


<b>Agenda Item No:</b>	10	
<b>Committee:</b>	Cabinet	
<b>Date:</b>	18 March 2024	
<b>Report Title:</b>	To approve to progress legal action for a Compulsory Purchase Order (CPO) utilising the Town and Country Planning Act powers for a long-term empty property in March	

**This item comprises EXEMPT INFORMATION Appendix B which is not for publication by virtue of Paragraphs 1 and 2 of Schedule 12A of the Local Government Act, 1972 (as amended).**

Cover sheet:

**1 Purpose / Summary**

- 1.1 To understand the reasons why it is felt necessary to take legal action to CPO, Willow View, The Chase, March, PE15 9RJ in order to bring a long-term empty property back into use and address community concerns.

**2 Key Issues**

- 2.1 The Council has been unable to resolve bringing a long-term empty property at The Chase, March back into use for many years. This has included taking enforcement action and incurring costs in doing so.
- 2.2 The property has been subject to community complaints with regard to Anti-Social Behaviour as well as environmental concerns relating to its deterioration on a popular walkway in the town.
- 2.3 Following referral to the Problem Properties Working Group all other powers to resolve the issues at the property and get it back into use would not help resolve the situation.
- 2.4 This is predominantly because of the family not requesting probate from the late owner's estate.
- 2.5 The recommendation from the working group was that the property should be CPO as that will enable action to be taken to get the problems identified resolved.
- 2.6 Legal assessment has confirmed that there is a good case for a CPO to be sought on the property.
- 2.7 It is proposed that a CPO utilising a power available in the Town & Country Planning Act 1990 should be utilised to secure the CPO.
- 2.8 If the CPO is secured, then the intentions will be to get the property back into use as well as recover the costs incurred by the Council through implementation of an agreed option which will include immediate disposal or refurbishment / redevelopment by the Council. This to be done in accordance

with the Council's Asset Management approach, Commercial Investment Strategy and Procurement Policy.

### **3 Recommendations**

- 3.1 That Cabinet resolves to make, seek confirmation of and implement a compulsory purchase order (CPO) pursuant to s226(1)(a) of the Town and Country Planning Act 1990 (TCPA) and the Acquisition of Land Act 1981 and all other enabling powers in relation to Willow View, The Chase, March. PE15 9RJ ("the Property") which is shown edged red on the plan attached to Appendix A, for the purposes of improvement.
- 3.2 That the Cabinet resolves that the Council seek to acquire the Property whether compulsorily using the statutory powers or by voluntary agreement.
- 3.3 That the Cabinet delegates authority to the Monitoring Officer and Corporate Director to:
  - To take all necessary steps to secure the preparation, making, and submission to the Secretary of State for confirmation and implementation of the CPO including (but not limited to); the publication and service of all statutory notices; the investigation of and response to objections (including the negotiation and completion of any necessary agreement and undertaking in order to secure the removal of objections to the CPO); and the presentation of the Council's case at any public inquiry or via written representations and all other associated procedural steps .
  - To acquire the Property whether by voluntary agreement or compulsorily using the statutory powers section s226(1)(a) Town and County Planning Act 1990 and Acquisition of Land Act 1981
  - To determine the form and contents of the CPO and the statement of reasons accompanying the CPO and to finalise the same.
  - Take all appropriate actions for making amendments, modifications and deletions to the CPO and plan including updates and corrections to the draft as necessary to finalise and secure confirmation of the CPO.
  - Issue and serve any warrants to obtain possession of the Property once acquired following execution of a General Vesting Declaration or service of a Notice of Entry if it is necessary to obtain vacant possession.
  - Suspend or abandon the CPO proceedings or withdraw the CPO in relation to all or part of the Property.
  - Take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting, or defending proceedings.
  - Take all other necessary action to give effect to these recommendations.

