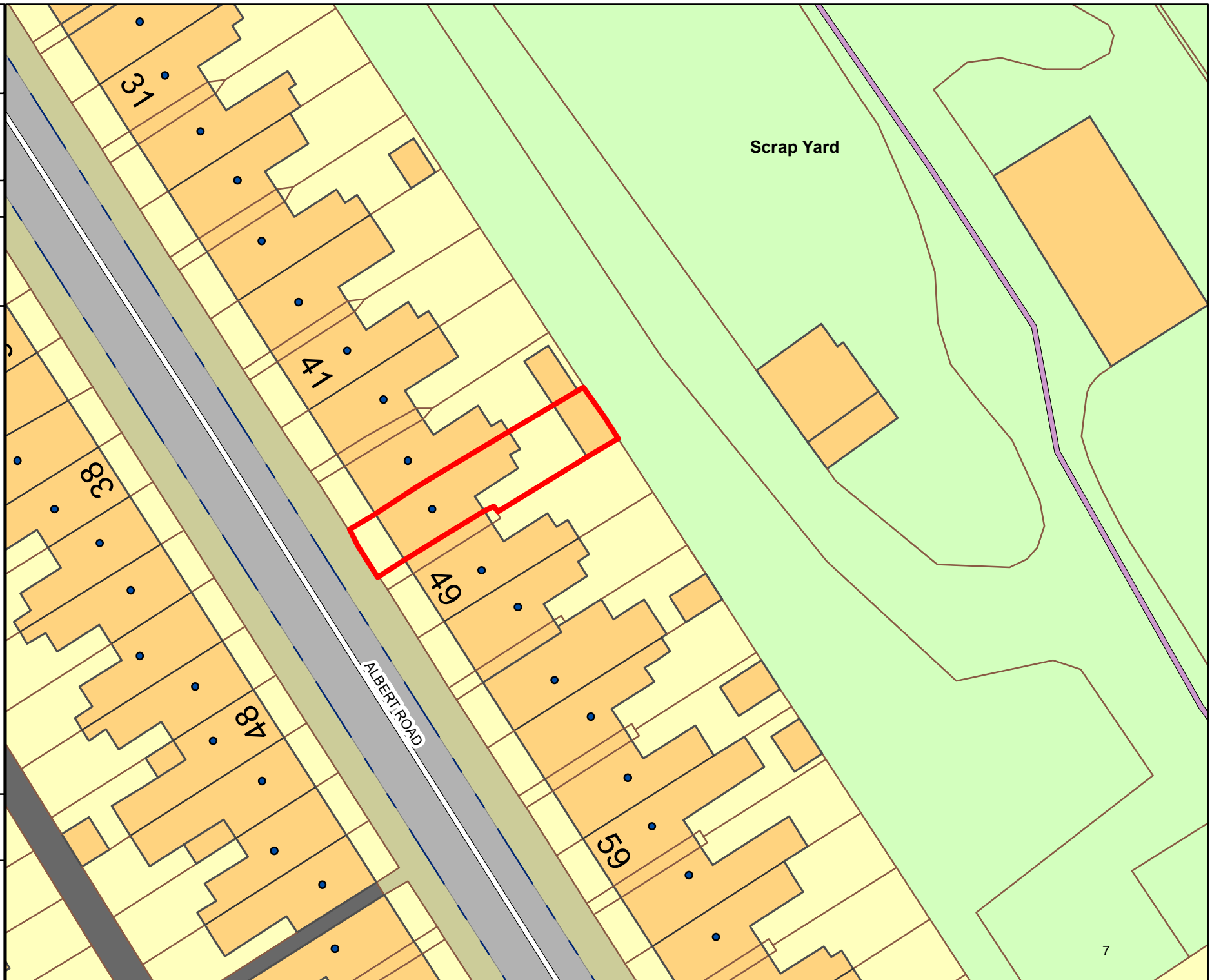
Environmental Services

 47 Albert Road  
Wellingborough

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# Compulsory Purchase Order Decision

Inquiry held on 21 November 2019 and 4 February 2020

Site visit made on 4 February 2020

**by Jo Dowling BA(Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State for Housing, Communities and Local Government**

**Decision date: 16 March 2020**

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**Case Ref: PCU/CPOH/H2835/3205775**

