

The Highland Council
Community Services Committee
6 November 2014

Agenda Item	23
Report No	COM 49/14

Policy on Small Land Sales

Report by the Director of Community Services

Summary

This paper proposes a standard policy on small land sales involving the Housing Revenue Account. It aims to clarify the criteria to be used in deciding whether to agree to requests to buy small areas of land and the process and charging structure to be applied when sales of land are taking place.

1. Background

- 1.1 Local Authorities are given power to dispose of land under section 74 of the Local Government (Scotland) Act 1973. Section 74 applies to land held generally but disposals of land held on the Housing Revenue Account currently require additional consent from the Scottish Ministers under section 12 of the Housing (Scotland) Act 1987.
- 1.2 Community Services occasionally receives requests from members of the public to purchase areas of Housing Revenue Account (HRA) land. These are almost exclusively requests to acquire small areas for the extension of/access to gardens. There is no legal obligation to sell land.
- 1.3 The assessment of these requests requires the involvement, consultation and co-ordination across different Council Services, including legal input, valuations and administration. This is a time consuming process in relation to the value of income received and benefit to the housing revenue account.
- 1.4 This report presents a policy on small land sales to aid Members, Officers and the public in relation to requests to purchase land held on the Housing Revenue Account. The draft policy is set out in **Appendix 1**.

2. Policy on Small Land Sales

- 2.1 The policy set out in **Appendix 1** applies to requests by individuals to purchase small areas of land. It does not cover requests to purchase larger areas of land with development potential or requests for transfer of ownership to communities.
- 2.2 Scottish Government Guidance on the operation of Housing Revenue Accounts specifies that Councils need to be clear as to the rationale for disposing of any HRA asset, and that they should seek the best price and fully assess the impact on the HRA.

- 2.3 The main principle in the policy proposed in this report is a presumption against sale unless there is a community benefit or the sale would benefit the Housing Revenue Account in terms of reducing management costs or related to housing management issues.
- 2.4 The policy involves a 2-stage process: an initial assessment to determine whether the policy criteria appear to be met, followed by a formal application process.

3. Changes to Scottish Government Guidance

- 3.1 The Scottish Government has put forward a proposal to reform the process for Councils applying to the Scottish Government for consents to dispose of assets from the Housing Revenue Account (HRA).
- 3.2 Instead of requiring Councils to seek consent for all disposals from the HRA, the Scottish Government is proposing a series of general consents covering different types of disposal. These consents would make consent for disposal by the Local Authority automatic, with no application to the Scottish Government required. This would be in line with the current arrangements for disposing of general fund assets and Councils would be able to follow broadly the same guidance for both general fund and HRA disposals.
- 3.3 In future, it is likely that only in a very minor number of cases would Councils have to apply for consent; these being where assets are sold at significantly below market value.
- 3.4 If Members approve the policy set out in this report, amendments will be made to procedures to take account of future changes put in place regarding Ministerial consent.
- 3.5 Community Services will hold and maintain a database of requests to purchase HRA assets and all requests should be logged and monitored in this database. Information held in the database will be handled in compliance with the Data Protection Act.

4. Implications

- 4.1 Resources: Adopting this policy will help streamline the way applications are handled. There will be no significant impact on HRA income or expenditure. There may be implications for Development and Infrastructure involved in undertaking valuations of land.
- 4.2 Legal: The policy complies with legal requirements in relation to the sale of HRA assets.
- 4.3 Climate Change/Carbon Clever: no implications
- 4.4 Risk: no implications

4.5 Gaelic and Rural: no implications

Recommendation

The Committee is invited to approve the policy for the sale of small areas of land held on the Housing Revenue Account set out in **Appendix 1**.

Designation: Director of Community Services

Date: 24 October 2014

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Appendix 1: Policy on Small Land Sales

1 Scope of Policy

- 1.1 This Policy is aimed at providing guidance to Members and officers in relation to requests by individuals to purchase small areas of land held on the Housing Revenue Account. It sets out the criteria that will be applied in assessing applications, the charging framework involved and the process involved, including the roles of different Council services.
- 1.2 The policy applies to requests by individuals to purchase small areas of land. It does not cover requests to purchase larger areas of land with development potential, or requests for transfer of ownership to communities.
- 1.3 For the purposes of this policy an area of land will be considered to have the potential for social housing development if the size, shape and area of the land would allow the development of one or more homes or the land has the potential to open up an additional piece of land (i.e. a ransom strip), and the size, shape, area of the additional piece of land opened up would allow the development of one or more homes.
- 1.4 Any piece of land which it is felt could fall into one of the above categories will be referred to the Head of Property Partnerships for consideration. This may include garages or land on garage sites.
- 1.5 Community Services will hold and maintain a database of requests to purchase HRA assets, and all requests should be logged and monitored in this database. Information held in the database will be handled in compliance with the Data Protection Act.