Wards Affected	March south
Forward Plan Reference	
Portfolio Holder(s)	Cllr Chris Boden (Leader & Finance) Cllr Sam Hoy (Housing) Cllr Dee Laws (Planning)
Report Originator(s)	Dan Horn (Assistant Director) Lorraine Moore (Empty Homes Officer) Jo Evans (Housing Compliance Manager)
Contact Officer(s)	Dan Horn (Assistant Director) Carol Pilson (Corporate Director)
Background Papers	Section 226(1)(a), Town & Country Planning Act (TCPA) 1990

## **1 REASONS FOR EXEMPTION**

- 1.1 Appendix B is NOT FOR PUBLICATION in accordance with Paras 1 and 2 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to sensitive personal information. The public interest test has been applied to the information contained within this exempt report and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

## **2 BACKGROUND AND INTENDED OUTCOMES**

- 2.1 This cabinet paper relates to a long-term empty detached bungalow known as Willow View; one of three similar dwellings having private vehicular access via a link public footpath between Gaul Road and March Park, known as The Chase. The Property has been empty since 8 January 2015 when the last owner passed away.
- 2.2 The Property has been the subject of multiple service requests into a variety of teams (Community Safety, Streetscene, Private Sector Housing (PSH), Refuse and Cleansing), community representations to local Councillors due to complaints by neighbouring residents and other members of the community that this empty property was subject to Anti-Social Behaviour (ASB).
- 2.3 After several years of trying to resolve the issues raised from a multi team approach due to a variety of legal issues relating to the ownership of the property it has been concluded that only a CPO is likely to bring the property back into use.

## **3 REASONS FOR RECOMMENDATIONS**

- 3.1 February 2019 - Enquiry from Cllr French into Private Sector Housing (PSH) team following reports that youths were trespassing Willow View and causing anti-social behaviour.
- 3.2 Upon investigating the complaint, the PSH team established that the Property had been broken into and that the youths were visiting the premises after school.
- 3.3 Appendix B sets out as an exempt annexe the engagement with interested parties. In summary over a 5-year period the Council has been unable to secure a realistic action plan to bring the property back into use leaving all parties to agree that a CPO seems the only way forward to resolve the problem affecting the community and the town.
- 3.4 The Property is a Victorian detached dormer bungalow, of solid brick construction, on a good-sized plot of land and accessed via a public footpath to the town centre with restricted vehicular access to the front elevation. There are footings laid for an approved single storey extension, in front of which is a double garage. Due to the neglect the Property has not only suffered damage caused by unauthorised entry, as explained above, but the main structure has deteriorated, and the roof of the garage has fallen in.
- 3.5 Whilst its original refurbishment over 7 years ago, resulted in the Property being watertight, with all windows having been replaced, the installation of metal window and door guarding, (required to prevent unauthorised access),

unfortunately this will require further replacement to bring the Property into a habitable condition. In addition, the roof tiles and rainwater goods, which are original, will need replacing, and due to its current EPC rating (F38), the Property will require a full energy efficiency upgrade throughout. Whilst there was evidence that a modern boiler had been installed, this has been ripped out, presumably by the trespassers and there has been damage caused to the internal partition plasterboard walls. During inspections, officers have not witnessed the presence of a functional kitchen, but there is a room with appropriately sited sockets. There are no functioning bathroom facilities throughout.

- 3.6 Need for a CPO: In considering the Council's commitment to bringing empty homes, particularly those with a Long-Term Empty status, back into use, this case is a key member priority and in considering the attached options, it is no longer appropriate to continue pursuing a voluntary solution.
- 3.7 There is no indication that any further delay to CPO action would be beneficial, and it is therefore not in the public interest, particularly since the Property has already been empty for several years.
- 3.8 Consequently, CPO is the only realistic option and is both appropriate and necessary as a last resort, to ensure that the property is returned to beneficial use within a reasonable timescale.
- 3.9 Without the intervention of the Council the property will remain empty for an unknown length of time. However, during the CPO process the Council will remain open to voluntary purchase and look to pursue this where the power of sale can be established via a grant of probate or letter of administration.
- 3.10 As mentioned above the property is visually deteriorating and is attracting anti-social behaviour and vandalism which is a blight on the local community and environment. This is negatively affecting the neighbours' enjoyment of their properties. The access road is also a public right of way, and its' dilapidated and unsightly condition is visible to users of that route. A CPO will enable the physical appearance of the Property to be brought in line with the neighbouring properties which will increase the environmental, economic and social wellbeing of the area.
- 3.11 As the Property continues to be unoccupied and is in a derelict state with no evidence that this will change in the foreseeable future the Council believes there is no other prospect of the property returning to beneficial use without a CPO.