**47 Albert Road, Wellingborough, Northamptonshire NN8 1EL**

- The Borough Council of Wellingborough (47 Albert Road, Wellingborough) Compulsory Purchase Order 2018 was made under section 17 of the Housing Act 1985 and the Acquisition of Land Act 1981 by Wellingborough Borough Council. The purpose of the acquisition is the provision of housing accommodation
  - There is one objection, from Ms Patel.
  - The main grounds of objection are the objector intends to have both gardens tidied; have the work listed on the purchase order completed; needs a period of time to make these arrangements and intends to live in the property long term.
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## Decision

1. The Borough of Wellingborough (47 Albert Road, Wellingborough) Compulsory Purchase Order 2018 is confirmed.

## Procedural Matter

2. The Inquiry was originally opened by Mr Philip Asquith on the 21 November 2019. However, neither the objector nor a representative of theirs was present. As a result, the Inquiry was adjourned to allow them the opportunity to attend. Prior to re-opening the Inquiry emails were sent to the Objector to remind them of the date, time and place of the Inquiry. The Inquiry re-opened on the 4 February 2020. Again, neither the Objector nor a representative of theirs was present. Having opened, the Inquiry was briefly adjourned, and the Case Officer at the Planning Inspectorate made attempts to contact the Objector. However, when it became clear that they would not be attending the Inquiry, the Inquiry proceeded in their absence. At both Inquiries an interpreter was available to support the Objector.

## Application for costs

3. An application for costs was made by Wellingborough Borough Council against Ms Patel. This application will be the subject of a separate decision letter.

## Reasons

### **Background**

4. 47 Albert Road is a two-storey mid terraced property located on the east side of Albert Road. It is a brick-built building with tiled roof and ground floor bay window. The front garden is heavily overgrown, and the front bay window is

partially boarded over. As a result, the house has a poorly maintained appearance which is at odds with other houses in the street.

5. Section 17 of the Housing Act 1985 empowers local housing authorities to compulsorily acquire land, houses and other properties, for the provision of housing accommodation where acquisition would achieve a quantitative or qualitative housing gain.

***Is there policy support and justification for the acquisition?***

6. Empty homes represent an underutilised resource which can also result in nuisance. In this regard, No 47 has been empty for a number of years and there have been numerous complaints made regarding the fact that it is vacant and has been allowed to fall into disrepair; the overgrown nature of the front and rear garden and rodent infestations, albeit that the Objector disputes the validity of the latter matter.
7. The National Planning Policy Framework (the Framework) states that Councils should promote and support the development of under-utilised land and buildings, especially if it would help to meet the identified needs for housing (paragraph 118). Bringing empty homes back into use, supported by compulsory purchase powers, where appropriate is seen as one method of achieving this (Footnote 45).
8. Paragraph 2 of the Government's '*Guidance on compulsory purchase process and the Criche Down Rules*' (2019) (the Guidance) confirms that a Compulsory Purchase Order (CPO) should only be made as a last resort, where there is a compelling case in the public interest. It states (paragraph 140) that compulsory purchase of empty properties may be justified as a last resort in situations where there appears to be no other prospect of a suitable property being brought back into residential use.
9. The Council's Private Sector Housing Policy 2020-2022 aims to proactively work with owners of empty properties to bring them back into use. However, where informal approaches are unsuccessful the Council will seek to take enforcement action, including compulsory purchase action where necessary. This approach is consistent with the Framework and the Guidance. Furthermore, through its submissions the Council has indicated that there is a need for three-bedroom family accommodation within the borough which No 47 could help to address.
10. I consider that the making of the Order would assist in addressing the local need for family housing and consequently would comply with national guidance. Moreover, given the location of the site within an established residential street well located in relation to various services and facilities I consider that this is a suitable location to promote housing.
11. The acquisition would also bring wider benefits. At the moment the property detracts from the character and appearance of Albert Road as it is visually unattractive, and the Council has concerns that if it continues to remain neglected that it could become the focus of antisocial behaviour. I consider that if the residential use of the property was resumed that these concerns would be addressed.
12. Consequently, I therefore consider that there is support and justification for the acquisition.

