

**NORTH LANARKSHIRE COUNCIL  
REPORT**

To: <b>POLICY &amp; RESOURCES (REGENERATION &amp; INFRASTRUCTURE) SUBCOMMITTEE</b>		Subject:  <b>PROPOSED CHANGES TO SHARED FOOTPATH</b>  <b>65 &amp; 67 GALA CRESCENT, WISHAW.</b>
From: <b>HEAD OF REGENERATION &amp; INFRASTRUCTURE SERVICES</b>		
Date: <b>16th May 2013</b>	Ref: <b>MS/GG1881/W20</b>	

**1. INTRODUCTION**

1.1 The purpose of this report is to seek Committee approval for the current common footpath to become the exclusive property of 67 Gala Crescent and in its place grant a servitude right of access in favour of the Council to allow the tenant at 65 Gala Crescent access to their rear gardens.

**2. BACKGROUND**

2.1 67 Gala Crescent was sold by Motherwell District Council in 1995. It was sold with a common right along with the owners of 65 Gala Crescent to the footpath which runs along the gable end and across the original rear wall of Number 67. At the time the original owner of Number 67 applied for Superior Consent to erect an extension at the rear of Number 67. Conditional consent was given at the time which was subject to him obtaining consent from the Council's tenant to re-site the common footpath and that an excambion be entered into whereby the Council conveyed their interest in the existing common footpath on which the extension was being built and that in turn the owner would convey to the Council a one half share in the re-sited common footpath.

2.2 According to the current title, the common footpath is still in its original position, with the extension built across it. This confirms that the above conditions have not been met and there is therefore no consent in place to allow this. In addition to the extension, a carport has been erected over the area of common footpath at the gable end and this area of footpath has been taken away. There is at present, no suitable access for the tenant to gain entry to their rear garden.

**3. DESCRIPTION**

3.1 The Servitude right of access will be the route specified on the attached plan, to allow the Council tenant to access their rear garden.

**4. TERMS**

4.1 Negotiations have taken place with the owner of the property at 67 Gala Crescent. Provisional agreement has been reached on the basis that the current common footpath will become the sole ownership of 67 Gala Crescent. In return a Servitude right of access will be granted in favour of 65 Gala Crescent. A consideration of £250 will be paid to the Council by the owner of 67 Gala Crescent.


- 4.2 In addition, the owner of 67 Gala Crescent will be responsible for the Council's Legal and Professional fees in relation to this matter.
- 4.3 It should also be noted that a suspensively conditional variation in tenancy will be required to be signed by the tenant at 65 Gala Crescent in relation to this proposal.

**5. CORPORATE CONSIDERATIONS**

- 5.1 The granting of the servitude does not have an impact on the Council's operations.
- 5.2 The transaction would generate a small capital receipt and ensure that sufficient access rights are maintained for the property still within Council ownership.

**6. RECOMMENDATIONS**

- 6.1 It is recommended that the Committee approves the following proposals to:
- i) Relinquish the Council's interest in the current common footpath, it will become the exclusive property of 67 Gala Crescent.
  - ii) Enter in to a new Servitude Right of Access in favour of the Council to allow the tenant at 65 Gala Crescent access to their rear gardens.
- 6.2 All other terms and conditions to be adjusted by the Head of Regeneration & Infrastructure Services.



**ERIC HISLOP**  
Head of Regeneration and Infrastructure Services

Members seeking further information on the contents of this report are asked to contact Mary Anne Robb, Section Manager on 01236 632667.

# LOCATION PLAN - For Information Only

Title: 67 Gala Crescent

Scale 1:N.T.S.



Town: Wishaw

Date: 08/04/13

## ENVIRONMENTAL SERVICES

Temple Gill



## CARTOGRAPHIC SERVICES

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