#### **4 CONSULTATION**

- 4.1 The views of the community living in and around this problem property has been taken into account and they are resolute in wanting a solution to be found to bring the property back into use.

## **5 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 All other powers have been considered as an alternative but for the reasons set out above, centred around the ownership issues means CPO is deemed the only action that will bring a solution.
- 5.2 In terms of CPO powers both the TCPA and Section 17 of the Housing Act 1985 were considered. Both pieces of legislation can be applied but the TCPA gives the most flexibility in terms of meeting criteria required.

## **6 IMPLICATIONS**

### **6.1 Legal Implications:**

- 6.2 The legal process for the CPO order requires the Council to carry out due diligence before making a formal application to the Secretary of State. This includes consideration of the Equality Act 2010 (Protected Characteristics), Human Rights Act 1998 (Article 1 & 8) and the Land Compensation Act 1961 & 1973 which must be detailed in a Statement of Reasons report and approved by the LA's delegated officer before submission.
- 6.3 The Council is obliged to act in a way which is compatible with the European Convention on Human Rights. The Convention Rights relevant to compulsory acquisition are as follows:
- Article 8 (of the Convention). This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well being of the country.
  - Article 14 (of the Convention). This protects the right to enjoy rights and freedoms in the Convention free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or national or social origin.
  - Article 1 (of the First Protocol). This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws.
- 6.4 The Council considers that there is a compelling case in the public interest for the acquisition of the Property. The Council has made numerous attempts to engage with the deceased's family but this has not yielded any progress in confirming ownership and power of sale or in the renovation of the Property which is in a very poor condition. Since it has not been possible to confirm ownership or a party legally able to administer the estate of the deceased (noting there is no timescale for the acquisition of probate by the deceased's family) the Council considers that the benefits of the acquisition of the Property, which could not be reached by voluntary agreement, outweighs the loss that that will be suffered by the CPO.

- 6.5 The Order is therefore considered to be compatible with the European Convention on Human Rights as there is compelling public interest to compulsorily acquire the Property, and any interference with the human rights is legitimate and in the public interest.
- 6.6 The Council has had due regard to its Equalities Duties as specified under section 149 of the Equality Act 2010 to date and will continue to do so throughout this matter. In taking the decision to make the CPO, the Council considers that the proposal is fully compliant with the Equality Act.
- 6.7 The Council considers the Order to be compatible with the Public Sector Equality Duty and will not have a significant negative impact upon protected groups. The Property is not used disproportionately by any group with protected characteristics as it is currently empty.
- 6.8 As it is possible the deceased's family may be able to apply for a grant of probate or letters of administration the potential health issues have been carefully considered. It is understood as of March 2022 that one family member has been in hospital. However, it has not been possible to verify this and no information on the nature of the health condition is known. It has been considered what steps or action might be required to mitigate any inequality caused by these potential health issues. Additional time (over 18 months) to progress the probate has been given since the Council were advised of the hospital stays. As no specific detail on how the significant health issue affects the family member's everyday life and ability to progress the probate and there has been limited response to attempted engagement it has not been possible to identify any further action to be taken. Equally, it has not been possible to justify delaying the CPO any further.

