



ESTATES SERVICES

A GUIDE TO HOUSEHOLDERS ON APPLICATIONS TO PURCHASE GROUND (April 2024)

GENERAL

Due to continued workload pressures, staff are concentrating on corporate priorities and high value transactions. As such only very limited staff resources are being deployed (when possible) to Garden Ground sales applications. It is therefore likely to take a significant period of time before new applications can be considered.

The guidance provided below is intended to explain the processes the Council has adopted to consider applications to purchase Council owned amenity, open space or other ground adjoining or near to your property. In order to keep the procedure simple Estates Services will co-ordinate requests of this nature on behalf of all Sections of the Council so you need not approach other Sections separately unless advised to do so. All applications will be processed as quickly as possible, but you should appreciate that because more than one section or Committee could be involved, it may take several months to process a request.

INITIAL CONSULTATION

The Council's Estates Services will act for the Council in its capacity as landowner. On receipt of an initial non-refundable fee of **£370**, the Council will confirm whether the ground is in the ownership of the Council and if owned, check there are no unusual title conditions and provide an estimate of value of the ground. If the applicant is in agreement with the estimated value of the ground, and wishes to proceed, Estates Services will consult with other Sections of the Council to establish whether there are any issues or concerns which might prevent the Council from selling the ground, or which might require that conditions are attached to any sale.

It should be clearly noted that the determination of such would be at the Council's sole discretion.

In addition, Estates Services will consult with the ward councillors and neighbouring proprietors.

ADVERTISING

Section 27 of the Town & Country Planning Act (Scotland) 1959 requires that a Local Authority, before disposing of any land which can be defined as "common or open space" to publish a Notice for at least two consecutive weeks in a newspaper circulation in that area. Should the land in question be deemed common or open space the approximate costs would be £250 to £350, which would be payable by the applicant.

PROVISIONAL OFFER

If the Estates Services is advised, following consultations, that there are no objections in principle to the disposal of the land in question, you will be provided with a provisional offer to sell the ground, which may be subject to you obtaining planning permission for your proposed use.

PLANNING

The Council's Planning Section will confirm, as part of the initial consultations, whether a planning application would be required for the proposed use. If Planning advise that a planning application is required and we have provisionally agreed main terms of sale, you will be invited to make a planning application. The fee for the submission of a planning application for a change of use will be calculated based on the total area of the ground. Areas of up to 0.1 hectares (1,000 m²) will attract a fee of £500, with a further £500 due for each 0.1 hectares or part thereof up to a maximum fee of £5,000. This fee is non-returnable whether or not approval is granted. Please note it would be the responsibility of the applicant to procure and supply, at their own expense, any plans, drawings required by the Planning Authority in respect of such an application. It is not permitted to use any plans or drawings issued by the Estates Service in relation to your proposal for the purpose of making a planning application.

For further advice on Planning issues please visit the Council's website via this link http://www.moray.gov.uk/moray_standard/page_41669.html or contact the Duty Officer, Development Control Section, Moray Council. Tel No 0300 1234561 between 2pm and 4pm Mon-Fri. Please note that you must undertake your own investigations to assess whether the ground is suitable for your intended use. You may wish to seek appropriate professional advice for any proposed change of use or other development.

If you are required to obtain planning consent for a change of use or for any other reason, then you will require to obtain this consent prior to the Council further considering your application to purchase. It should be noted that the Council's role as Planning Authority in processing planning applications is entirely separate from the Council's role as landowner. The fact that the Council may have issued a provisional offer to sell will be disregarded in considering a planning application.

If Planning indicate that they are likely to recommend refusal of a planning application for your proposed use, then you may wish to discuss the matter further with them before deciding whether to proceed to submit a planning application. Please note that you would not receive a formal offer to sell until you have obtained any necessary planning consent.

APPROVAL OF SALE

Once main provisional terms of sale have been agreed and you subsequently obtain planning permission, Estates Services will request a final administration fee of **£580** in respect of meeting the Council's costs of processing the application. Upon payment of this fee (if the purchase price is no greater than £30,000) Estates Services will instruct the Council's Legal Services Section to contact you with a view to formally concluding the transaction.

If the purchase price is greater than £30,000 Estates Services will report your application to the relevant Committee(s) with a recommendation that the ground be sold to you. If a committee report is necessary there is an additional non-refundable fee of **£475** to be paid by the applicant prior to the report being prepared and submitted to Committee.

If consultations indicate that a sale would not be supported you will be advised of this by officers. If you wish you may request that your application be referred to Committee for a final decision. If you decide you wish your application to be considered by Committee it will be necessary for you to have your planning application determined first so that the Committee have all the necessary information required to make a decision. The cost for submitting a report to Committee in these circumstances will be **£475** irrespective of the cost of the ground.

If Committee approve a sale Estates Services will instruct the Council's Legal Services to contact you with a view to formally concluding the transaction.

LEGAL PROCEDURE

The offer of sale will be conditional upon you meeting the Council's legal fee, which is currently **£687** for all straightforward transactions. This fee may be increased if there are any complications. You should note that this fee is in addition to the legal fees you may incur if you appoint a private solicitor to deal with the purchase on your behalf.

USEFUL CONTACTS

- Requests for the purchase of ground should be addressed to the Asset Manager, (Commercial Buildings) Council Offices, High Street, Elgin IV30 1BX, Tel: (0300 1234566) Email: estates@moray.gov.uk
- The Development Management and Buildings Standards Manager will be responsible for giving preliminary advice on any planning applications which may be necessary and will deal with any planning application which is made. The Section's Duty Officer is available to deal with enquiries daily from 2 – 4pm at the Council's Access Point, High Street, Elgin or telephone 0300 1234561.

The legal completion of all sales of land will be dealt with by the Legal Services Manager.

SUMMARY OF LIKELY COSTS YOU WILL INCUR

Initial application fee - £370

Committee report - £475

Purchase price of the land – (To be advised)

Completion fee - £580

Council's Legal fees and expenses for small transactions - £687

Planning Application – (see note above)

Your own solicitor's legal fees.

Fees for other professional advisors you may appoint.

Cost of diverting all necessary services, footpath closures, accesses and walls/fences.

Cost of advertising proposals in local publications £250 to £350

Data Protection

Here is a link to the Council's Privacy Notice setting out the Council's approach to the use of personal data in the Garden Ground purchase process – [link](#).