

CABINET

SOLICITOR TO THE COUNCIL

17 NOVEMBER 2015

EXEMPT REPORT NO. LEG1519

KEY DECISION? NO

SALE OF SMALL AREAS OF AMENITY LAND

1. PURPOSE OF REPORT

1.1 This Report is to

- seek approval for the principal of selling small areas of amenity land which were retained on the voluntary stock transfer
- agree the terms of the delegation under which such areas may be sold

2. INTRODUCTION

2.1 The Council regularly receives many requests to dispose of small pieces of Council owned amenity land that are situated in large housing estates throughout the borough. These areas of land are adjacent to roads and paths that were once part of the Council's housing estates. They are now used mainly as amenity space, with the Council maintaining these areas. Often, adjacent house-owners wish to extend their back gardens to incorporate these public owned spaces as garden land. Sometimes owners may seek to acquire such land to enable the building of an extension to their property. This report aims to set a policy to cover both situations.

3. BACKGROUND

3.1 The Estates team have received, over the years, many enquiries for the purchase of adjacent amenity land from residents of the Borough. As there are a large number of these requests this work has been taken forward on a project basis- some 30 requests have been considered. As part of reviewing these requests, it was identified that such sales of land should not take place if the incorporation of the amenity land within the residential curtilage would lead to planning problems. Planning permission will be required to use any such land as garden land or to incorporate it within the residential curtilage of an adjoining property. Of the 30 requests approximately 50% were found to be unsuitable for sale due to planning issues. Whether a change of use will be acceptable in planning terms will depend on why the land was originally laid out as amenity land and

whether that reason still exists. There can be many reasons for laying out land as amenity land: visibility splays, ecology reasons, land drainage etc.

- 3.2 This project has therefore led to the need to establish a proceed to cover the sale of these suitable plots and also to cover future sales of other small areas. This report sets out a suggested procedure and the delegated authority that will be needed to implement the scheme.

4. PROCEDURE

- 4.1 Each time a request is received, or where the estates team identifies other surplus land through its work on capturing the council's land ownership electronically, the saleability of the particular area will need to be judged on its own merits, having regard to the amenity, design and aesthetics impact on the surrounding area.

- 4.2 The process is proposed to be as follows:-

- The estates team will consult the development management service on a pre application basis as to whether there are any planning reasons which should prevent the use of the area as garden land and its incorporation within the residential curtilage
- If there are planning objections, the person asking to purchase (the requestor), will be advised as to the reason that the council will not sell the land
- If there are no planning objections, the requestor will be advised of the sale price and of the need for planning permission for the change of use and, that to proceed, the council will wish to apply for planning permission before the sale and will require the application fee, the valuer's fee and a contribution towards legal costs
- If the requestor wishes to proceed the planning application fee and valuer's fee will be collected and the planning application will be submitted
- The planning application will give the public a chance to comment upon the application, and if planning permission is granted, then the sale can proceed.
- The transfer document will contain appropriate restrictions on the land preventing any development on garden land or any sale off of the land from the curtilage without consent of the council and an appropriate overage for any increase in value, over garden land, would be taken as a condition of consent.
- To complete the sale the requestor would need to complete the transaction and pay the council's legal fee.

5. ALTERNATIVE OPTIONS

- 5.1 **Do nothing.** These small areas of Council amenity land will remain in the ownership of the Council with maintenance liability. These small pieces of amenity land are under a maintenance contract with the Council's contractor. The cost of maintaining the land, as given by the maintenance team for cutting the grass is £0.35 per square metre, and leaf clearing the land £0.19 per square metre. In time, the areas of land that the council maintain will decrease leading to a saving for the Council. Further the Council is likely to continue to receive such requests and a procedure is needed to adequately and consistently respond to such requests

6. IMPLICATIONS

Risks

- 6.1 One of the risks is that the planning application for a change of use to garden land may be refused and therefore the purchase will not proceed. This has been mitigated against by putting in place a pre application consultation procedure with the development management service.
- 6.2 The risk that the land, once purchased, will be built upon by the new owner. This risk can be minimised by the Council ensuring that restrictions are imposed on the sale of the land requiring consent for built development. If this then proceeded, without compliance with such restriction, it is likely to be discovered upon a future sale of the house as part of the conveyancing process.

Legal Implications

- 6.3 The Council has power to dispose of surplus land not required for any of its functions under section 123 Local Government Act 1972 subject to obtaining best value upon such sale.

Financial and Resource Implications

- 6.4 It is difficult to project the level of receipts that will be generated per year but it is suggested that a yearly report could advise on the level of income achieved.

Property Implications

- 6.4 The choice of disposing or keeping such amenity areas will have a minimum impact on the Property portfolio as a whole due to the small areas of amenity land that are being considered. The areas of land in question are less than one per cent of the current land portfolio of the Council.

RECOMMENDATION

That the Solicitor to the Council be authorised to

1. Agree the sale of any area of amenity land and take all necessary steps to complete the transaction, subject to planning permission having been granted for the change of use of the land to garden land or for building extensions, upon the following basis :-
 - payment of the planning application fee;
 - payment of £500 surveyors costs;
 - payment of £500 legal costs;
 - the purchase price for garden land to be £6 per sq ft based on comparable evidence within Rushmoor Borough Council.
 - the purchase price for built extension land to be approx. £30per sq. ft (depending on location) or such other figure as the estate service advises represents best value.
2. Review the above costs and items indexed linking them to cover increasing costs in subsequent years

BACKGROUND DOCUMENTS:

CONTACT DETAILS:

Report Author – Adam Johnston
Head of Service – Ann Greaves 01252 398600