2 Criteria for assessing requests to buy

- 2.1 Housing Land is considered to be “public property” and is not usually for sale to benefit private individuals. Applications from private individuals to buy land will normally be refused unless:
 - There is a broader community benefit to the disposal, for example a rationalisation of small parcels of open space, either rarely used or often misused.
 - There are management issues in relation to the parcel of land concerned – for example, they are difficult or very costly to maintain or there are issues regarding the use of the land for anti-social behaviour.
 - There are extenuating circumstances in relation to the applicant requesting the purchase of the land – for example, there are health grounds in relation to the applicant and the sale of the land would improve their quality of life and would not adversely affect the quality of life of others in the neighbourhood.

- 2.2 In all these cases, evidence would be required to support and justify the application to buy.
- 2.3 Before any sale is approved the local community will be consulted on the proposal to dispose of the land. This will include consulting with immediate neighbours, including current tenants, and Ward Councillors.
- 2.4 Officers would also consider whether the sale would have implications for long-term strategic uses for the land in question, e.g. to allow access for future development of adjacent sites.
- 2.5 Where an application to purchase land appears to meet one or more of the criteria specified and there are no other reasonable grounds to refuse the sale arising from consultation, Area Community Services Managers will notify applicants that they can begin the formal purchase process.

3 Procedures for Small Land Sales

- 3.1 Initial queries will be dealt with by Community Services Area Teams. The query should be dealt with within 28 days and the customer contacted either verbally or in writing within this timescale. A site visit will usually be required. If there is any query concerning land ownership, Legal Services should be contacted to ascertain this.
- 3.2 As the overriding principle is that there is no obligation to sell HRA land, this should be communicated to the customer to avoid unnecessary staff administration or unrealistic expectations. Reasons for refusing to sell a piece of land may include but are not limited to:
 - There is no community benefit from the sale;
 - Issues relating to either public access or access for services (for example, grounds maintenance);
 - The land may have potential for future development;
 - The land is of value to the local community.
- 3.3 There needs to be a clear rationale for disposing of any HRA asset, and any disposal should be on the basis of full market value.
- 3.4 Area Community Services Managers will make an initial assessment of applications and determine that the land may be suitable for sale. They will either issue a refusal letter providing reasons for refusal or they will provide written confirmation that the application can proceed and issue a formal application form.
- 3.5 For formal applications, the Highland Council will inform the customer of all potential costs and explain the length of time to deal with the application. The

Council will charge fees to recover the costs of all services and officer time involved in processing applications. We will publish a list of standard fees.

- 3.6 Neighbours will be contacted by the Community Services Area Team in writing and given 14 days to respond with queries or complaints.
- 3.7 Applications and any relevant information will be passed to the Ward Manager to raise with Members at the next available Ward Business Meeting.
- 3.8 As part of the consultation, Development and Infrastructure (Planning Services) will indicate whether a planning application would be required for the proposed use of the land. Applicants will remain responsible for meeting any requirements for planning permission in relation to any land sold, including paying any fees required in relation to planning enquiries and planning applications.
- 3.9 Please note that applicants must undertake their own investigations to assess whether the ground is suitable for the intended use. As part of this they may wish to seek appropriate professional advice.
- 3.10 Legal Services will be asked to confirm land ownership if required and Development and Infrastructure will be asked to prepare deed plans and provide a valuation of the land for disposal. Legal services will issue offers to sell.
- 3.11 Consent will be sought from the Scottish Government to sell land on the HRA account in terms of Section 12(7) of the Housing (Scotland) Act 1987.
- 3.12 Applicants will be provided with an explanation of the reasons for refusal, except in cases where such information is considered to be commercially sensitive or the provision of information would breach confidentiality. Complaints will be dealt with under the Council's Complaints Procedure.
- 3.13 Community Services will hold and maintain a database of requests to purchase HRA assets, and all requests should be logged and monitored in this database. Information held in the database will be handled in compliance with the Data Protection Act.