



BOUNDARY ADJUSTMENTS AND THE SALE OF SMALL AREAS OF LAND

Background

This document describes Forestry and Land Scotland's (FLS) policy for dealing with direct requests from neighbours or other private interests wishing to acquire part of the national forest estate, for:

- boundary adjustments e.g. correction of title anomalies or small areas of additional garden ground; and
- private ownership and use of small areas of land.

Enquiries for such as:

- vehicular access rights; and
- servitudes and wayleaves for such as utility cables, pipes etc.

should be made to your local Regional Office for the attention of the Area Land Agent. These will be considered on a case by case basis with particular attention to the potential impact on the management of the national forest estate.

FLS Policy

FLS manages its property estate in accordance with the guidance contained in the Scottish Public Finance Manual¹, particularly that relating to Property acquisition, disposal and management².

We will act reasonably in dealing with all requests received but will only progress those cases that clearly present public benefits and a strong case for action in line with Scottish Government guidance. These will include where:

1. the boundary between FLS and the neighbour is unclear or where there are legal title issues and it would be of benefit to both parties to have the boundary clearly defined.
2. a sale would divest FLS of onerous management or financial responsibilities.

¹ Scottish Public Finance Manual (SPFM):- <https://www.gov.scot/publications/scottish-public-finance-manual/>

² SPFM Property acquisition, disposal and management:- <https://www.gov.scot/publications/scottish-public-finance-manual/property-acquisition-disposal-and-management/property-acquisition-disposal-and-management/>

3. the transaction would be of significant benefit to FLS or in the wider public interest, and which can be accommodated without significant impact on the national forest estate.

Subject to operation requirements, FLS carries out regular reviews of all of its property holdings, identifying those which are surplus to requirements or offer limited public benefit. Such assets may then be offered for sale, which will be on the open market and listed at <https://forestryandland.gov.scot/business-and-services/buy-land-or-buildings/current-sales>

Water supplies

We will not agree to new private water supplies that, in our opinion, will constrain us from managing the national forest estate. Instead, we will encourage interested parties to connect to the public water main and will assist with this process if the connection pipe can cross FLS land without significant impact.

Community Asset Transfer Scheme

This guidance does not apply to enquiries received from community bodies eligible under the Community Empowerment Act 2015, to make requests to take control of publicly owned assets. Such requests are dealt with through the Community Asset Transfer Scheme. <https://forestryandland.gov.scot/what-we-do/communities/community-asset-transfer-scheme>

Timetable

Whilst operational requirements will take priority, we will deal with all approaches as quickly as the available and limited resources allow. We will keep the enquirer informed of progress and updates to the expected timescales, which may be subject to revision at short notice.

Enquiries

Initial enquiries either for land sale or confirmation of land ownership should be made in writing or via e-mail and submitted with the relevant information, maps and photos to the local Area Land Agent³. The Area Land Agent will then confirm whether the land is in FLS ownership and whether or not the request will be taken forward. Each case will be considered on its own merits with primary regard to the management of the national forest estate.

³ Area Land Agents:- <https://forestryandland.gov.scot/business-and-services/buy-land-or-buildings/area-land-agents>

If we decide to progress with your request then the Area Land Agent will set out the basis for this, including costs and an anticipated timescale.

Fees

We shall expect the enquirer to reimburse all fees and costs incurred in transactions arising from a direct request. The fee basis for each transaction shall be made clear at the outset (either as a guide or the maximum figure that can be expected) and will be payable whether or not the purchase progresses to completion.

Valuation

Once we have received your undertaking to settle the fees arising then we will instruct a firm of surveyors to undertake a valuation with a view to agreeing provisional terms with you or your representatives.

The basis of valuation shall be the market value of the property (in accordance with the Royal Institution of Chartered Surveyors (RICS) Valuation Global Standards - the "Red Book"⁴) and shall reflect any "*special value*" or "*marriage value*" arising from benefits which the additional land or rights might provide to any adjoining property.

The Glossary at Part 2 to the "Red Book" provides the following definitions which may be relevant to the circumstances:-

<i>'Special purchaser'</i>	A particular buyer for whom a particular asset has a special value because of advantages arising from its ownership that would not be available to other buyers in a market.
<i>'Special value'</i>	An amount that reflects particular attributes of an asset that are only of value to a <i>special purchaser</i> .
<i>'Marriage value'</i>	An additional element of value created by the combination of two or more assets or interests where the combined value is more than the sum of the separate values.

⁴ RICS Valuation – Global Standards 2017:- <https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/valuation/red-book-2017-global-edition-rics.pdf>

and RICS Valuation – Global Standards 2017: UK national supplement:-
<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/valuation/red-book-uk-supplement-rics.pdf>

In accordance with Scottish Government policy we retain the right to apply standard securities, which provide the security holder with certain rights⁵ or other burdens⁶ on land with development potential. These will be recorded, with Registers of Scotland, against the title of the property. Where the future use of the land requires planning consent then it shall be necessary to demonstrate such use is in accordance with the appropriate planning policy before the proposal progresses.

Agreement of terms

The terms provisionally agreed will be passed by the agents to us for approval, and if so, the matter will progress with instructions to our solicitors to conclude the transaction.

Leases and licences

Should it not be possible to agree to an enquiry to purchase then it is possible that alternative arrangements by lease or licence may be considered. The Area Land Agent will consider these options as appropriate.

Further information

For general, non-site specific, enquiries in relation to this document please contact Acquisitions and Disposals at Forestry and Land Scotland, 1 Highlander Way, Inverness, IV2 7GB, enquiries@forestryandland.gov.scot.

Forestry and Land Scotland
Estate Development, Acquisitions and Disposals
August 2019

⁵ Standard securities:-

<https://rosdev.atlassian.net/wiki/spaces/2ARM/pages/58690321/Standard+Security+-+Example+Deeds>

⁶ Burdens:- <https://www.ros.gov.uk/support/simple-guides/real-burdens>)