

**HOMES POLICY DEVELOPMENT GROUP  
15 SEPTEMBER 2020**

**GRASS VERGES LOCATED ON HOUSING REVENUE ACCOUNT LAND**

**Cabinet Member(s):** Councillor Bob Evans  
**Responsible Officer:** Mrs Claire Fry, Group Manager for Housing Services

**Reason for Report and Recommendation:** To set out the background and to agree a way forward with regard to decision-making relating to maintenance responsibilities for those grass verges which are located on land owned by the Housing Revenue Account. It is recommended that **Members agree the establishment of a task and finish group** to make recommendations regarding a new procedure for agreeing local agreements for grounds maintenance relating to those grass verges which belong to the Housing Service

**Financial Implications:** The management and maintenance of homes on our estates is funded through the Housing Revenue Account (HRA), which is ring-fenced. The main income into this account is derived from the rents paid by tenants. Grounds maintenance on our housing estate land is also paid for out of the HRA.

**Budget and Policy Framework:** There is a budget set aside within the HRA to meet the costs of grounds maintenance and this includes a sum relating to the work to maintain the grassed verges on housing estates. The Council's Street Scene department provides grounds maintenance services to the Housing Service and this work is recharged to the HRA. A new service level agreement is in development as part a regular cyclical review of this work.

Devon County Council (DCC) is responsible for the upkeep of grass verges on land classified as Highways Maintained at Public Expense (HMPE). Previously, the County Council used to maintain such grass verges but halted this in 2015. Since then, the Housing Service has continued to maintain these verges. The cost of maintaining sightlines on verges to reduce the risk to motorists and other road-users four times a year is funded by DCC. The other cuts to maintain the sightlines are funded out of the HRA, typically up to a further three cuts each year.

Paragraph 3, Part III, Schedule 4 to the Local Government and Housing Act 1989 requires that where the costs for amenities, such as grass cutting, which are provided as part of the Housing Service within the HRA but the community as a whole benefits, then such costs should be shared between the HRA and the General fund.

The Housing Service has a Neighbourhood Management policy and this contains provisions relating to grassed areas on housing estates.

**Legal Implications:** As a social landlord, the Council is subject to the regulatory framework for social housing and the Neighbourhood and Community Standard states that: "Registered Providers shall keep the neighbourhood and communal areas associated with the homes that they own clean and safe". The Housing Service is also expected to have a policy setting out the position with regard to neighbourhood management. In addition, the Tenant Involvement and Empowerment Standard

contains provisions relating to the need to involve tenants in decision-making relating to service delivery.

**Risk Assessment:** Failure to consult tenants about changes in the way that services are delivered could result in complaints, and the Council being found to be in breach of regulatory provisions. Failure to apply policy relating to neighbourhood management consistently could result in further complaints arising from allegations of unfairness. The Housing Ombudsman Service will always check that policy has been followed during an investigation and any failure on behalf of the Housing Service to apply policy in a fair and transparent way could result in a finding of maladministration and associated reputational damage.

Failure to maintain these verges for which the Housing Service has no responsibility could result in the areas becoming unkempt and looking untidy.

**Equality Impact Assessment:** As required by the regulatory framework for social housing, the Housing Service has a policy relating to neighbourhood management and this ensures that there is a consistent approach to matters relating to grounds maintenance on the Council's housing estates.

**Relationship to Corporate Plan:** Homes and the environment are both priorities for the Council

**Impact on Climate Change:** There is a growing awareness of the benefits of allowing grass to grow longer and of encouraging the growth of wildflowers on verges. Without careful management, wildflowers on verges can be choked by brambles, scrub or vigorous coarse grasses, as stated in the DCC web pages. The Housing Service is aware that some residents on housing estates and nearby would welcome a new approach to the management of the grassed areas near to their homes and the proposal in this report is informed by recent comments and requests received from Members, local people and some residents who live on our estates.

Whilst Officers will endeavour to plan their work in advance in order to minimise environmental impact, there will be times when they have to make an urgent visit to a housing estate in order to respond to a pressing matter, such as a health and safety issue. In such cases, this work must take priority and will involve an unplanned journey to and from an area which cannot necessarily be organised to coincide with other visits elsewhere within the District.

## 1.0 Background

- 1.1 Many of the District Council's (the Council's) housing estates were built some years ago and were designed to be spacious and to provide an attractive area in which to live. A lot of the street properties are located on roads where there is a grass verge or other grassed area provided for the amenity of residents.
- 1.2 The situation relating to the maintenance of these grassed areas is complicated. Responsibility remains with the Housing Service in relation to some of them; however, the General Fund also owns some of these grassed areas and retains responsibility for keeping them in good order.

