**ABSTRACT:** A report to amend the current transfer policy of the Council of public open space associated with recently developed housing to allow contractual landscape maintenance arrangements with the Council to be considered in the calculation of the annuity figures as part of the transfer.

### 1. RECOMMENDATION

1.1 The Committee are asked for their recommendation to accept the proposed amendment to the current policy.

### 2. BACKGROUND

2.1 The basis of the current council policy for the transfer of public open space is that developers are able to transfer public open space within developments to the Council on the basis that:

1) It is brought up to the required standard for the Council;

2) The land is transferred at no cost to the Council;

3) An annuity is paid to the Council of 20 times the annual maintenance cost;

4) The Council and the developer each pay their own legal costs.

2.2 In recent years, however, some developers faced with this cost have elected not to transfer the ground and have established a factoring arrangement between themselves, a landscape factoring company and the residents in the development. One of these situations has occurred at West Grange Estate, Monifieth. The residents have not been satisfied with the arrangements put in place by the developer and factoring company. Through legal agreement, they have been legally constituted as a Residents’ Association (representing the 131 households), taking on the factoring role from the company. The Association would like the Council to take over the open space but, as an association, they cannot raise the total annuity of 20 times the annual maintenance cost for the transfer of the public open space (over £250k). They wish to enter into a contractual arrangement with the Council for the Council to maintain the public open space within the development. They have also requested that the Council consider that for every year of completion of the annual maintenance contract, between the residents and the Council, that the multiplier on the annuity payment would be reduced by one.

2.3 Ultimately after 20 years of contracted maintenance with the Council, the Residents’ Association would be able to transfer the ground at no cost to the Council.

### 3. PROPOSALS

3.1 It is proposed that the current policy on open space transfer by developers to the Council is amended with an addition to allow Residents’ Associations to be credited against the annuity multiplier, any years of continuous contracted maintenance with the Council. This would allow Residents’ Associations with a more affordable route to the transfer of land than the current policy. If there was a break in the continuous maintenance by the Council then the agreement would fail. Any further request would be subject to approval by the Committee or its successor.
at that time. If, during the 20 year period, the Residents’ Association was able to raise the finance to pay the annuity, it would be based on the respective multiplier at that time and the re-calculated annual maintenance cost at the time of request.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications in the short term to the Council in the amendment to the policy. However, in the long term i.e. minimum of 20 years, the cost of maintaining this area of ground could fall to the Council and this would require to be addressed at that time.

5. HUMAN RIGHTS IMPLICATIONS

5.1 There are no human right implications arising from this report.

6. EQUALITIES IMPLICATIONS

6.1 The issues dealt within this report have been the subject of consideration from the equalities perspective (as required by the legislation) and Equalities Implication Assessment is not required.

7. CONSULTATION

7.1 The Chief Executive, the Director of Corporate Services, the Head of Finance and the Head of Law and Administration have been consulted in the preparation of this Report

8. CONCLUSION

8.1 The Council has been approached by a Residents’ Association to consider amending the policy on transfer of public open space in new private housing developments to allow recognition of any continuous contracted maintenance of the ground with the Council to be recognised in the consequent reduction in the multiplier on the annuity required for transfer.

RON ASHTON
DIRECTOR OF NEIGHBOURHOOD SERVICES

NOTE: No background papers, as defined by Section 50d of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information), were relied on to a material extent in preparing this report.

NS/RA/ANN