

ABERDEEN CITY COUNCIL

COMMITTEE	Finance and Resources
DATE	11/03/10
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Hazlehead Residential Area – Options on Sale or Lease of Amenity Areas
REPORT NUMBER:	EPI/10/050

1.0 PURPOSE OF REPORT

This report discusses the implications of a motion by Councillor Jennifer Stewart for Officers to investigate the possible sale or lease of appropriate portions of adjacent Council owned land as individual defensible garden areas to the occupiers of the terraced dwellings in the Hazlehead Road area. Whilst the motion also called for consultation with the occupiers on the idea, the purpose of this report is to advise Members, prior to any such consultation, of the many practical and Policy implications found by officers, should the idea of such sales or leases be approved.

2.0 RECOMMENDATIONS

It is recommended that: -

- 1) The Committee agrees to an initial survey being conducted by the Housing & Environmental Service with the local residents by means of an explanatory letter and questionnaire to gauge the level of interest in the scheme and a further report being submitted to this Committee in due course on the results of the survey and any more detail on the finance of such a scheme; and
- 2) in the meantime the existing policy on 'the Strategy for sale of Amenity Ground' continues to apply to individual applications from residents.

3.0 FINANCIAL IMPLICATIONS

If the scheme was implemented there could be capital receipts from the sales of garden areas but it is not clear at this time if the receipts would meet the cost of the redesign works and additional resources. There would be additional income from planning applications.

Consultation with occupiers has not yet been carried out to determine the extent of interest in acquiring areas of garden ground. Occupiers are likely to want to know their share of costs of the scheme and this would probably require a feasibility design scheme, which should be at no cost to the City Council.

There may be a substantial cost for the diversion of footways, which may be enclosed by the garden areas. This cost can only be assessed when the scheme has been fully developed and the paths involved identified. There is no current budget in Roads account for carrying out this work.

In order to assess a coherent scheme of garden ground allocation a feasibility study would be required. There is no budget allocated / available for this work at this time.

4.0 SERVICE & COMMUNITY IMPACT

Assuming the sale of amenity land is approved, the scheme may enhance the resident's quality of life with improved defensible space. However the provision of individual garden areas in this open plan residential area will erode the public open space amenity land and any scheme will require to address the environmental impact on the area as a whole. In planning terms the whole community would have to be consulted prior to individual planning applications being made on the proposals. Guidelines would need to be drawn up to ensure consistency of approach with regard to items such as boundary enclosures. There could be Environmental benefits to those acquiring the new gardens.

The single outcome agreement identifies National outcomes including:-

"We live in well-designed, sustainable places where we are able to access the amenities and services we need".

We value and enjoy our built and natural environment and protect it and enhance it for future generations."

The proposed sale of amenity ground would require to carefully address both these issues.

The design of any allocated garden space will fully assess Equalities & Human Rights Impact Assessment.

5.0 OTHER IMPLICATIONS

There are no direct implications for Council staff at this time. However if the scheme was to be implemented it is considered that additional resources would be required to deal with the additional workload in

design, legal work and planning if a large number of applications were made simultaneously.

It is envisaged that there would be considerable legal work in adjusting title deeds of former Council houses which may incorporate rights in common to drying areas etc within the land identified for possible garden areas. There would also be considerable legal work in dealing with statutory notices if adopted footpaths or roadways were affected by the proposals. The cost of such work would require to be met by the purchasers.

A crime 'Problem Profile' compiled by Grampian Police on the area in question revealed a relatively low number of crimes within the past 12 months, with the most numerous being road traffic, anti-social behaviour and dishonesties. While the hotspot loci varied according to the different types of analyses conducted, Hazlehead Road and Provost Graham Avenue topped the lists, with the overall peak time being between 4.00pm and 6.00pm on Mondays.

The creation of individual garden areas may enhance the value of the residential properties to those who participate but this may be subjective against the loss of public open space for others who do not participate in the scheme.

6.0 REPORT

Reference is made to the minutes of the Policy & Strategy Committee on 29 April 2008 wherein the Committee heard a Motion by Councillor Jennifer Stewart: -

" That this Council consults with occupiers in the terraced dwellings in Hazlehead Road, Hazlehead Gardens, Hazlehead Terraced, Hazlehead Crescent, Hazlehead Place and Provost Graham Avenue to find out if they can acquire or lease appropriate proportions of the adjacent Council owned land as individual defensible garden areas and that officers then report back on their findings."