## **6.9 Financial Implications**

- 6.10 Officers have identified a CPO legal specialist who are experienced in working with Councils' with similar cases. The fixed fee for a non-contested CPO is £3,500 plus VAT plus disbursements. (If contested or if there are complications; legal work will be charged at the hourly rate of £145 plus disbursements and it could prove necessary to instruct Counsel)
- 6.11 If Next of Kin agree a sale before the order is made the price quoted will still need to be paid.
- 6.12 **Estimated costs of a CPO:**
- Legal Costs- The fixed fee charged is £3,500 plus disbursements (If contested or if there are complications; legal work will be charged at the hourly rate of £145 plus disbursements and it could prove necessary to instruct Counsel)
  - Land Registry Searches and Costs – est. £250.00
  - Newspaper Adverts – est. £2,000.00
  - Possession Costs (Locksmith) – est. £150.00
  - Stamp Duty Land Tax (dependant on value on vesting date but it could be in the region of £4,800.00)

### 6.13 **Estimated compensation:**

- Land Acquisition/Market value – est. £140,000.00 - £160,000.00
- Disturbance (normally where someone needs to move as a result) – estimate £10,000.00 plus dependant on reasonable disturbance evidenced (where the CPO is for an empty property this is dependent on whether the property is an investment property and whether a new property is purchased within 1 year of the vesting date)
- Basic Loss Payment - £12,000.00 (exempted if a s215 notice is served and not complied with at the relevant date)
- Surveyors/ Solicitors fees – est. £10,000.00 plus dependant on reasonable fees evidenced.
- The valuation date for the purposes of compensation will be a future date in the CPO process and so the valuation will be dependent on the property and market conditions at that time. There can be no guarantee that the value will be in the region of £160,000.00 on the future vesting date.
- As part of the CPO the Council are required to provide compensation to the estate of the deceased owner. As no probate has been granted, we cannot compensate the beneficiaries of the estate until they prove they have an entitlement, and this can only be achieved by applying for probate.

6.14 The Council has made provision for the costs associated with CPO action.

6.15 The funding will be provided from the facility agreed to take forward our Commercial and Investment Strategy.

### 6.16 **Proposals for the Property:**

6.17 Once the Council has control of the property the focus will be:

- to recover the costs incurred for the enforcement and CPO work undertaken to conclude a CPO. An option appraisal will be undertaken to ascertain the best option for the property in accordance with our normal approach to asset management linked with our commercial investment strategy. A cross check to ensure we abide with all requirements of the CPO will be part of the appraisal process.
- Working to bring the property back into use as quickly as possible.
- The options include:
  - Via public auction, the sale to include conditions requiring the satisfactory renovation and occupation of the premises within a reasonable timeframe.
  - Renovate it prior to selling or renting with a yield return. It is not considered that renovation of the Property will require planning permission.
  - Knock down and redevelop subject to planning restrictions. If you follow the link, you will find the 2015 planning application for Willow View, where Highways clearly outline their concerns



regarding vehicle access and why they would want to limit this in the Chase because it is a public footpath.

[F/YR15/0184/F | Erection of a single-storey extension to side of existing dwelling involving the demolition of existing garage, side lean-to extension and chimneys | Willow View The Chase March Cambridgeshire PE15 9RJ \(fenland.gov.uk\)](#)

In 2022 the owner of the garages adjacent to the left side of Willow View applied to demolish the garages and erect a new dwelling. This was granted permission on appeal to the Planning Inspectorate to redevelop the garages into a single dwelling (May 2023)

