

WEST DUNBARTONSHIRE COUNCIL

Report by Executive Director of Housing, Environmental and Economic Development

**Housing, Environment and Economic Development Committee:
4 February 2009**

Subject: Disposal of Small Areas of Land to Adjacent Individual Householders

1. Purpose

1.1 The purpose of this report is to advise Committee on progress to date on selling small areas of land to adjacent householders.

2. Background

2.1 On 3 May 2006 the Community Safety and Environmental Services Committee considered a report on this subject by the Director of Housing, Regeneration and Environmental Services inviting the Committee to:-

- (a) agree to the development of a guidance note to progress this issue;
- (b) agree that a fee structure be developed to ensure that all costs incurred by the Council are recovered; and
- (c) delegate authority to the Director of Housing, Regeneration & Environmental Services in conjunction with the Head of Legal and Administration Services to progress this issue and dispose of sites subject to them being previously declared surplus.

2.2 The recommendations were subsequently approved by the Committee however resourcing difficulties prevented any action or progress on this matter until May 2008.

3. Main Issues

3.1 During May 2008, an exercise was begun to identify, collate and confirm the number of outstanding applications received over recent years. Different applications had been sent at different times to varying officers/departments including Legal Section, Estates Section, Housing Section and Land Services Section and it was necessary therefore to coordinate a common list to eliminate duplications.

3.2 A coordinated exercise was undertaken by Estates Section during May/June 2008 which revealed 64 recorded applications for land purchases made by

residents, a number of which dating back several years. It was necessary at this stage of the exercise to identify the areas of land in question, this requiring site investigation where ordnance survey information proved inconclusive to confirm ownership status between departments and to identify zoning status of each application in line with the Local Plan.

- 3.3** Planning permission would be required for the change of use of open space to private garden ground. Any application would require to be assessed against the policies of both the adopted and finalised Local Plans. The majority of requests are located within areas designated as existing residential and consideration will be given to the visual and amenity impacts of such a change as well as public reaction
- 3.4** Similar procedures have already been agreed by the Social Justice Committee and the Planning & Economic Development Committee for the sale of commercial properties or leases having sitting tenants and which meet certain criteria.
- 3.5** At present there are no set procedures to deal with such small plot sale requests which are continuous in nature and of the 64 collated applications identified in 3.2 above, the following is the present status:
- (a) 25 applications since deleted and refused for various reasons, including land not being in Council ownership, land being unacceptable for disposal and land areas being in multiple ownership. Letters have been and continue to be sent to applicants accordingly.
 - (b) 34 potential cases where sales to adjoining proprietors may be feasible. Early information is that there are no objections in principle to the vast majority of these cases with the caveat that planning consent will be required and any application will be subject to consultation and public notification. In addition therefore to administrative fees and the actual purchase price involved in any sales transactions, this may impose an additional cost burden as regards estates, planning and legal fees for which the purchaser would be liable. The Estates Section has also been active in discussing these 34 cases with relevant Council departments/sections to ensure there is no alternative use proposed for any plot. An Appendix of the 34 potential cases is attached to this report.
 - (c) 5 cases presently still being investigated by Estates Section and awaiting further details and information from other departments/sections of the Council before status can be confirmed.
 - (d) Given the relative value of these plots and in the interests of efficiency, approval to dispose will be delegated to the Executive Director of Housing, Environmental and Economic Development.
- 3.6** The areas of land noted in 3.5(b) above are not required for Council purposes and preliminary advice from Legal Services indicates that these areas are in West Dunbartonshire Council ownership.

- 3.7** Arising from the nature of these ad hoc enquiries considerable demands have been made on Estates and Legal resources particularly in establishing land ownership, consultations with the holding departments and planning issues.
- 3.8** In most instances the price of the land would be relatively nominal although the potential development value would also be assessed in relation to permitted planning uses. The Council has a statutory duty to sell land for no less than the best consideration that can be obtained. Accordingly, the price will require to reflect market value for the land taking into consideration any development potential. The majority of cases would require a change of use from Public Open Space to Private Garden Ground.
- 3.9** Applicants have generally expressed dissatisfaction at the lack of progress in dealing with their enquiries. An agreed disposal policy would enable these enquiries to be processed.
- 3.10** It should be noted that the costs to the Council in disposing of these small plots of ground far exceed the market value of the ground itself. This is largely due to the fact that the conveyancing procedures involved are the same whether the transaction relates to a small piece of ground or a significantly larger sale. To comply with the Council's Best Value duties relating to sound management of resources, the Council is required to manage its assets efficiently and effectively and purchasers will require to reimburse the Legal and Estates costs of the Council, pay the market value for the land and possibly lodge a planning application. Purchasers will also require to pay their own solicitors fees and it may be that when purchasers are made aware of the costs of such acquisition, some may not wish to proceed.
- 3.11** Having regard to the foregoing, it is proposed that the Committee approves the following policy for progressing these potential sales:
- (a) The enquirer shall be immediately liable for an initial payment of a non refundable fee of £500 plus VAT, this covering work involved in ascertaining the extent of the ground, if the ground is surplus, its development value plus legal costs in ascertaining if Council has title to the ground. Subject to the foregoing being satisfactory, an indicative sales value will be available to the prospective purchaser.
 - (b) The prospective purchaser would then be obliged to apply for Planning Consent and bear resultant costs. Should this be refused the application would fall subject to a right of appeal against such a refusal...
 - (c) Upon grant of consent a formal title report would be instructed and negotiations finalised to agree the sale price. At this stage the enquirer would also be liable for the Council's remaining Estates negotiation and Legal fees, expenses, outlays and VAT together with Stamp Duty and Registration dues, as appropriate, of the transaction.

