

## Report of Chief Statutory Housing

## Report to Chief Officer Property and Contracts

**Date: August 2014**

**Subject: Request to declare land adjacent to 77 Oatland Gardens surplus to departmental requirements**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): HydePark and Woodhouse		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

## Summary of main issues

1. The owner of 77 Oatland Gardens has put in a request to purchase land adjacent to their property (highlighted on the attached plan). The land is vested with Environment and Housing.
2. The land has been enclosed into their curtilage since they have lived at the house in the early 1990's and the discrepancy has come to light during the current sale of the property.

## Recommendations

3. It is recommended that the Chief Officer Property and Contracts declare the land (highlighted on the attached plan) surplus to the Department of Environment and Housing operational requirements for the purpose of selling to the owners of 77 Oatland Gardens.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek approval to sell the land adjacent to 77 Oatland Gardens (highlighted on attached plan).

## **2 Background information**

- 2.1 The owner of 77 Oatland Gardens has put in a request to purchase land adjacent to their property (highlighted on the attached plan). The land is vested with Environment and Housing.
- 2.2 The request to purchase the land has come about due to a discrepancy in the deeds showing up during the current sale of the property. The discrepancy is holding up the completion of the said sale. The previous owners of the property appear to have encroached onto the land and the encroachment was never challenged. As a result there is a high risk the land could be lost through adverse possession as the Council would find it difficult to provide an effective counter claim.
- 2.3 The whole land measures approximately 83 sq. meters and will be valued by city development to take account of the current conservatory that is built upon it and current use.

## **3 Main issues**

- 3.1 The owners of 77 Oatland Gardens have recently approached the Council requesting to purchase the land adjacent to their property (highlighted on attached plan).
- 3.2 The land has been enclosed into the garden at the address since at least the early 1990's.
- 3.3 Currently the area of land has a conservatory built upon it which was erected in the early 1990's before the current owners bought the house. The area of land is enclosed with a fence and is fully patio paved, it has been used solely by the occupants since they have resided at the property and they assumed the land was part of the house.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Local Ward members and Area management have been consulted.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An equality, diversity cohesion and integration screening exercise have been carried out. This has affirmed that equality, diversity, cohesion and integration considerations have been effectively considered in relation to this proposal and that a full impact assessment was not required.

### **4.3 Council policies and City Priorities**

- 4.3.1 The proposal to sell the land to the owners of 77 Oatland Gardens would generate a capital receipt for the Council. Formalising the encroachment would prevent the land asset being lost through adverse possession.

### **4.4 Resources and value for money**

- 4.4.1 The sale of the land would alleviate the Council from any potential future maintenance liability if the land was returned to its original state and provide the Council with a capital receipt.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 This report is not eligible for Call in and there are no known legal implications.

### **4.6 Risk Management**

- 4.6.1 If the sale does not proceed the Council could lose it through adverse possession as the Council would struggle to provide an effective counter claim in this instance having not challenged the encroachment until recently. The land has no operational use by the department of Environment and Housing.

## **5 Conclusions**

- 5.1 The Department of Environment and Housing has no operational use for the land adjacent to 77 Oatland Gardens (highlighted on the attached plan). Following internal consultation where no right of way or adverse issues were raised as to the use of the land, it is concluded that the best option would be to sell the land to the owners of 77 Oatland Gardens.
- 5.2 The land would be sold and valued in relation to its present state of use i.e. with conservatory and patio.
- 5.3 The proposed sale of this land would generate a capital receipt for land that has been used solely by the owners of 77 Oatland Gardens since at least the early 1990's.

## **6 Recommendations**

- 6.1 It is recommended that the Chief Officer Property and Contracts declare the land (highlighted on the attached plan) surplus to the Department of Environment and Housing operational requirements for the purpose of selling to the owners of 77 Oatland Gardens.

## **7 Background documents<sup>1</sup>**

- 7.1 Plan identifying land adjacent to 77 Oatland Gardens.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

