



### HOUSING SERVICE

#### HRA Disposal of Land and Granting of Servitude Rights of Access

<b>Effective Date:</b>	TBC
<b>Version number:</b>	V1
<b>Approved by:</b>	TBC
<b>Review Date:</b>	TBC
<b>Responsible person:</b>	Brandon Lee - Housing Policy Officer (Enablement)

#### 1. Introduction:

- 1.1. This policy outlines the approach Angus Council will adopt when disposing of small parcels of HRA land and/or granting servitude rights of access over HRA land.
- 1.2. This policy makes clear Angus Council's position in relation to the disposal of attic/roof spaces shared in common between council and ex-council properties.
- 1.3. As per the Local Housing Strategy 23-28, Angus Council, along with local partners, aim to deliver on a vision that ensures "everyone in Angus has a good quality, safe, secure and warm home that they can afford."
- 1.4. This vision will be achieved by the introduction of clear outcomes, which will provide strategic direction as well as reflect local priorities and national policy objectives. This policy will contribute to outcome 1, priorities 1 and 3 of the Local Housing Strategy 23-28:
  - Making best use of existing stock.
  - Support thriving communities.
- 1.5. This policy also contributes to the following outcomes contained within the Council Plan 2023-28.
  - Caring for our Place: Protect and enhance our natural and built environment.
  - Caring for our People: Create more opportunities for people to live well and achieve their personal goals.

#### 2. Background:

- 2.1. Angus Council often receive requests to (i) purchase small parcels of HRA land; (ii) purchase attic/roof spaces shared in common between council and ex-council stock; and (iii) grant servitude rights of access over HRA land.

- 2.2. Historically, these requests resulted from the introduction, and subsequent cessation, of the Council's Right to Buy scheme. This scheme offered council tenants the opportunity to purchase a property within existing council stock, providing the tenant fulfilled all conditions set. Whilst the Council were successful in selling a significant number of council stock through this scheme, small parcels of land, adjacent and/or parallel to the boundaries of these properties, did not form part of the tenancy. As such, tenants did not receive the same opportunities to purchase these small parcels of land, creating interest in the above requests.
- 2.3. Over a 10-year period, between 2010-19, 40 small parcels of HRA land were disposed of as well as 2 requests being approved relating to the granting of servitude rights of access over HRA land. It must be noted, these figures do not reflect the total number of enquiries received by Angus Council in relation to these types of requests as records are not kept of enquiries that do not progress beyond the initial stage.
- 2.4. Similarly, it was deemed necessary to clarify Angus Council's position in relation to the sale of attic/roof spaces shared in common. The Council sought to ensure a consistent and transparent approach was adopted. To date, Angus Council has not agreed to any request relating to the purchase of attic/roof spaces shared in common.
- 2.5. Angus Council has previously approached applications for the sale of small parcels of land and/or the granting of servitude rights of access on a case-by-case basis. In doing so, Angus Council first determined whether the land in question was held on the HRA and, secondly, whether all appropriate criteria was met. Following this, where Angus Council wished to proceed with an application of this type, the below actions would be taken:
- i. Receive approval from the Housing Leadership Team (HLT); and
  - ii. Seek Committee approval.
- 2.6. With the limited market value of these small parcels of land, and the resultant approval process, significant staff resource has been dedicated to this process.
- 2.7. In March 2020, Angus Council postponed consideration of the above applications as a result of the Covid-19 pandemic.
- 2.8. As of April 2024, Angus Council re-opened applications for the purchase of small parcels of HRA land and/or the granting of servitude rights of access over HRA land.

### **3. Current Position:**

- 3.1. On 24 April 2025 Angus Council's Housing committee approved the following changes:
- (i) updates to the current Policy for Servitude Right of Access over Council Ground, the addition to the Policy of the procedure(s) for the disposal of small parcels of HRA land and to delegate authority to Service Leader – Housing to review and update the policy as required operationally;
  - (ii) agreed to set criteria for determining small parcels of HRA land to be disposed of and/or to be granted servitude rights of access over;
  - (iii) agreed that where two or more parties highlight their interest in purchasing a small parcel of HRA land, land is to be placed onto the open market;
  - (iv) agreed that where two or more parties request a servitude right of access over the same parcel of HRA land, each request is to be considered on an individual basis. A servitude right of access may be granted to more than one interested party to the same parcel of

land without the need to go to the open market (subject to set criteria outlined within 3.1. (ii) being met);

- (v) approved proposed changes to the administration fee (and other related fees) to be charged to purchaser(s) of HRA land and/or those requesting servitude rights of access over HRA land (see Appendix 2), including the annual review of fees;
- (vi) delegated authority to the Service Leader – Housing to approve the disposal of HRA land and/or the granting of servitude rights of access over HRA land in consultation with the Director of Infrastructure & Environment; and
- (vii) agreed that Angus Council will not dispose of attic/roof spaces shared in common between council and ex-council stock; even where there are requests received to do so.

