

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4288
Author:	Martin Cooke
Department:	Commercial and Operations
Contact:	Martin Cooke (Job Title: Principal Environmental Health Officer, Email: martin.cooke@nottinghamcity.gov.uk, Phone: 01158761567)
Subject:	Rebuilding of dangerous common alleyway wall to Bradgate Road and Stanley Road
Total Value:	30000 (Type: Revenue)
Decision Being Taken:	That works to demolish and rebuild a section of alleyway, wall situated between two rear alleyways directly behind 102 to 112 Bradgate Road, serving 157 to 169 Stanley Road and 100 to 114 Bradgate Road, in default of statutory notices served under s5 of the Nottinghamshire County Council Act 1985 on the owners of the relevant properties are carried out and that the costs are charged back to the owners.
Reasons for the Decision(s)	The wall is between two shared alleyways to the backs of properties. It is not under the ownership of any specific property but the Nottinghamshire County Council Act gives the Council the power to require works to be carried out by the owners of properties that benefit from the use of the alleyways. Notices have been served under the above Act but due to the complexity of organising works between large numbers of owners the notice was not complied with. A design has been obtained to allow for approximate pricing. Contractors will be selected in accordance with the Financial Regulations via the Procurement team. The costs of the works will initially be paid for from the budget of the Environmental Health and Safer Places team but are recoverable and will be secured via a local land charge on the properties involved which means that the houses cannot, effectively, be sold without the invoice and associated interest is cleared. East Midlands Shared Services (EMSS) will offer payment plans to the home owners on request so that the debt can be repaid over a reasonable period of time. Standard debt recovery action will be taken, this is managed by EMSS\Nottingham City Council's Finance teams.
Briefing notes documents:	None

Other Options Considered:	<p>Do nothing - this is not recommended as the wall is dangerous and will need to be taken down in the very near future to avoid uncontrolled collapse.</p> <p>Just demolish and not rebuild - this is not recommended due to the change of level between the two alleyways. Just demolishing would leave a significant drop making the use of the alleyway unsafe for the residents of Stanley Road. The alleyway is their only external access to their rear gardens and is used to keep bins off the streets as they have no front garden/yard.</p> <p>Prosecution - this is not recommended as it is not in the public interest. The complexity of organising shared works like this is beyond most individual or small scale home owners.</p>
Background Papers:	<p>Location plan (approximate).</p> <p>Design and structural calculations for new wall.</p> <p>Photograph of lean to wall.</p>
Unpublished background papers:	<p>Design for new wall.PDF, Structural calcs for new wall.pdf, Bradgate-Stanley plan.pdf</p>
Published Works:	<p>None</p>
Affected Wards:	<p>Berridge</p>
Colleague / Councillor Interests:	<p>None</p>
Consultations:	<p>Those not consulted are not directly affected by the decision.</p>
Crime and Disorder Implications:	<p>The re-instatement of a wall in this location rather than demolishing and not replacing it will give greater privacy to the rear of properties and reduce the likelihood of break-ins and people using the alleyways as a cut through between the roads.</p>
Equality:	<p>EIA not required. Reasons: The proposal only affects a small group of home owners in a specific location.</p>
Social Value Considerations:	<p>N/A</p>
Decision Type:	<p>Officer</p>
Executive Decision?	<p>Yes</p>

**Scheme of Delegation
Reference Number or Other
Source of Delegation:**

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Subject to Call In:

No
The call-in procedure does not apply to the decision because the value of the decision is below the call in threshold.

Advice Sought:

Legal, Procurement

Legal Advice:

Legal Advice is contained within the file attached Advice provided by Sarah Jane Mills (Solicitor) on 15/06/2021.
Advice documents: Legal Advice-Rebuilding of wall at Bradgate Road and Stanley Road.docx

Procurement Advice:

There are no procurement issues with the decision being sought. The proposal is to seek three quotes for the work from competent contractors; the Procurement Team will work with the client to ensure this is carried out in accordance with Contract Procedure Rules. Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 20/04/2021.

Signatures:

Andrew Errington (Director Community Protection)
SIGNED and Dated: 20/07/2021

Legal Advice

There is no statutory duty for the Council to repair, maintain and / or rebuild damaged walls it does not own, as the responsibility rests with the property owners. The Council has powers to intervene in urgent and unsafe situations, with the Council recharging costs to the property owners. Where reimbursement of the Council's costs are not made, then a charge is placed on the property, with the expectation that it will be recovered on sale. However this is subject to whether there are higher priority debts attached to the property.

Section 5 of the Nottinghamshire County Council Act applies to walls to yards or passageways where serious inconvenience is caused. This Act has the benefit of assigning responsibility for walls even where ownership is not clear. This can be used quite straightforwardly where the wall has an alleyway etc. on both sides as all the houses involved can then be served.

Costs can be recharged. Local Land Charges are put on properties, although there is no absolute guarantee that the Council would ultimately get its money back most, if not all of the legislation likely to be used creates a priority charge which means that we have first call on any equity in a property before any mortgage company or other debts. Officers need to ensure that appropriate and adequate recording processes are in place (both in relation to the nature and quality of the works which are carried out and the steps taken to recover the debt) in order to successfully be able to recover the monies.

By carrying out such works the Council also exposes itself to the potential for civil claims in respect of the quality or the works and the manner in which they were carried out. The Council will however need to balance those implications against the risks posed by the danger that has arisen in order to be seen to be acting reasonably.