The Committee resolved to agree to a report containing officers' findings being submitted to a future Committee.

For completeness of the Hazlehead residential area, the terraced dwellings at Mortimer Drive and Mortimer Place have been included in this report.

The purpose of this report is to advise members on the initial findings by officers involved in various Services dealing with many issues on which the above Motion will have implications.

The proposals if approved and implemented would involve the redesign and sale/lease of parts of the open space amenity area and will have

implications for existing Planning policies related to residential areas and urban green space; completed and committed Housing Improvement works; adopted and unadopted footways; former Council house sales and titles; tenants leases, and grounds maintenance procedures.

Background History of Hazlehead Residential Area

The Hazlehead residential scheme is a mixture of terraced, low-rise stub blocks and high-rise blocks, designed on the edge of Hazlehead Park (circa 1964) within an open plan layout with large areas of grass amenity, trees and shrubs. The scheme is accessed from Queen's Road leading on to local adopted service roads at Hazlehead Gardens, Hazlehead Road, Hazlehead Terrace, Hazlehead Crescent, Hazlehead Place, Provost Graham Avenue, Mortimer Drive and Mortimer Place. The terraced dwellings are accessed from these roads either by adopted or unadopted footpaths which run parallel and close to the buildings in such a way that none of the houses have exclusive garden ground immediately adjacent to the house. The terraced houses have however been designed to wrap around pocket amenity areas at the front or rear with further desire line footpaths having been created. The low-rise stub blocks and high-rise blocks are set in the midst of the scheme and presently enjoy an outlook over the open space amenity and adjacent Hazlehead Park. The area layout is shown on Appendix 1 attached herewith.

Following the "Tenants' Rights, Etc. (Scotland) Act 1980" many of the houses have been sold leaving a mix of private owners and Council tenants as occupiers of the properties. The present status of the sales is shown on Appendix 2.

Some of the houses have been sold with a right in common to drying areas and bin stores in the middle of the amenity areas.

Practical and Policy Implications

The following part of this report discusses the practical and Policy implications as found by officers dealing with various legal, planning / environmental, housing, maintenance and social issues in the area and city wide, if the sale / lease scheme was to proceed.

Planning Issues

The following observations have been provided by the Head of Planning and Infrastructure:-

The area in question is zoned as a residential area, under Policy 40, in the adopted local plan. This policy seeks to retain the predominantly residential character and amenity. The policy also states that areas of recreational and amenity green space and trees within residential areas shall be retained for these uses and that any proposal to incorporate such

areas into private gardens will not be permitted unless the proposal has no unacceptably adverse effect on amenity.

P6 'Urban Green Space' would also apply. This indicates that permission would not be granted to develop areas of urban green space for any use other than recreation or sport unless an equivalent replacement area is made available within the local area; also, that there is no detriment to amenity; access is maintained or enhanced; there is no loss of established trees. It may be that the benefit in terms of amenity for those gaining private gardens can be balanced against the loss to the area in general. This would depend on the detail of the scheme and how it impacted upon those residents not gaining private gardens. Guidance should be drawn up to ensure constancy of approach with regard to items such as boundary enclosures.

The quality of the open space around these residential units is generally high, and contributes considerably to residential amenity as well as the approach to the city. Policy 36 'Urban Green Space' would also apply. This indicates that permission would not be granted to develop areas of urban green space for any use other than recreation or sport unless an equivalent replacement area is made available within the local area; also, that there is no detriment to amenity; access is maintained or enhanced; there is no loss of established trees. It may be that the benefit in terms of amenity for those gaining private gardens can be balanced against the loss to the area in general. This would depend on the detail of the scheme and how it impacted upon those residents not gaining private gardens. Guidance should be drawn up to ensure constancy of approach with regard to items such as boundary enclosures.

The quality of the open space around these residential units is generally high, and contributes considerably to residential amenity as well as the approach to the city.

The nature of the open space in this area seems to vary between wide open spaces, and those containing mature trees, spaces around the edge of the development and semi-private space, enclosed on three sides by rows of houses. A number of more enclosed areas of the open space contain the high rise blocks.

In terms of creating private gardens, local plan policy considers the extent of the impact on amenity to be the key issue. It is considered that the impact on amenity differs between the various areas that may be used to create gardens.