3.2. Policy as of 24 April 2025:

- 3.3. Whilst non-statutory, the Housing Service will consider requests to purchase small parcels of land held on the HRA. As per the Council's Financial Regulations (17.3.4 Transactions – Disposal of Land and Property), "Where an approach is made to purchase a piece of land and this approach relates to a small plot of land which can be determined to only have a discernible benefit to the applicant, this may be dealt with by negotiation with the applicant..."
- 3.4. The approval process for the disposal of HRA land and/or the granting of servitude rights of access over HRA has been changed to make the process quicker.
- 3.5. All requests received by Angus Council to dispose of small parcels of HRA land and/or grant servitudes rights of access over HRA land will be approved by the Service Leader – Housing.
- 3.6. Angus Council will not consider the sale of attic/roof spaces shared in common between council and ex-council properties. Following discussions with officers from Planning, Legal and Democratic Services and Housing (Technical), there was unanimous recommendation that Angus Council should not proceed with the sale of attic/roof spaces shared in common. This related to concerns pertaining to shared/communal access points, difficulty in managing the maintenance of council stock, consent requirements of all parties involved, impact on the future sale of these properties, technical concerns, and alterations to common rights of owners.

**4. Charging:**

- 4.1. Angus Council have introduced new fees to be incurred by an applicant requesting to purchase a small parcel of HRA land, as well as updated previously agreed Legal fees for the granting of servitude rights of access over HRA land. Appendix 2 provides a clear outline of all fee cost(s) to be incurred by an applicant.
- 4.2. Angus Council previously received committee approval on January 2014 (Committee Report No 28/14) to the granting of servitude rights of access over HRA land. As per this report, where a servitude right of access request is received, it was established that a flat fee of £500 per household would be charged for legal costs; a flat fee of £350 would be charged for valuation costs; and that an additional maintenance fee of £2,000 would be charged for any un-adopted roadway. In review of the fees outlined therein, Angus Council confirmed that the valuation costs and additional maintenance fees quoted were accurate and up to date. In consultation with Legal Services, an approximate fee of £500 for legal costs was agreed on a discretionary basis. Where appropriate, Legal Services may increase this fee in reflection of workload. In addition, Angus Council introduced a consistent administration fee for both disposal of HRA land and the granting of servitude of rights of access over HRA land.

## **5. Benefits:**

- 4.1 Angus Council acknowledge multiple benefits from developing a clear policy for Angus Council staff to utilise when approaching the disposal of small parcels of HRA land and/or the granting of servitude rights of access over HRA land. A clear policy will:
- 4.2 Ensure that Angus Council staff remain consistent in their approach to the disposal of small parcels of HRA land and/or the granting of servitude rights of access over HRA land.
- 4.3 Outline relevant criteria to be referred to when determining suitable land for disposal and/or the granting of servitude rights of access over this land. This relates to a 'surplus to requirements' criteria, which will:
  - (i) Promote the disposal of land with unnecessary maintenance costs.
  - (ii) Re-distribute successful sale contributions back into the HRA.
  - (iii) Ease the burden for the CHT when managing council stock.
  - (iv) Provide opportunities to improve and/or convert otherwise disused land into positive community developments and visually appealing environments.
- 4.4 Ensure efficiency in approach, allowing staff resources and time to be more appropriately utilised and for unnecessary costs to be avoided.
- 4.5 Outline all fees to be incurred by parties purchasing HRA land and/or those requesting servitude rights of access over HRA land (see Appendix 2).
- 4.6 Make clear Angus Council's position in relation to the disposal of attic/roof spaces shared in common between council and ex-council properties.

## **6. Risks:**

- 6.1. This policy has been developed to provide clarity over (i) the sale of small parcels of HRA land, (ii) the granting of servitude rights of access over HRA land, and (iii) the sale of attic/roof spaces shared in common by council and ex-council properties. Therefore, Angus Council anticipate limited risk as a result of its introduction.

