

Disposal of Cemetery Lodge, Thorpe Road, Melton Mowbray

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Cllr Glancy, Cllr Posnett, Cllr Lumley
Date of consultation with Ward Member(s):	28 February 2023
Exempt Information:	No
Key Decision:	Yes a) Incurring Expenditure of £50,000 or more
Subject to call-in:	Yes

1 Summary

- 1.1 The Cemetery Lodge is a property part of the Council's corporate assets portfolio, situated off Thorpe Road at the main entrance to the Cemetery site. The purpose of this report is to recommend to Cabinet that the Council proceeds with the disposal of Cemetery Lodge at auction to generate a capital receipt.

2 Recommendation(s)

That Cabinet:

- 2.1 **Approves the freehold disposal of Cemetery Lodge in accordance with the Asset Disposal Policy.**
- 2.2 **Delegates authority for the Director for Growth and Regeneration to finalise and effect the legal documentation in relation to the conditions of sale and transfer of the property.**

3 Reason for Recommendations

- 3.1 Taking a commercial approach to the management of our assets is a key area of focus under priority 3 of the Corporate Strategy 2020-2024.
- 3.2 The recommendation of disposal through auction is in accordance with the Council's Assets Disposal Policy (2020).
- 3.3 The sale of Cemetery Lodge would generate a much needed capital receipt for the Council to support the work in extending capacity of the current cemetery and future-proofing cemetery provision in the borough.
- 3.4 The disposal would remove the ongoing financial liability of the property in terms of repair and maintenance, property checks and inspections made by the caretaking staff and the on-going security risk.

4 Background

- 4.1 Historically Cemetery Lodge provided residential and office accommodation for Melton Borough Council staff based at the Cemetery site. When the requirement to provide residential accommodation to staff ceased, the property was let for several years by the Council on an Assured Shorthold Tenancy (AST) basis as it is held as an investment property as part of Special Expenses Melton Mowbray. The property achieved a rental income of £695 per calendar month exclusive of all Council Tax bills and utilities.
- 4.2 Following the departure of the last residential tenant in April 2021, the Council has undertaken extensive damp proof work to the ground floor and to internal and external walls to alleviate the damage caused by rising damp over a number of years. The property was then redecorated and recarpeted. The total cost incurred for the refurbishment works is £11k.
- 4.3 Whilst the property has been empty, the Council has incurred annual costs of £3.1k in utility costs and £1.4k in Council tax. In addition, the Council is responsible for undertaking vacant building checks throughout the working week and dealing with any reactive maintenance on site.

5 Main Considerations

5.1 Property description:

- 5.1.1 Cemetery Lodge is a period detached property built over 100 years ago. It is of stone construction under a slate roof. The property is situated off Thorpe Road on the southern entrance to the Cemetery site.
- 5.1.2 Ground floor accommodation extends to a kitchen with utility and store-room, a lounge, dining room, and ground floor bathroom. On the first floor there are three well-proportioned bedrooms. Externally there is a private garden, courtyard area with outhouse and dedicated car parking for at least two vehicles.
- 5.2 **Utilities:** Cemetery Lodge benefits from mains electricity and gas. The property has its own water supply that is separate from the main Cemetery site. It should be noted that the electricity meter for the Cemetery Workshop building, which is to be retained by the

Council is located within Cemetery Lodge. This meter will be relocated prior to the sale of the property.