Where areas are enclosed by rows of dwellings and any gardens would not abut the larger areas of open space, then the creation of gardens may well not impact adversely on the general level of residential amenity. This may be the case, for example, to the south side of houses on Hazlehead Gardens, or within the courtyard to the dwellings on Mortimer Drive and Mortimer Place.

However, where the areas of open space in question contain stub or high rise blocks of flats, then the use of the open space would be lost to the residents of these flats, whilst they would not gain from the creation of private gardens. In this situation there would be an adverse impact on residential amenity.

Equally, where gardens are created on the more 'public' side of dwellings, and would be seen in long-range views, especially from the public roads, then there would be likely to be an adverse impact on amenity.

Allowing a small number of owners/occupiers to create private gardens, whilst others were unable to do so, might seem rather inequitable.

It is possible that it could be justified in planning terms due to the differing circumstances within the overall layout of the development.

An alternative might be to use the approach that exists in Footdee – to create private garden areas within the more enclosed areas of open space, with a communal path remaining around the edge of the space.

In order to mitigate the impact on residential and visual amenity, any scheme to allow the creation of private gardens would need to include conditions relating to the type and height of boundary enclosure to be used to ensure a level of uniformity. If 1m or less in height, then these could be erected without the need for planning permission.

In terms of applications for change of use of amenity space, the existing 'Strategy for Sale of Amenity Ground', (attached as appendix 3) would also be a material consideration. Proposals for change of use of open space to garden ground, depending on the individual circumstances, may be contrary to the adopted local plan and in a large number of cases, proposals for gardens would be unlikely to accord with the guidelines.

Legal Issues

The City Solicitor advises that:-

There may be a staff resource problem if a large number of applications were received resulting in volume conveyancing. The applications would require to be incorporated in the general workload of the Section. Although every effort would be expended, the completion of all sales would necessarily take a lengthy period of time partly due to competing work priorities and the complexity of each transaction.

Many Council house sales within the Hazlehead development include rights of ownership in rotary driers and bin-store areas which are situated in the middle of amenity areas. If, in the course of dividing these areas into garden ground, the driers and bin stores are removed or relocated then the consent of the owner-occupiers who utilise the same will be required.

This will result in the correction of various title deeds and the corresponding legal costs (likely to be expensive) being met by the applicants. A possible staff resource would also exist.

The utility services have various wayleaves for gas, electricity and water. Any prospective purchaser would have to accept all existing mains, pipes etc on the land when applying to buy.

The cost of altering the routes of paths/roadways would require to be met by the applicants.

Housing / Tenant Issues

The Heads of Shelter & Environment and Housing Management advise:-

The grass amenity ground in the Hazlehead scheme is currently maintained on the Housing Revenue Account (HRA). In many of the streets, owner/occupiers are already in the majority. They are therefore enjoying benefits borne by the minority rent payers.

If the scheme was to be approved, it would therefore, be preferred for ownership or responsibility for areas of amenity ground adjacent to individual housing to be transferred to the occupiers.

If appropriate, owners could be given the option to buy ground and tenants could be offered ground as an addition to their tenancy. However, it is not possible to make this compulsory in either case.

Any addition of exclusive ground to a tenancy is likely to increase the rent for the tenancy. This may well influence the number of tenants prepared to accept a garden area.

If only some occupiers take up an option to have ground, this would result in a patchwork of transferred ground. This is likely to result in the remaining ground being difficult and expensive to maintain.

In order for a suitable size of ground to be allocated to a property, it is likely that paths will require realigning, with the possibility of some common bin areas and rotary dryers also requiring to be repositioned.

Transfer of ownership of ground should be cost neutral at worst to the HRA. Ideally there should be a capital gain.

Where all properties and adjacent ground is sold, remaining amenity ground in the area should be transferred to a non-housing account.

Adopted footpaths Issues (Roads)

All footpaths that may be enclosed by the proposed gardens can be diverted without any requirement for a stopping-up traffic order provided the routes are maintained. The diverted adopted footpaths would have to be constructed to adoptable standards and if the unadopted footpaths are to be adopted then they must also be constructed to adoptable standards.

This work could involve a substantial cost, which can only be assessed when the scheme has been fully developed and the paths involved identified. There is currently no budget for carrying out this work.