## **7. Costs:**

- 6.1 See Appendix 2 – Fee Cost(s) Breakdown.
- 6.2 Any income generated from the sale of small parcels of HRA land and/or the granting of servitude rights of access, will be utilised for the purposes of environmental improvements to benefit council tenants. For this reason, any costs involved in purchasing an area of ground or right of access must be met by the applicant.
- 6.3 While costs will be incurred by the applicant and satisfied at settlement (where the sale of land progresses to this stage) or sooner (should the sale of land not proceed), Angus Council are mindful of the direct and indirect impact of excessive fee charging. The above fees have been afforded careful consideration, ensuring best value for money is achieved for all current and future applicants. These fees will be reviewed annually, with Appendix 2 amended in reflection of this.

## **8. Guiding Principles:**

- 8.1. Applications requesting to purchase small parcels of HRA land and/or the granting of servitude rights of access over HRA land will be considered on a case-by-case basis.
- 8.2. The Council will only consider the disposal of small parcels of HRA land which meet the following criteria:
- A request is received by an interested party who is the owner of a property which shares a boundary, on the same ground level, as the land considered for disposal.
  - The land is deemed surplus to requirements; either as an unnecessary maintenance cost and/or provides little value to existing council stock or tenants.
  - The land is currently held on the HRA.
  - The land has a purchase price which represents best value for money when compared against market value and other relevant considerations. Note, all completed valuations will take account of any development potential.
  - All relevant fees are advised of and satisfied by the applicant at settlement (where the sale of land progresses to this stage) or sooner (should the sale of land not proceed).
  - The sale would not be detrimental to surrounding residents and/or to the management of existing council stock.
- 8.3. The Council will only consider the granting of servitude rights of access over HRA land when the following criteria is met:
- The land over which servitude rights of access are granted is deemed surplus to requirements; either as an unnecessary maintenance cost and/or provides little value to existing council stock or tenants.
  - The land over which servitude rights of access are granted is currently held on the HRA.
  - The land has a purchase price which represents best value for money when compared against market value and other relevant considerations. Note, all completed valuations will take account of any development potential.
  - All relevant fees are advised of and satisfied by the applicant at settlement (where the sale of land progresses to this stage) or sooner (should the sale of land not proceed).
  - The granting of servitude rights of access would not be detrimental to surrounding residents and/or to the management of council stock.
- 8.4. The Council will not consider the sale of attic/roof spaces shared in common between council and ex-council properties. Any application received into Angus Council, requesting the right to purchase one of these types of spaces, will be provided with a standard response, informing the applicant of Angus Council's decision as per this policy.
- 8.5. Where two or more parties highlight their interest in purchasing a small parcel of HRA land, Angus Council will place this land onto the open market.

- 8.6. Where two or more parties request a servitude right of access over the same parcel of HRA land, each request is to be considered on an individual basis. A servitude right of access may be granted to more than one interested party to the same parcel of land without the need to go to the open market.
- 8.7. Appropriate fee(s) as outlined within Appendix 2 will apply. This will highlight all fees to be incurred by the applicant in the purchase of HRA land and/or the granting of servitude rights of access. Where 8.6 applies, additional marketing fees will be incurred in full by the purchasing party or, in part, by all interested parties signing a mandate, where no offer is received. Appendix 2 outlines all additional fees to be incurred where a parcel of land is placed onto the open market.
- 8.8. Where any party fails to make a payment, a signed mandate will allow Angus Council to invoice for any outstanding amounts due and initiate normal debt recovery processes in failure of this.

**9. Related Legislation and Policies:**

- 9.1. R28/14 – Communities Committee – 21 January 2014 – Policy for Servitude Right of Access over Council Ground.

**10. Policy Review:**

- 10.1. The HRA Disposal of Land and Granting of Servitude Rights of Access Policy (in its entirety) will be reviewed 1 year after the date of implementation. Thereafter, any changes to the policy will be submitted to the Service Leader – Housing for approval.
- 10.2. In addition, the policy will annually review fees to be incurred by relevant parties requesting right to purchase and/or access rights over HRA land.

**11. Contact Information:**

- 11.1. If you require further information relating to the disposal of HRA land and/or the granting of servitude rights of access over HRA land, please contact:

ACCESSLine on 03452 777 778.

**12. Appendices:**

- 12.1. Appendix 2 – Fee Cost(s) Breakdown.