



Greenbelt on Consumer Choice

Greenbelt was established to own, manage and maintain open spaces in new housing developments. The company is committed to developing best practice throughout its operations from landscape management and maintenance to customer care.

A key element of this is to offer Greenbelt customers more options for the management and maintenance of the open spaces on their development covered by the company's Greenspace arrangement.

The company has listened to customers and their representatives and has developed options that will, in future, enable homeowners to have more choice in how open spaces on their development are managed.

These have been developed against the backdrop of the principle of the single ownership model which provides the benefit of a safety net to protect the long term integrity of the open spaces in the event of breakdown of other management arrangements. The Greenbelt approach meets regulatory and planning requirements and responds to the needs of the development industry and planners.

Extending Consumer Choice on New Developments

Greenbelt has developed a new homeowners' management option enabling residents to make their own arrangements to maintain the open spaces in place of Greenbelt where:

- to do so would not be contrary to planning obligations relating to the management of the open spaces;
- a majority of two thirds of the homeowners on a development are in favour of exercising that option to ensure there is sufficient support and resources to fulfil management and maintenance obligations;
- homeowners exhibit appropriate public and occupiers liability insurance cover; and
- all outstanding debts to Greenbelt are cleared.

This option will be included in the title conditions relating to the open spaces and will form part of the title deeds to each house on the development.

Extending Consumer Choice on Existing Developments

Where ownership has already transferred to Greenbelt, options are available where there is a consensus of homeowners who would prefer to make their own arrangements for management and maintenance of the open spaces in place of Greenbelt.

Option 1

Homeowners can already utilise the terms of the Title Conditions (Scotland) Act 2003. This allows homeowners the facility to vary or discharge what is known as a "community burden".

A community burden is a title obligation which in broad terms applies to all house owners on a housing development. The community also includes Greenbelt as owners of the open spaces.

Certain procedures have to be followed if members of a community wish to vary or discharge a community burden, and all members of the community have to be made aware of any such proposal. If there are objections to any proposed variation or discharge then the Lands Tribunal is the forum which makes the final decision as to whether the title condition can be varied or discharged or not.

This option could be used for example to vary the deed of Conditions to incorporate the homeowners' management option which is now offered to homeowners on new developments (referred to above). This variation has the effect of putting homeowners on existing developments in the same position as those on new developments. It provides an option for homeowners to make their own arrangements to maintain the open spaces in place of Greenbelt.

Option 2

Greenbelt can enter into a lease arrangement with homeowners for a period of 5 years at a time, providing transfer of maintenance and insurance responsibilities for the open spaces to homeowners. This could be entered into by a simple majority (following the simple majority provisions of the Title Conditions (Scotland) Act 2003). It would however, in Greenbelt's view, be more equitable for the homeowners to secure a larger majority to become party to such an arrangement, as the obligations under the lease to maintain, insure and pay for that maintenance and insurance would be enforceable only against those who entered into the lease.

Further information on extending consumer choice on both new and existing developments

Transfer of ownership of the open spaces from Greenbelt to homeowners would be considered by Greenbelt on a case by case basis. It would be subject to compliance with planning conditions, would require unanimity from homeowners (to ensure all had equal ownership rights and responsibilities) and the transfer of all liabilities associated with the land.

General

In Greenbelt's view, the most fair and robust method of achieving choice of management for homeowners on existing developments is to incorporate the homeowners management option into the existing Deed of Conditions. This option provides for a fair and equal charge to all homeowners and also applies to current and future owners, without also imposing the responsibilities associated with land ownership.

In all cases homeowners will be required to comply with all statutory and legislative responsibilities on the open spaces such as play area safety; protection of homes from flooding, protection and management of designated features and habitats and provision of adequate insurance cover for so long as homeowners undertake the management responsibilities.

The above information is provided for guidance only and Greenbelt recommends that homeowners seek independent legal advice in respect of any queries they may have in relation to the options set out above.

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