Unadopted Footpaths (Housing)

The Housing Capital Expenditure Budget has a budget heading that identifies funding to improve the network of un-adopted Footpaths & Carriageways held on the Housing Revenue Account. The Roads Network Maintenance Unit established criteria, which formed a baseline to introduce a priority surface grading (condition) scheme across each Neighbourhood Service. This was supported by Community Services Committee on 15 November 2005 to ensure priority funding throughout the city.

Since the grading system has been established £100,000 has been funded to upgrade and adopt areas within Mortimer Drive / Place and Hazlehead Road. The funding will continue in the Mortimer Drive / Place area in the financial year 2009/10 to the value of £30,000 if approved.

The project to upgrade and adopt footpaths held on the Housing Revenue Account is a city wide project. The project will continue to put in place a robust routine repair and planned maintenance programme for all un-adopted footpaths using the available funding through the Housing Capital Expenditure Budget. However the funding is for existing Housing footpaths only.

Social / Defensible Issues

Grampian Police advise:-

It is not possible at this time to say whether the garden scheme will have a positive effect to reduce crime in the Hazlehead area however Grampian Police offer the following advice on the results of other such schemes.

"The principle of crime prevention through environmental design relies on several core factors that include natural surveillance, lighting and the creation of a defensible space by means of both physical and psychological barriers. While there can be no guarantee of eliminating a problem, these measures, when implemented in a cohesive way, can

significantly reduce its scale and improve dramatically the quality of life of those living or working within the community. The epitome of this ethos is the 'Secured by Design' scheme which has a proven track record of reducing crime and improving community safety”.

“By way of illustration, a study of 27 housing estates in West Yorkshire, designed to 'SBD' principles reported that crime rates had dropped by between 54% and 67%. Burglary (i.e. housebreaking) rates were 50% less than those on other West Yorkshire estates and there were 42% fewer vehicle crimes. The average cost of the extra design measures in this scheme was £440 per new dwelling, compared to estimated average burglary (housebreaking) losses of £1,670 per dwelling. While, at Hazlehead, it may not be necessary to go as far down the road as achieving accredited 'Secured by Design' status, provided that the principles of crime prevention through environmental design are adhered to, there is every reason to believe that they can make a real difference to the residents”.

Finance

If the garden ground scheme is approved and open to all residents in terraced houses. The cost of the following works requires to be considered:

- relocation of footpaths,
- corrective legal conveyancing to title deeds of former Council houses,
- relocation of rotary driers and bin stores,
- construction of gardens/fences to tenanted houses
- additional resources to deal with legal, planning and design matters
- cost of planning fees for tenanted plots.

The question of whether all the above costs can be met from the sale or lease of the garden areas is doubtful, as it is unlikely that all residents will participate in the scheme.

In order that a coherent scheme can be considered a feasibility study would be required. There is no budget meantime allocated for such work.

Summary / Conclusion

The present open plan layout at Hazlehead with various directional footpaths would allow a few residents the option to take up additional land as garden ground. However those properties immediately adjacent to access footpaths could not take up the option of garden ground without these paths being relocated. The option of selling pieces of ground in the middle of the amenity areas has been discounted, as this would not address the defensible issues.

The idea of adding additional garden ground to private and tenanted properties is understood and would usually benefit financial and defensible values to these properties. However the Hazlehead residential area was specifically designed as an open plan layout and a comprehensive scheme of garden ground allocation is considered to be extremely difficult with legal and practical difficulties leading to inequitable costs. The erosion of open space is also contrary to the Council's current planning policies.

It is considered that it would not be prudent at this time, to enter into detailed consultations with the residents on the options of sale or lease, as they will obviously wish to know indicative costs. However Councillor Jennifer Stewart has suggested that an initial letter and questionnaire be sent to the residents to gauge the level of interest which may allow officers to calculate ballpark costs on the scheme.

The Council already has an adopted policy on the sale of small areas of amenity land, 'the Strategy for Sale of Amenity Ground'. This policy considers such sales on an individual application basis. It is suggested this policy should continue to apply to any residents in the Hazlehead scheme but it should also be made clear that in a large number of cases, proposals for gardens would be unlikely to accord with the guidelines under that scheme.

Observations

Local Members Jennifer Stewart, Jim Farquharson, Martin Greig and John West are being consulted. Councillor Jennifer Stewart's comments have been incorporated in the report.

7.0 REPORT AUTHOR DETAILS

James A Forbes, Principal Technical Officer (Development),
✉ jforbes@aberdeencity.gov.uk
☎ 01224 52(2141)

8.0 BACKGROUND PAPERS

None