- 1.3 Roads and any associated verges on the housing estates that have been adopted by Devon County Council are the responsibility of the Highway Authority (DCC) even though the land on which they are located actually belongs to the Housing Revenue Account (HRA).
- 1.4 For many years, DCC funded the maintenance of these verges in their entirety but no longer does so, having implemented a policy relating to this in 2015. There is some information about their policy on their website and the narrative states that the health and safety of road traffic users is DCC's main priority; it also states that they try to explore opportunities as to whether it is possible for their road verges to be cut for the benefit of wildlife without incurring unreasonable costs to the tax payer.
- 1.5 DCC now generally pays the Council to cut a one meter strip on junctions or bends in roads where visibility may be compromised if grass is left to grow too long. DCC makes this payment in respect of four such cuts a year to four junctions to a large piece of grass in Tiverton. This is not the case in a number of Parishes/Towns where DCC pays the Parish or Town Council to undertake this work.
- 1.6 Elsewhere, verge maintenance is paid for through the HRA.

## **2.0 Regulatory Framework for Social Housing**

- 2.1 In line with the Neighbourhood and Community Standard of the Regulatory Framework for Social Housing, the Council has a policy relating to Neighbourhood Management. The Standard also contains a specific expectation regarding consultation with tenants on the development of a published policy for maintaining and improving the neighbourhoods associated with their homes.
- 2.2 The Tenant Involvement and Empowerment Standard within the Regulatory Framework contains provisions which are also relevant to decision-making relating to service delivery.
- 2.3 The Standard contains a required outcome which states that: "Registered Providers shall ensure that tenants are given a wide range of opportunities to influence and be involved in... the formulation of their landlord's housing-related policies and strategic priorities, the making of decisions about how housing-related services are delivered" and: "agreeing local offers for service delivery". Landlords are also required to offer tenants opportunities to scrutinise performance and make recommendations about how performance might be improved.
- 2.4 In addition, there are several specific expectations set out within the Standard which are relevant to any discussions on decision-making relating to service delivery. The Standard states: "Registered Providers shall provide tenants with accessible, relevant and timely information about the service choices available to tenants, including any additional costs that are relevant to specific choices". In addition it states that: "Registered Providers shall support their tenants to

develop and implement opportunities for involvement and empowerment” and gives a specific example relating to local offers. It states: “Registered Providers shall consult with tenants on the scope of local offers for service delivery. This should include how performance will be maintained, reported to and scrutinised by tenants and arrangements for reviewing these on a periodic basis.”

### **3.0 The Neighbourhood Management Policy**

- 3.1 The existing policy was agreed by the Tenants Together group before the revised version was adopted in 2018 by Cabinet following recommendation by the Homes Policy Development Group. The Neighbourhood Management policy states that one of the Council’s overall objectives in implementing it was to identify areas in need of attention or improvement and to undertake measures to resolve them. With regard to grassed areas located on communal land on an estate, the policy states that these are provided as an amenity for the benefit of all tenants.
- 3.2 In line with the policy, our Neighbourhood Officers undertake neighbourhood walkabouts periodically and the aim of these is to identify issues including those relating to grassed areas.
- 3.3 The policy states that tenants should seek permission regarding the use of external communal areas; and notes that this is particularly important if there is a proposal to establish a gardening club, or to create a wildflower garden, or to run a communal social event, for example.

### **4.0 Grounds Maintenance**

- 4.1 Responsibility for grounds maintenance work (grass, shrubs and hedges) on housing estates is contracted to StreetScene and the Housing Service pays a recharge in respect of work undertaken. During 2019/20, the Housing Service paid approximately £236,000 for the work.
- 4.2 Any decisions relating to the recharge made from the HRA to the General Fund must take account of the effect of paragraph 3, Part III, Schedule 4 to the Local Government and Housing Act 1989. Accordingly, there will be an assessment undertaken periodically in future years as part of routine discussions relating to the service level agreement. This work will inform decision-making with regard to the sharing of costs for grounds maintenance in relation to those areas of land which are provided on housing estates but benefit the community as a whole.
- 4.3 The income stream into the Housing Revenue Account (HRA) is likely to be impacted negatively by the downturn in the economy expected as a result of the pandemic. The majority of income into the HRA is derived from the rent paid by tenants.
- 4.4 In cases where verges form part of the adopted public highway (HMPE), then the Highway Authority (in this case, DCC) is responsible for maintenance of those verges. Where there is an agreement between the County Council and the District Council, the District Council has the power to carry out maintenance to

public highways (section 42 of the Highways Act 1980) and will then be reimbursed by the County as Highway Authority.