- 5.3 **Planning:** The property is not Listed and sits outside of the Melton Mowbray Town Centre Conservation Area. For planning purposes the use of the premises is residential. Cemetery Lodge is located within a Local Green Space (LGS) as identified by the Adopted Melton Local Plan (Policy EN5). This requires that any future proposals should not harm the key features and functionality of a Local Green Space and should seek to ensure that its character is protected.
- 5.4 **Access:** Access to and from the property is via the southern entrance to the Cemetery site. There are two vehicle access points into the Cemetery from Thorpe Road. They are both entrance and exit points as there is not a one-way system in place. Discussions with the Local Highway Authority have confirmed that they would not support the creation of a new private vehicular access route from Thorpe Road into the Cemetery Lodge site.
- 5.5 **Future of the cemetery:** There is identified need for the development of additional capacity for the cemetery. Work is being undertaken to explore options for extending the life of current cemetery as well as looking for new sites for future provision.
- 5.6 **A range of alternative options** have been considered for the future of this property:
- 5.6.1 **Secure a residential tenant:** Whilst it is accepted that the Council had previously leased the property for residential use legal investigation has identified that Section 1 of The Housing Act 1988 prohibits a Local Authority (in this case Melton Borough Council) from entering into an Assured Shorthold Tenancy as it has no legal authority to do so. As such the Council is unable to enter into a residential shorthold lease agreement.
- 5.6.2 **Add to HRA portfolio for the use of council tenants:** Due to its historic character and construction, the property is not considered suitable for HRA use.
- 5.6.3 **Change of use from Residential to Commercial:** The building is designed as a residential property and therefore any conversion to commercial use will require significant works for refurbishment. Potential costs for conversion would be significant as the property would require upgrades to the fire and intruder monitoring system, health and safety and disabled access and possible upgrades to ensure that the property complies with the MEES regulations (Minimum Standard for Energy Efficiency). The Lodge has limited on site space for staff/customer parking and the space is not laid out in a format that is suitable for commercial users. The Lodge is not located in either a town centre, retail or office/business location and therefore there may be very limited demand. A planning approval will be required for change of use. A change of use to commercial could generate increased vehicle movements to and from the premises and see more visitors to the building which may in turn have an impact on the peace and tranquillity (amenity) of the Cemetery which is intrinsic to its existing use.
- 5.6.4 **Incorporate the Lodge site into the Cemetery site:** This would involve the demolition of Cemetery Lodge for the site to be used to increase the capacity of burial spaces in the cemetery. The demolition would cost approx. £100k (excluding fees) including removal of the underground services, however the net gain in usable area may not be significant.
- 5.7 In summary, it is accepted that the use of Cemetery Lodge by the Council for the purposes of cemetery operation is not required and it is an asset surplus to the Council's needs. Whilst it is accepted that the Council had previously leased the property for residential use it has since been determined that there is no legal authority to do this. Commercial use is

not considered to be suitable given the increase in traffic and vehicle movements that this may generate. The age, location and construction of the property mean that the longer it is left unoccupied the more vulnerable it becomes to disrepair and vandalism.

5.8 **Proposal for disposal:**

- 5.8.1 Considering the above, it is proposed to sell the property to generate a capital receipt that can be used for the future development work for the cemetery.
- 5.8.2 The Cemetery Lodge can easily be separated from the main cemetery site as it is located at the front of the cemetery immediately adjacent to the southern entrance from Thorpe Road. Access and egress to the property is available via the main southern access drive without having to enter the main burial area. The boundaries of the Lodge will be suitably fenced to ensure that it is a self-contained site.
- 5.8.3 As part of the sale appropriate clauses would be required in terms of the shared access drive and ensuring that this is kept free and clear at all times along with clear and defined responsibilities towards the maintenance of any boundaries. Additionally a Restrictive Covenant would be included to ensure that the use of the property remains as a single residential dwelling and consent being required from the Council for any proposed alterations or extensions to the Lodge.
- 5.9 Next steps:
- 5.9.1 If approved by the Cabinet, the following next steps will be undertaken:
- a) In accordance with the disposal policy secure a valuation for disposal.
 - b) Engage the services of suitably qualified electrician to ensure that the electricity meter for the retained staff workshop is relocated from the living room of Cemetery Lodge into the retained workshop. Cemetery Lodge will then have its own stand-alone electricity meter.
 - c) Work with Severn Trent Water/Water Plus to arrange for a water meter to be fitted at Cemetery Lodge so that the property has an independent water supply. It should be noted that this work may result in a water meter having to be installed on the retained Cemetery site.
 - d) Complete the required works to install a suitable boundary fence to the Cemetery Lodge site.
 - e) Appoint an agent to market the site and sell in the April/June 2023 auction to ensure a capital receipt is received within the 2023/24 financial year. A Legal Pack will be required one month in advance of the sale date and purchasers are required to exchange contracts on the night of the auction with completion to take place 28 days thereafter.
- 5.9.2 The disposal of Cemetery Lodge will remove the on-going requirement for maintenance, routine inspections of the property or to attend the premises out of hours in the event of an incident. It will reduce the liability for the Council and generate capital receipt that is needed for future development of the wider cemetery site.

6 Options Considered

- 6.1 **Do nothing** – Retain Cemetery Lodge as an asset but incur holding costs. This would mean that the Council would incur annual costs for Council tax and standing charges for gas and electricity. In addition there are the costs of maintaining the property such as grass cutting, repairs and dealing with the continued risk of break ins. The ‘do nothing’ option is not recommended.
- 6.2 A detailed summary of alternative options considered is included in para 5.6.

7 Consultation

- 7.1 Internal consultation has taken place. Grounds Maintenance have confirmed that they have no use for the premises and colleagues in Housing have confirmed that the property is not suitable for addition to the HRA fund.
- 7.2 We have also liaised with colleagues in Finance and Legal services in respect of the costs of maintaining the property and the terms and conditions that should be included within the sale contract and transfer document in order to suitably protect the Council and the Cemetery site.