6.18 The option progressed will then be undertaken taking into account and adhering to the Council's procurement policy.

### **6.19 Equality Implications**

6.20 See legal implications above.

## **7 SCHEDULES**

Appendix A – Site Plan

Appendix B – Exempt Annex reasons for recommendations


**Legend** Cabinet 0324 CPO: Appendix A

**Lines**

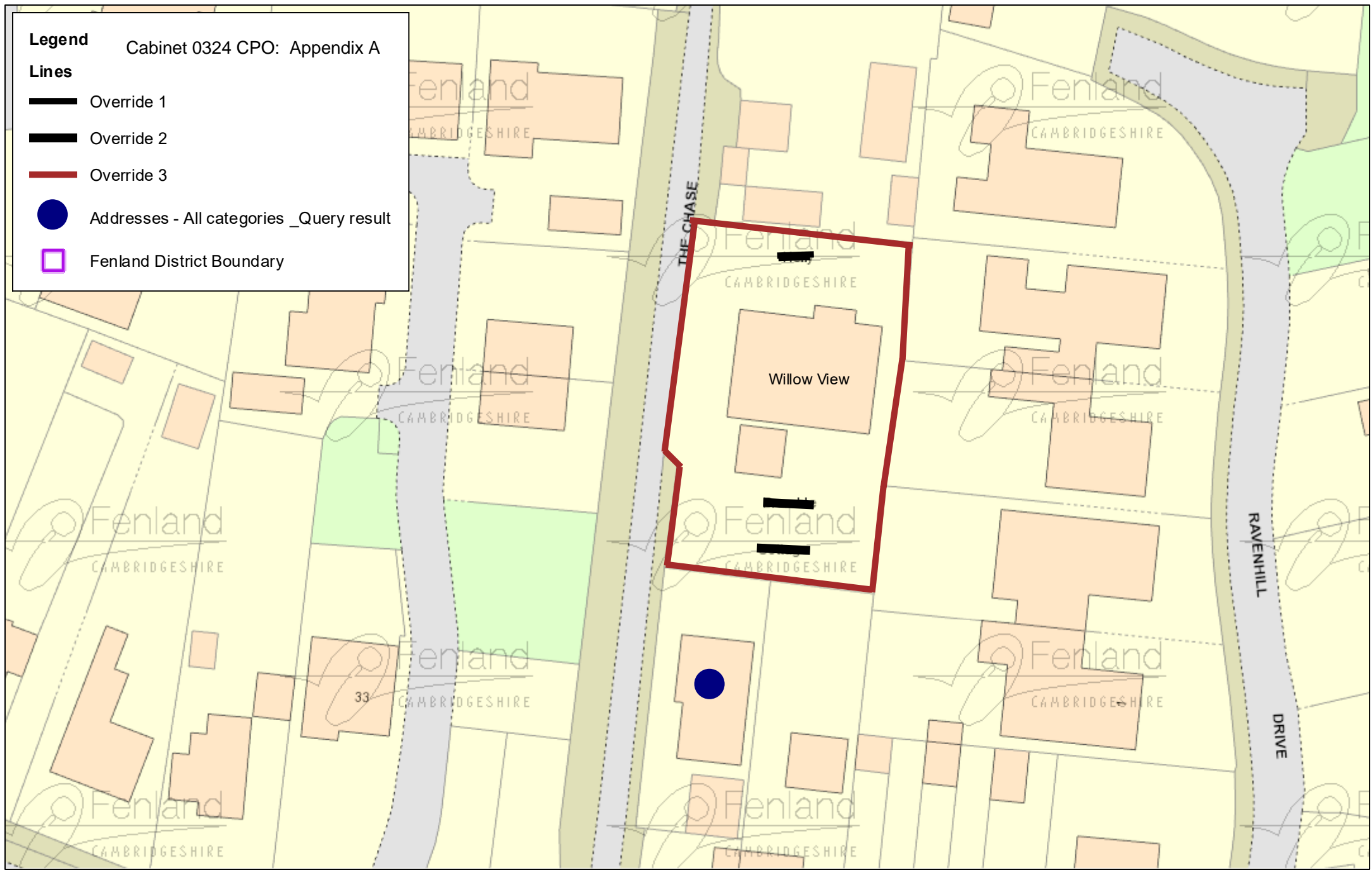
 Override 1

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 Addresses - All categories \_Query result

 Fenland District Boundary



Created on: 13/02/2024

**FDC Web Map**

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