- 4.5 DCC policies relating to the cutting of verges are informed by considerations relating firstly to highway safety and also to biodiversity, according to the webpage: "Life on the Verge in Devon". This webpage explains that the habitat provided by roadside verges is a sanctuary for wildflowers, pollinating insects, reptiles, amphibians and small mammals.
- 4.6 This policy is primarily used in connection with verges to rural roads but it also applies to verges on housing estates. On such estates, DCC will ensure that grass is cut to maintain sight lines in the interests of health and safety but will no longer recompense the Council for any other maintenance undertaken to the verges.
- 4.7 If the Council decides to cut the grass verges within the public highway at its own cost rather than on behalf of DCC then this would be a discretionary activity and not something it has an obligation to do.
- 4.8 It should be noted that the cost of cutting the verges where responsibility lies with DCC forms just a small proportion of the recharge from the HRA to StreetScene. On one large piece of grass, DCC pays to have sightlines maintained at two entrances and there are four such cuts each year. The total payment made by DCC to cut these sightlines is estimated to be £51.12 and the recharge made from the HRA has historically been reduced to take account of this. The HRA pays for the remaining three cuts which are undertaken at that site. Elsewhere, in some parishes, the HRA pays for all the cuts to those verges.
- 4.9 The calculation relating to the recharge from the HRA is based on the size of the area to be mown. The breakdown of the cost for 2020/21 shows that there are 69 grassed areas which are mown on behalf of DCC. These can be found in 23 separate locations. The total area which is mown is 21,340 metres square. Mowing these verges takes 36.75 hours each time they are mown and the total cost of the work includes provision for 7 cuts each year. The cost of the recharge is reduced to take account of the payment from DCC. This is minimal given that it only covers the cost of 4 cuts to maintain sightlines at 2 junctions. However, the cost of the recharge from the HRA is reduced by this amount.
- 4.10 The grass at the Waldrons in Tiverton is included in this calculation. As this area of communal land has high visibility on one of the main roads into the town, any decision not to mow the grass has the potential to be highly controversial.
- 4.11 Given the current circumstances, in which there is an expectation that income into the HRA will be impacted negatively by the economic impact of the pandemic, all expenditure needs to be reviewed. Decisions are required in relation to discretionary activities because the funding needed to continue service delivery in relation to these may be better used in relation to other priorities.

- 4.12 However, there is another driver for a change in approach to the management of grassed areas on our housing estates; the Council has pledged its support to tackling climate change and to cutting carbon emissions. The corporate plan contains a specific pledge which relates to the identification of opportunities to work with landowners to secure additional hedgerow planting, biodiversity and reforestation.
- 4.13 The grounds maintenance team currently endeavours to cut grass verges on housing estates 7 times a year.
- 4.14 Any decision to halt or reduce grass cutting on any housing estate verge is likely to be controversial because of the strong, but differing feelings many residents across all tenures may have about the appearance of their local environment.

## **5.0 The Way Forward**

- 5.1 This overview highlights the factors which may impact policy relating to grounds maintenance on the housing estates managed by the Council. This provides an indication of some of the challenges associated with agreeing a new approach to grounds maintenance.
- 5.2 As a way forward, it is recommended that the PDG establishes a Member working group to explore ways to amend the Neighbourhood Management policy. This would be with the intention of providing a means for establishing localised agreements relating to specific pieces of verge or other grassed land on a housing estate.
- 5.3 Any mechanism agreed will have to allow a variety of stakeholders to be involved in the decision-making and this includes local Ward Members, tenants and other residents on the housing estates; and other local residents.
- 5.4 In addition, it will have to take account of the fact that any changes to the cutting schedule or other working arrangements practiced by the grounds maintenance team on behalf of the HRA must be delivered on a cost-neutral basis.
- 5.5 Another important factor which may impact decision-making relating to the agreement of localised arrangements relates to the changing the timing of cuts across the year to accommodate wildflower management. This needs to be carefully considered in the context of the overall schedule of works and the mobilisation of crews and equipment to carry out a range of maintenance at each visit.
- 5.6 In addition, if localised agreements result in fewer cuts (sightlines excluded) to verges, there is a potential to realise some potentially small savings to the HRA given that this could impact the recharge payable to the Street Scene department.

## **6.0 Recommendation**

- 6.1 Members are asked to agree the establishment of a task and finish group. This group would discuss the many strands associated with service delivery in relation to grounds maintenance, in general, and grass cutting on housing estates, in particular. This working group would be set up to make recommendations regarding a new procedure for agreeing local agreements for grounds maintenance relating to those grass verges in the ownership of the Housing Service.
- 6.2 It is envisaged that the working group would work closely with Officers from the Housing Service and a representative from Street Scene to inform decision-making.

**Contact for more Information:** Mrs Claire Fry, Group Manager for Housing Services, email: [cfry@middevon.gov.uk](mailto:cfry@middevon.gov.uk) tel: 01884 255255 or Simon Newcombe, Group Manager for Public Health and Regulatory Services, email: [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk) tel: 01884 255255

**Circulation of the Report:** Cabinet including Cllr Bob Evans, Cabinet Member for Housing, Leadership Team, Group Managers and Legal Services

### **Background Papers:**

The Regulatory Framework for Social Housing  
<https://www.gov.uk/guidance/regulatory-standards>

The Housing Service Neighbourhood Management Policy  
<https://www.middevon.gov.uk/residents/housing/council-housing/strategies-and-policies/>