



DERBY CITY COUNCIL

**COUNCIL CABINET  
4 SEPTEMBER 2007**

**ITEM 8**

Cabinet Member for Neighbourhood, Social  
Cohesion and Housing Strategy

**Compulsory Purchase of Nos 22/23/24 Leopold Street and  
Nos 2, 3 and 4 Arboretum Square**

**SUMMARY**

- 1.1 In furtherance of the objectives of the Hartington Street Renewal Area, it is considered that there is a compelling case in the public interest for the compulsory acquisition by the Council of the properties 22, 23 and 24 Leopold Street and numbers 2, 3 and 4 Arboretum Square under the relevant provisions of the Local Government and Housing Act 1989.
- 1.2 Subject to any issues raised at the meeting, I support the following recommendation.

**RECOMMENDATION**

- 2.1 That the Council makes a Compulsory Purchase Order under s93(2) and s93(3)(a), (b) and (c) of the Local Government and Housing Act 1989 for the acquisition of the Properties 22, 23 and 24 Leopold Street and 2, 3 and 4 Arboretum Square as shown coloured red on the plans attached in Appendix 2, for the purpose of transfer to a Housing Association for the purposes of renovation and reoccupation and in particular to: improve the safety and security of residents; tackle antisocial behaviour; improve the image of the area; improve housing conditions; improve environmental conditions and attract private investment to help fund improvements.
- 2.2 That the Corporate Director - Corporate and Adult Services be authorised to:-
- a) Take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any public inquiry;
  - b) To acquire interests in the Properties within the Compulsory Purchase Order either by Agreements or compulsorily; and;
  - c) Approve agreements with landowners setting out the terms for the withdrawal of objections to the order, including where appropriate seeking exclusion of land from the order and/or making arrangements for re-housing or relocation of occupiers;

- d) Take all necessary action to acquire and obtain possession of the properties included in the Compulsory Purchase Order either compulsorily or by agreement and to deal with all matters relating to the payment of compensation and statutory interest.
- e) Take all other necessary action to give effect to these recommendations.

<b>REASON FOR RECOMMENDATIONS</b>
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- 3.1. All the properties included in the CPO are within the Hartington Street Renewal Area designated in 2002. The designation of the Renewal Area was due to a gradual deterioration in the standard of housing in the area over a number of years which had resulted in numerous empty properties and others, many in multiple occupation, where limited investment and poor management had resulted in dilapidation, worsening housing standards and associated social problems such as vandalism and substance abuse and general worsening of the environmental quality.
- 3.2 The properties included within the CPO are those most affected by the conditions described above and it is therefore considered necessary for the Council to use its compulsory purchase powers to acquire those properties under s93 of the Local Government and Housing Act 1989 to secure the objectives of the Renewal Area.
- 3.3 The Renewal Area Strategy of the Council sets out six main objectives which are to:-
  - a) Improve the safety and security of residents
  - b) Tackle anti-social behaviour
  - c) Improve the image of the area
  - d) Improve housing conditions
  - e) Improve environmental conditions.
  - f) Attract private investment to help fund improvements
- 3.4 The Leopold Street properties have been unoccupied for a number of years and will require substantial financial investment to bring them up to a habitable condition. The Arboretum Square properties are converted into small flats but again substantial sums will be required to bring them up to reasonable habitable standards.
- 3.5 A Housing Association has been identified which would be interested in carrying out the necessary refurbishment work and bringing the properties back into housing use at the earliest opportunity.
- 3.6 Exhaustive efforts have been made by the Council over recent years to either persuade or compel through statutory procedures the owners to improve the properties as well as offering to purchase the properties by agreement. However, any improvements achieved have been short term and of barely adequate quality but the owners have been unwilling to sell the properties to the Council.

- 3.7 Therefore, it is considered that it is in the public interest, as a last resort, to acquire the properties compulsorily as the only means of securing acceptable improvements to the properties in furtherance of the Renewal Area objectives and provide a good standard of housing accommodation for which there is a demonstrable need. The current owners have either been unwilling or unable to make the necessary improvements.



## **Compulsory Purchase of Nos 22/23/24 Leopold Street and Nos 2, 3 and 4 Arboretum Square**

### **SUPPORTING INFORMATION**

- 1.1 No 22, 23, and 24 Leopold Street date from the early part of the 20<sup>th</sup> century and are of 3 storeys with small forecourts and small gardens/yards to the rear with various outbuildings. Originally built as three houses within a short terrace they have over the last 20 years or so been in various forms of multiple occupation and numbers 22 and 23 were converted into one premises approximately 15 years ago to be used as a guest house. Council records indicate that the properties began to be vacated around 2000 and were completely empty by 2002. When occupied, the properties were of substandard condition and poorly managed and the source of regular complaint from occupants. Enforcement action has been taken over the years but has not led to any long term improvement of conditions.
- 1.2 Since becoming empty there have been regular complaints from local residents about the use of the properties for fly-tipping and anti-social behaviour. The properties are now boarded up and secure but full of refuse. No. 24 Leopold Street was also badly fire damaged with much of the roof now missing and structural damage to the main brickwork.
- 1.3 The Arboretum Square properties are situated within the Arboretum Conservation Area. No.2 is one of a pair of semi-detached properties converted into three self-contained flats with the benefit of planning permission. Nos 3 and 4 are a pair of semi-detached houses each converted into 5 small self-contained flats.
- 1.4 The Housing Association would propose to reinstate the Leopold Street properties as 3 large family houses for rent. There would be a similar proposal for 2 Arboretum Square. Nos 3 and 4 Arboretum Square would be most likely converted to provide a total of 6 one bedroom flats for either rent or shared ownership. Alternatively, these properties could also be reinstated as large family housing for rent, depending on housing need.
- 1.5 The Corporate Director for Regeneration and Community has advised that where required, planning permission would be forthcoming for the above proposals as improvements to the amenity of the area. As well as being in the Arboretum Conservation Area, the Arboretum Square properties are on the Council's local list of buildings of historical/architectural importance. Any demolitions in Arboretum Square would require Conservation Area Consent but this is only likely to apply to dilapidated outbuildings and would therefore be likely to be granted. The proposal

would be entirely in accordance with the City Council's Development Plan and therefore there is no planning impediment to it being implemented.

