



Derby City Council

**LEADER OF THE COUNCIL  
CABINET MEMBER MEETING  
7 December 2012**

Report of the Chief Executive

# ITEM 5

## **Proposals for the Disposal of 40 West Avenue**

### **SUMMARY**

- 1.1 The report considers the option to dispose of 40 West Avenue in the Five Lamps area of the city on the open market with a covenant to use the property as a single family dwelling.

### **RECOMMENDATIONS**

- 2.1 To agree that 40 West Avenue be marketed for sale by private treaty at its unrestricted value.
- 2.2 To agree that a covenant be imposed under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 that shall restrict the use of the property to a single residential dwelling home to be occupied by the owner of premises and his/her immediate family members, and that the exact wording of the covenant shall be determined by the Director of Legal and Democratic Services.
- 2.3 To agree that the property should be marketed for a period of 3 months , and at the end of that period, if no reasonable offer has been made officers shall provide a second report exploring further options for its use.
- 2.4 To agree minor works expenditure required to enable property viewings to the premises to be safe and secure, as set out within paragraph 4.5.
- 2.5 To agree that Head of Estates in consultation with the Leader of the Council be delegated to agree a sale once its true market value has been established.

### **REASONS FOR RECOMMENDATIONS**

- 3.1 This proposal brings an empty property back into use and provides a receipt for the Council upon sale.

## SUPPORTING INFORMATION

- 4.1 40 West Avenue is located on the Five Lamps junction. It was originally acquired in July 1984 by the City Council for Highway purposes connected with the inner city ring road project, known as 'Connecting Derby'. Although the property was not required for the 'Connecting Derby' scheme itself, there was a need to acquire the property for demolition for the potential purpose of improving the Five Lamps junction.
- 4.2 In 1990 the management of the property transferred to Derbyshire County Council. In 1997, following local government reorganisation, the property returned to the control of Derby City Council. There is no record of any lease since 1997 and the property has therefore stood empty for at least 15 years. During this time it has attracted considerable complaints from local residents both individually and collectively through the Strutts Park Residents Association.
- 4.3 However due to the requirement to retain the property to facilitate the potential improvement of the junction, as well as the cost of returning the property to a habitable condition, renovation was not seen as a suitable use of public funds until such time as traffic surveys had been completed and the future changes (if any) to the Five Lamps junction were confirmed.
- 4.4 Following the completion of the inner ring road and finalised decisions on the Five Lamps junction, the property is now not required to facilitate junction improvements. It has therefore been agreed by the Highways Asset Management Board that this property is surplus to requirements.
- 4.5 The property currently consists of 6 bedsits within a single dwelling house. It is in poor condition and requires complete refurbishment. The window and door openings have been secured to discourage unauthorised access, though the property continues to suffer from severe pigeon problems due to roof damage. The pigeon infestation will need to be dealt with, the property cleaned and access points secured before the property can be marketed. This cost will be met by the asset holding Department and reimbursed by the eventual receipt.
- 4.6 The preference expressed locally is to attempt to secure the property as a family residence in order to enhance the overall social mix within the area.
- 4.7 To bring the property back into use as a family dwelling, it is proposed that the property be marketed for sale by Private Treaty and that a covenant be imposed that restricts the use of the property to single residential dwelling house to be occupied by the owner and his/her immediate family members.
- 4.8 A covenant would also be included to ensure that the property shall be brought up to regulatory standards and reoccupied within 12 months of purchase. This is standard practice with Compulsory Purchase Orders (CPO) properties.

- 4.9 Members need to be aware of the following considerations:
- a) The Council will need to enforce the covenant restricting use if it suspected that the owner is in breach. This can potentially be time consuming and costly, and the burden of proof will sit with the Council.
  - b) Any owner can seek a release of the covenant at the Lands Tribunal and the Council will need to justify the benefit of the covenant.
  - c) Irrespective of any covenant imposed, the owner or another party can seek a planning permission to convert the property into apartments and then apply for release of the covenant.

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| <b>OTHER OPTIONS CONSIDERED</b> |
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- 5.1 Another option would be to retain the property for affordable rent. However the property as a single dwelling would contain up to 6 bedrooms and under the Council's allocations policy would have to be allocated to a family with a large number of children. This would not be suitable given the location and facilities of the dwelling.
- 5.2 A further option would be to convert to four rental flats. This option is not preferred by local residents, but is nonetheless a feasible option, which may be revisited should a disposal with covenant not be successful.

**This report has been approved by the following officers:**

|                                |                             |
|--------------------------------|-----------------------------|
| <b>Legal officer</b>           | Clare Wastenev              |
| <b>Financial officer</b>       | n/a                         |
| <b>Human Resources officer</b> | n/a                         |
| <b>Service Director(s)</b>     | Brian Frisby                |
| <b>Other(s)</b>                | Ian Fullagar, Steve Meynell |

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| <b>For more information contact:</b> | James Beale 01332 256315; Steve Meynell 01332 643337 |
| <b>Background papers:</b>            | None   |
| <b>List of appendices:</b>           | Appendix 1 – Implications                            |

## IMPLICATIONS

### **Financial and Value for Money**

- 1.1 A receipt will be realised upon sale of the property, although the covenant restricting usage is likely to have negative impact on the market value of the property. The property will provide Council Tax and New Homes Bonus income.

### **Legal**

- 2.1 Contained within the body of the report.

### **Personnel**

- 3.1 None arising from this report

### **Equalities Impact**

- 4.1 None arising from this report

### **Health and Safety**

- 5.1 Bringing the property back into use will lessen the health and safety risks associated with an empty property.

### **Environmental Sustainability**

- 6.1 The property will be refurbished to the current regulatory environmental standards.

### **Asset Management**

- 7.1 Included within the report

### **Risk Management**

- 8.1 The key risks are set out within paragraph 4.10 of the report.

### **Corporate objectives and priorities for change**

- 9.1 A strong community