- (d) Given the relative value of these plots and in the interests of efficiency, approval to declare surplus and dispose will be delegated to the Executive Director of Housing, Environmental and Economic Development.

3.12 As regards any future incoming applications, it has been agreed that any/all incoming correspondence be passed to Estates Section for recording and acknowledgement so that there exists one singular holding point for all applications. The significant problem encountered thus far has been that applications have been sent to various officers and departments of the Council and consequently Estates Section has spent a considerable amount of time collating all applications into a single list.

3.13 It is envisaged that there will be future applications perhaps sent to various officers which cannot be avoided, however senior management in the departments of Corporate Services and Housing, Environmental and Economic Development have been requested to comply as in 3.11 and 3.12 above.

4. Personnel Issues

4.1 Personnel issues relate to resources already expended generally as 3.2 above and anticipated further resources as may be required as in 3.12 above.

5. Financial Implications

5.1 The Council will receive a capital sum from the sale of each area of land. Where the Public Open Space is the responsibility of Land Services there will be a small saving on ground maintenance.

6. Risk Analysis

6.1 There is no risk associated with the sale of these areas of land.

7. Conclusions

7.1 The adoption of a disposal policy accords with the decision of the Community Safety and Environmental Services Committee on 3 May 2006 and will address the aspirations of householders wishing to buy small areas of land adjoining their properties.

8. Recommendations

8.1 It is recommended that the Committee:

- (i) **note the current level of requests and work to date in progressing these applications;**
- (ii) **adopt the policy as outlined in the paragraph 3.11 in respect of disposals of small plots of land to adjacent householders; and**
- (iii) **delegate authority to the Executive Director of Housing, Environmental and Economic Development in consultation with**

the Convener of HEED to declare surplus and approve disposals of current and future small plots of land adjacent to individual householders subject to (ii) above.

Elaine Melrose
Executive Director of Housing, Environmental and Economic Development
Date: 12 January 2009

Person to Contact: Eric Gadsbey - Estates Surveyor, Estates Section,
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Appendix: Schedule of Enquiries

Background Papers: 3 May 2006 Committee Report

Wards Affected: All

Schedule of Enquiries

ADDRESS	DATE OF ENQUIRY
1. 8 Northbank Street, Clydebank	06/1986; 10/04; 10/11/04

2.	22 Carson Road, Balloch	28/02/00; 17/05/01; 14/04/05; 19/05/05
3.	16 Regent Place, Dalmuir	01/07/02
4.	26 Braehead, New Bonhill	02/09/03
5.	19 Macdonald Walk, Balloch	07/10/03; 13/05/08
6.	178 Cumbrae Crescent South, Dumbarton	01/11/03
7.	30 Braehead, New Bonhill	14/01/04; 20/02/07
8.	2 Mollanbowie Road, Balloch	22/03/04; 20/04/04; 09/09/04
9.	90 Beeches Road, Duntocher	02/09/04; 10/04
10.	49 Hawthornhill Avenue, Dumbarton	22/10/04; 31/07/07; 21/08/07; 25/10/07
11.	73 Round Riding Road Dumbarton	23/02/05; 02/07/07; 14/07/07
12.	Boyle Street, Clydebank	14/04/05
13.	8 Gaitskill Ave., Alexandria	04/05
14.	5 Lynn Walk, Balloch	13/06/05
15.	10 Rathlin Terrace, Dumbarton	16/06/05; 01/06/06
16.	317 Redburn, New Bonhill	16/02/06
17.	35 Carson Road, Balloch	24/02/06; 01/12/06
18.	13 Lennox Street, Renton	05/03/06
19.	36 Macdonald Walk, Balloch	14/03/06; 15/04/08
20.	36 Hobart Crescent, Clydebank	26/06/06
21.	49 Gavins Road, Hardgate	07/09/06
22.	86 Portpatrick Road, Old Kilpatrick	17/10/06
23.	"April Cottage", Parkhall Road, Clydebank	07/11/06; 24/11/06
24.	29 Colquhoun Road, Milton	18/02/07
25.	9 Greer Quadrant, Clydebank	21/02/07
26.	"Avenue Cottage", Heather Avenue Alexandria	10/06/07
27.	2 McPherson Lane, Alexandria	05/07/08
28.	33 Mackenzie Avenue, Clydebank	23/07/07
29.	12 Gaitskell Avenue, Alexandria	31/07/07
30.	8 White Avenue, Dumbarton	03/09/07
31.	12 Grainger Road, Balloch	31/10/07
32.	38 Park Road, Clydebank	27/11/07
33.	4 Thistleneuk Crescent, Old Kilpatrick	28/02/08
34.	10 Gaitskell Avenue, Alexandria	19/08/08