- 1.6 In accordance with advice in Government Circular 06/04 negotiations with the current owners will continue but it is considered that the compulsory purchase order should be made in order to secure the improvement and re-use of the properties in furtherance of the Renewal Area objectives. The likely timescale of several months from the making of the Order to its confirmation by the Secretary of State will therefore still allow an adequate opportunity for owners to sell to the Council by agreement. This will allay the concerns of the two owners of one of the properties within the proposed Order who have made it known that they will be out of the country for several weeks but are now keen to re-open negotiations with the Council.
- 1.7 There are currently approximately 10,000 applications for re-housing on the Housing Register as well as 370 homeless households for whom a homeless duty has been accepted, thereby entitling them to an offer of suitable permanent accommodation. Another 48 possible homeless households are pending investigation. There is therefore a demonstrable housing need, in particular for large family housing within this particular part of the City. The most recent Housing Needs Study revealed a need for 41 such houses and therefore there is an identified need for the housing to be provided.
- 1.8 It is considered that suitable and sufficient accommodation in the private rented sector can be found for any occupants of the affected properties who require re-housing.
- 1.9 The proposals are entirely in accordance with the Government policy on Renewal Areas, in particular Circular 05/03: Housing Renewal.

#### **OTHER OPTIONS CONSIDERED**

- 2.1 There are no other options considered, as this report only relates to the acquisition of properties.

<b>For more information contact:</b>	Officer Tel e-mail
<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial**

- 1.1 Funding for the purchase of the properties is available from the Council's Housing Capital Programme, specifically from resources available for projects in the Rose Hill Market Renewal Area, which includes Leopold Street and Arboretum Square.
- 1.2 The properties will be sold in an immediate back-to-back arrangement with Home Housing Association, the receipt being recycled into the Housing Capital Programme. Home Housing Association are extremely confident of securing grant funding from the Housing Corporation to assist with these acquisition and refurbishment costs. In the event that the Housing Corporation are unable to support the project the Council are in a position to offer gap funding to ensure that the proposals are financially viable.
- 1.3 Once the CPO is made Blight Notices may be served which will mean that the Council may have to partially fund the outstanding property/land purchases. However, the purchasing of the properties will be managed to minimise this possibility.
- 1.4 If a public inquiry is required for the CPO it should usually be held within 22 weeks of the closure of the objection period i.e. before around February 2008, but this will depend on the number of objections and availability of inspectors. The date for the inquiry could therefore be later than this and a decision would be expected within 3 months of the closure of the inquiry. This could mean that the funding required to purchase the properties may not be required until the 2008/2009 financial year.
- 1.5 A financial update will be brought to Cabinet later in the year.

**Legal**

- 2. Compulsory Purchase Order
- 2.1 The Council has the power under s93 of the Local Government and Housing Act 1989 to acquire land to secure Renewal Area objectives set out in s93(3)(a), (b) and (c).
- 2.2 The acquisition procedure is governed by the Acquisition of Land Act 1981 and other relevant legislation.
- 2.3 The compulsory purchase order must be advertised locally and copies served on all owners, lessees or reputed lessees, tenants or reputed tenants (other than lessees), and occupiers (except tenants for a month or less). If any statutory objector (a statutory objector is an owner, lessee or occupier, not a licensee or tenant for one month or less of land within the CPO) has objected within the stipulated period and not withdrawn the objection, the Secretary of State must hold a public inquiry and consider its findings before determining whether or not to confirm the order as originally made or as modified. The confirmation of the CPO may be challenged on

a point of law within 6 weeks of the publication of such confirmation. Any dispute as to the amount of compensation to be paid is referred to the Lands Tribunal for determination.

- 2.4 A financial update will be brought to Cabinet later in the year.

### **Human Rights Consideration**

- 2.5 The City 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:-

- a) 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.

- b) 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.

- c) 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 a social origin.

These rights are qualified rights and may be interfered with provided such interference is prescribed by law, is pursuant to a legitimate aim, is necessary in a democratic society and is proportionate. In this case, compulsory purchase of land is permitted under the terms of the Local Government and Housing Act 1989 and is subject to a statutory procedure (giving rights to consultation and appeal) which is being followed. In addition, compensation is payable making the action fair and proportionate. Furthermore, in relation to Article 14, everyone is treated equally in the context of the policy covering the relevant issues and is subject to the same process/procedure.

### **Public Interest**

- 2.6 The City Council considers there is a compelling case in the public interest for the acquisition of the properties considering the benefits it will bring to Derby which would not be achieved by agreement and which outweigh the loss that will be suffered by the current landowners. The Compulsory Purchase Order is therefore considered to be compatible with the Convention.

## **Personnel**

3. None directly arising.

## **Equalities impact**

4. None directly arising.

## **Corporate priorities**

5. The proposals are closely aligned to the following Corporate Priorities and key outcomes:
  - a) CP1 – Making us proud of our neighbourhoods
  - b) CP1a – Reducing crime and anti-social behaviour
  - c) CP5 – Helping us all to be healthy and active
  - d) CP5a – Improving the health and well-being of our communities.



# **Appendix 2**

**Plans of proposed Compulsory Purchase Orders**