8 Next Steps – Implementation and Communication

- 8.1 It is anticipated that following the actions identified in para 5.10, the site will be included within a suitable property auction in either April 2023 or June 2023.

9 Financial Implications

- 9.1 The sale of the property will result in a capital receipt being generated which will be ring fenced for special Expenses Melton Mowbray. There will also be a saving to the Council as the on-going running costs will be passed to the new owners of the property and there will no longer be a requirement for weekly inspections by caretaking staff.
- 9.2 Is it anticipated that the estimated guide price for the Lodge will be £185,000, subject to valuation that will be undertaken prior to auction. It is expected that the sale price will be higher than the guide price. In advance of the auction a Reserve Price will be set. The property will not be sold at the auction unless the Reserve Price is met.
- 9.3 To dispose of the property, the following costs (subject to a cap of 4% of the value achieved) will be incurred and subsequently deducted from the capital receipt;
- a) Fencing the property from the retained Cemetery Site – estimated cost- £750 plus VAT.
 - b) Agents Selling Fees – estimated cost £3,000 (subject to final sale price). The council will seek to recover these fees from the purchaser as a condition of the sale together with the recovery of a contribution towards our reasonable Legal and Surveyors Fees.
 - c) Removal and relocation of the electricity meter – estimated cost £5,000.
 - d) Valuation of the property from a RICS qualified valuer – estimated cost £500

e) Auctioneers fees are in the region of £3,000 but may vary depending on the final sale fee.

9.4 The anticipated capital receipt for the Council would be subject to a deduction of the above cost.

Financial Implications reviewed by: Assistant Director for Resources

10 Legal and Governance Implications

10.1 Section 123 of Local Government Act 1972 provides the power for Principal Councils to dispose of land at market value. This will be achieved by selling the property at auction.

10.2 The Title for this site shows no restrictive or positive covenants which would prevent this property being separated from the Cemetery and sold as a stand alone building.

10.3 As previously indicated there will be a requirement to arrange for the electricity meter for the retained workshop to be relocated from the living room of Cemetery Lodge into the workshop building which is to be retained.

10.4 As the Local Highway Authority have indicated that they would not support the development of a new separate vehicular access to the Lodge the Council will be required to grant a right of way over a small portion of the existing access drive for access and egress to Cemetery Lodge only. (Both the vehicle access routes into the Cemetery site provide the entrance and exit routes.) As a condition of the sale, the purchasers would be required to contribute towards a fair and reasonable proportion of the cost for the maintenance and upkeep on the access drive. Additionally it will be essential to include a restrictive covenant (so that it runs with the land) that the right of way is for access to and from the property only and is not to be used for parking and/or storage at any time.

10.5 In respect of the boundaries, in order to ensure that we retain control of these it is suggested that the Council retain the ownership and responsibility for all boundaries with the exception of the frontage of the property. (That which faces onto the access drive.)

10.6 Finally, to ensure that the property continues to provide residential accommodation only a further Restrictive Covenant should be included to ensure that Cemetery Lodge remains in C3 use and that there is no additional "built" development (garage, workshop, extension to the main dwelling etc) within the grounds of the Lodge.

10.7 The Council would provide for a Deed of Covenant to ensure that all new owners enter into a direct deed with the Council as a belt & braces approach.

Legal Implications reviewed by: Senior Lawyer

11 Equality and Safeguarding Implications

11.1 An EIA has been completed to support this Report.

11.2 It is considered that by selling this property at public auction there is no unlawful discrimination and that all parties are able to view and bid for the property should they wish to do so.

11.3 Selling properties at public auction offers the most open and transparent method of sale.

12 Community Safety Implications

- 12.1 The disposal of Cemetery Lodge would prevent the premises from being vandalised or being subjected to squatters. There have been a number of instances in the past where squatters have accessed the premises. Also by having the house occupied (albeit by private owners, independent of the Cemetery itself) it is hoped that antisocial behaviour within the Cemetery will be reduced.

13 Environmental and Climate Change Implications

- 13.1 There are no direct climate change implications.

14 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	The property fails to sell at auction and remains empty and unoccupied.	Low	Critical	Medium Risk
2	The sale does not generate the desired level of capital receipt.	Low	Critical	Medium Risk

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low			1,2	
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	In the event that the property does not sell at auction it would be placed onto the market for sale by Private Treaty. This would result in a potential delay to the sale.
2	An independent and objective valuation will be undertaken for the property prior to sale to achieve a realistic guide price. A minimum level of reserve price will be agreed.

15 Background Papers

15.1 NA

16 Appendices

16.1 Appendix 1: Sale Plan 1.

16.2 Appendix 2: Sale Plan 2.

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