

Notes From Meeting Of Carnbee Residents
14th September 2009 Gracemount High School

Conor Snowden (Councillor for the Liberton/Gilmerton Ward) opened the meeting at 19:15 and confirmed we had sufficient attendees and proxy forms to properly constitute a meeting under the terms of the title deeds. Conor would act as Chair for the duration of this meeting.

The attendance and proxy information for the meeting:

House Builder	Owners Present	Proxy	Total	% of total owners
Beazer Homes	63	49	112	54.9%
Walker Homes	16	11	27	75%

This meeting was to debate whether an Owners Association for the Carnbee estate should be formed and Conor introduced Bob Crosbie (Carnbee owner) to the attendees. Bob delivered a short presentation on the history of the Carnbee estate. Main points of interest were:

- The Carnbee estate was built by 2 developers; Walker Homes and Beazer Homes.
- Title deeds differ depending on developer. Majority of homes were built by Beazer.
- Title deeds for Beazer Homes owners state that an owners association should be formed to maintain the communal ground (Bob showed a slide defining these areas). If formed, the association would have legal authority to charge each owner a fee for the upkeep of the communal ground.
- Title deeds for Walker Homes owners have no such wording and no legal obligation to join an association or to be charged a fee for upkeep of the communal ground.
- Beazer Homes agreed a contract with Greenbelt Group for the maintenance and upkeep of the communal ground in the Carnbee estate and paid a lump sum to cover 10 years. Greenbelt Group confirmed that the contract expired in 2008 without renewal so the onus is now on the owners to maintain communal ground.

There was a question at this point from a long-standing resident –

It was understood that the communal ground was held in trust with the Woodland Trust. Is this not the case ?

Conor confirmed that this didn't happen and the land had now passed to the joint-ownership of the owners of Beazer Homes properties.

There being no further questions at this point, Conor introduced (Lindsay Lees), Past Chair of the Alnwickhill Owners Association who would briefly explain the basic duties of an owners association, the positive measures it can take and situations and issues to be aware of.

Lindsay explained that he had lived on the Alnwickhill estate for 30 years and had been a member of the Owners Association Committee for the last 10. He said that when things were running smoothly there was little work to be done but when problems occur you need a proper committee to resolve matters.

Alnwickhill consists of 710 properties, split between 2 developers but all title deeds state that owners are automatic members of the Owners Association and have to pay fees – currently £50 pa, with an early payment discount of £10.

Committee has discussed employing a factor in the past but this would, at least, double the annual fee to owners. As a result, the committee decided to do it themselves and they're not aware of any other local Owners Association that charges less per annum. Lindsay stressed the need to have liability insurance in place to protect owners from claims relating to the communal areas, and this was included in the £50 charge.

A lot of the work undertaken by the committee involves trees and they had to hire a tree surgeon, but this wasn't too expensive. The committee prepares and issues a schedule to the gardeners they employ specifying number of grass cuts etc. On occasion, the committee have had to deal with drainage issues on the estate, although repairs are normally undertaken by the council.

Lindsay confirmed that the committee don't get involved in neighbour disputes or dictating to owners what they can/can't do, unless these related to the communal areas.

Lindsay finished by stating what he believed to be the advantage of having an Owners Association and potential problems:

- Advantage – owners have control over what happens in their estate
- Problems – collecting fees, keeping tabs on who has/hasn't paid takes most time (41 out of 710 have still to pay for 2009). Trying to get small amounts of cash isn't always cost-effective, but not chasing for it allows owners to think they can get away without paying.

Lindsay then took some questions from the audience –

Q: Who has a responsibility to pay and are they legally obliged to ?

A: If the Association is legally constituted then owners with relevant title deeds must pay. He advised that no owner had ever challenged this to his knowledge.

Q: How are fees collected ?

A: They employ Spring Professional Services (21 Lasswade Road) to do this on behalf of the Association. He wasn't in favour of direct debits as it's difficult to keep track of who has paid unless the direct debit has a house reference.

Q: How much is the liability insurance ?

A: Lindsay thought it was around £200 -£300 pa.

There were no further questions for Lindsay so Conor attempted to move to a vote to establish the Carnbee Owners Association but this resulted in some questions relating to the proposal, as follows (answers provided by Conor and Bob):

Q: Were owners not present bound by any decision taken at this meeting ?

A: If Beazer Homes owners then yes. Walker Homes owners are not required to join.

Q: What kind of association is proposed ? Incorporated ?

A: Owners Association under authority of deeds.

Q: What happens if vote goes against formation of association ?

A: Discussion will move to how we propose to maintain communal ground without an Owners Association.

Q: Other options should be discussed, for example setting association up as a company limited by guarantee which would limit potential liability cost per owner.

A: This was a possibility, but we need to agree to set up an Owners Association first.

Q: Walker Homes owners have no legal obligation to pay so if they volunteer to pay can they join the association ?

A: Yes.

Q: The potential annual fee will cover what work ?

A: The foreseeable cost for grass-cutting, tree maintenance, shrubbery and hedges in communal areas. It was confirmed that the Council are not in a position to do this for us so the work is our responsibility.

There were no further questions so it was agreed to vote on whether the Carnbee Owners Association should be formed. In accordance with the title deeds, this vote was restricted to Beazer Homes owners only.

Result – FOR = 58 + 49 proxy votes (107) AGAINST = 2 Proposal Carried

A supplementary vote to allow Walker Homes owners to become members, subject to payment of annual fee, was passed unanimously.

The meeting now moved on to discuss the proposed constitution for the Carnbee Owners Association (copies of which were distributed to attendees on arrival). Bob gave a short overview of the constitution, explaining that the basis of it came from a template provided by the Edinburgh Tenants Association and constitutions from other existing Owners Associations.

Key areas of note:

The constitution should –

- give a clear indication to members about what the association should be doing on their

behalf

- give guidance to the committee on roles and responsibilities
- enable and define permitted functions and also those that are not permitted
- provide mechanisms for income and expenditure
- specify how debts and disputes should be resolved
- define appropriate methods of communication to members

The constitution is a living document and will evolve and mature over time.

Following a brief debate it was agreed to make an amendment to the proposed constitution to reflect that compulsory membership is limited to owners of Beazer Homes properties automatically with voluntary membership for Walker Homes owners who wish to join. This constitutes 2 classes of membership and the constitution will be so amended.

A vote to adopt the constitution on a temporary basis was carried by a substantial majority (there was 1 vote against) on the agreement that a further meeting would be called no later than 14th November 2009 to ratify an amended constitution. This period would allow all owners to scrutinise the current constitution and propose further amendments and the meeting would be organised as per the constitution (section 6).

As the constitution was formally adopted, albeit temporarily, the meeting proceeded to the formation of the Carnbee Owners Association Committee (as per section 4 of the constitution). The following individuals were nominated and elected for a period of 2 months, pending ratification at the next formal meeting:

Chair	Catherine Crosbie
Vice-Chair	Elaine Turbitt
Secretary	Lynn Banks
Treasurer	John Pendlebury
Ordinary Members	Alan Gibson, Janis Monaghan, Abbie Paterson, Alan Carmichael

The meeting closed at 21:10