***Is there a reasonable prospect of the residential reuse occurring?***

13. To bring the property back into residential use a significant amount of work would need to be undertaken.
14. Despite having been offered financial support through two Council funded renovation grants the Objector has not managed to undertake the works and whilst they have asserted that they only require time in order to undertake the works I am not confident that, if given a further period of time, the residential use would resume within a reasonable timescale.
15. In assessing this aspect, I have had due regard to the Objector's health issues and, mindful of my obligations under the Public Sector Equality Duty (PSED), I have given them significant weight in my reasoning. However, I have no clear indication as to when they would be in a position where they could either undertake or manage the works to the property that would be required. As a result, I see no reason why these concerns should lead me to a different view in this instance.
16. In contrast the Council has demonstrated that they have a proven track-record of tackling schemes such as this. It proposes to sell the property, with the imposition of a covenant requiring the property to be brought back into use within a reasonable period after completion. It also demonstrated that it had the money available to pay for the works, and whilst it hoped that the costs would be covered when the property was eventually sold, that was not essential. I therefore consider that if acquired by the Council there would be a more than reasonable prospect of the residential reuse occurring.

***Have the CPO Powers been used as a last resort?***

17. The Guidance (paragraph 140) states that a CPO should only be used as a last resort. It is clear from the evidence that I have read and heard that the Council have been working unsuccessfully with the objector over a very lengthy period to try and do all that they could to bring the house back into use. Amongst other things this has included to agreeing to hold the Order in abeyance for a six-month period and offering a grant towards the cost of the works.
18. Given the lack of progress made by the Objector in this regard and the timescales involved, I consider that it is reasonable to assume that the serving of the CPO was not used prematurely but was used as a last resort.

***Whether the interference with the objector's human rights would be justified?***

19. The compulsory acquisition of No 47 would represent an infringement of the Objectors rights under Articles 1 and 8 of the First Protocol, of the European Convention of Human Rights (the EHCR), as incorporated into UK national law by the Human Rights Act 1998. Article 1 concerns the protection of private property and Article 8 concerns respect for private and family life. But the rights granted by these provisions are 'qualified' rights and therefore in some circumstances, including where it is considered necessary in the public interest, interference in these rights is considered permissible.
20. In this case, although the Objector advocates a desire to live at the property long term, the reality is that to do so it would need to be returned to a

habitable condition and there appears to be no prospect of this happening without the intervention now proposed. The Council has also provided evidence that the Objector has an alternative home and consequently I do not consider that the acquisition of No 47 would result in them being made homeless. Finally, they would be compensated for the loss of this property in accordance with the statutory code. As a result, I consider that the extent of the infringement on the Objector's rights would be limited.

21. Conversely, as previously outlined the compulsory acquisition of this property would help meet a local housing need and would also contribute to improving the quality of the borough's housing stock. Consequently, the acquisition would accord with the aims of the enabling legislation in the Housing Act 1985. Furthermore, for the reasons set out above the confirmation of the Order would also serve the wider public interests of the local community.
22. On the basis of what I have read and heard, I am not aware of an alternative solution, in place of compulsory acquisition, which would serve the same purposes. I therefore consider that the confirmation of the Order would represent a proportionate response to the issue and thus the interference with the Objectors rights under the ECHR would be justified.

### **Conclusion**

23. Acquisition of the property, and its subsequent resale and refurbishment (in whichever order) would achieve a quantitative and qualitative housing gain in line with national policy, by returning this long-term empty property to beneficial and needed residential use and improving the character and appearance of the road. Having regard to the submission and mindful the Objector has not been able to resolve the situation for many years I have no reason to consider the dwelling would be brought back into use in the foreseeable future unless the Order is confirmed. I therefore find there is a compelling case in the public interest that sufficiently justifies interfering with the Objector's human rights as landowner and supports acquiring the property through CPO powers. In coming to this conclusion I have been mindful of my obligations under the PSED.
24. For the reasons given above, and having regard to all matters raised, I therefore confirm the Order

*Jo Dowling*

Inspector

## **APPEARANCES**

### FOR THE ACQUIRING AUTHORITY

Jack Parker

They called:

Matthew O'Donnell BSc Environmental Health Officer with the Council

### FOR THE OBJECTOR

No one appeared

## **DOCUMENTS SUBMITTED AT INQUIRY**

1. Borough Council of Wellingborough Private Sector Housing Policy 2020-2022
2. Bundle of documents in relation to 101 Lower Adelaide, Northampton NN2 6BB
3. Closing submission on behalf of Wellingborough Borough Council
4. Photographs of 47 Albert Road taken on 3 February 2020
5. Application for costs on behalf of Wellingborough Borough Council

