

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

**Reference Number:**

2529

**Author:**

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**Department:**

Communities

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**Subject:**

Protection of Clifton Village Green

**Total Value:**

Nil (Type: Nil)

**Decision Being Taken:**

To authorise the protection of the part of Clifton Village Green (highlighted in yellow) on the plan attached to this Decision (CVG) by the installation of wooden bollards at intervals of approximately 1 to 1.5 meters: (i) around the perimeter of CVG and (ii) either side of the track running across CVG and shown with a red line on the plan attached to this Decision in the approximate locations indicated (in blue) on the Plan

**Reasons for the Decision(s)**

The part of Clifton Village Green highlighted in yellow on the plan attached to this Decision (CVG) has a history of travellers/individuals setting camp there and there have been repeated complaints from local residents that CVG has been used for parking cars. This has resulted in damage to the Green and prevented those wishing to use the Green for leisure and sports purposes. In addition litter and other debris have been left by the travellers/individuals camping on the Green. Over the last five years there have been sixteen visitations by travellers to CVG which has caused stress and inconvenience for those living nearby and prevented lawful use of CVG. The Council is leaseholder and manager of Clifton Village Green, and has been put to repeated expense initiating enforcement / eviction processes, and clearing CVG and the local area of litter and other debris left there. The decision to enclose CVG is being proposed in the Council's capacity as leaseholder rather than as Village Green Registration Authority. The Council as leaseholder is responsible for the maintenance of CVG and to ensure that it is used exclusively as a village green.

Once land is registered as a village green, various acts are prohibited there by the Inclosure Act 1857 and the Commons Act 1876. Anything which constitutes an 'interruption of the use or enjoyment thereof as a place for exercise and recreation', such as camping, is prohibited under the Inclosure Act 1857. In addition, an 'encroachment on or inclosure of a town or village green. which is made otherwise than with a view to the better enjoyment of such town or village green. shall be deemed to be a public nuisance.'

Other than some vegetation and trees, CVG is currently open land which can easily be accessed by vehicles. There is a track running in an approximately north-south direction through the middle of, and forming part of, CVG which is shown in a red line on the plan attached to this Decision (Clifton Village Enclosure Plan). This track is currently used by vehicles accessing Clifton Village Hall and by the resident who lives at the top of the track. Residents living in Clifton Village and the Clifton South Ward Councillors have asked that the Village Green is enclosed to ensure that the land is not illegally camped on or occupied in the future.

It is proposed that the Council install wooden bollards at intervals of approximately 1 to 1.5 metres around the perimeter of CVG including each side of the track shown with a red line on the Plan which runs in an approximately north-south direction through CVG in the approximately location shown (blue) on the Plan, to prevent vehicles accessing CVG for unlawful purposes. It is also proposed that the Council install two drop down metal bollards to the north of the track in the approximate locations marked with an orange circle on the Plan to stop individuals driving along the track shown in a red line on the plan and accessing the other parts of CVG in vehicles from the walkway which runs adjacent to the Northern boundary of CVG (but which does not form part of CVG) running from East (A453 side) to West. The walkway already has a bollard installed at the East point (to the side of A453) and the walkway at the West point is too narrow for any vehicle access. This proposal was shared at the Area 8 Committee on Wednesday 11th May 2016, and was supported by all those present including Councillors and Community Reps as the most effective way of protecting CVG.

The Council has obtained a quote for the cost to enclose CVG as indicated above in the sum of £12,660. The Council has approached other contractors to quote for the works but have had nothing in return of prices (procurement rules were followed). The contractor that has provided the quote of £12,660 is one that has been used by the Council for previous works. If approved, the cost of the bollards and their installation will be met partly from Clifton South Area Capital Fund and partly from the Deputy Leaders budget.

The Council is Village Green Registration Authority and relevant department (Planning) has been consulted on this proposal.

As stated above, the Council is leaseholder of land including CVG and the lease contains restrictions including a prohibition of: '.building or erection of any kind.' on any part of the demised premises (including CVG) without the consent of the lessor (the Freehold owner). The Freehold owner of CVG has been notified of the Council's intention to enclose CVG, but not the detail of the proposal. The Freehold owner has responded via their solicitors indicating that subject to reviewing the terms of the lease in detail, in principle they have no objection to 'the installation of a physical barrier around the perimeter of the Village Green to protect it from trespassers, subject to, amongst other things, confirmation that the proposal meets the requirements set out for village greens in the Inclosure Act 1857 and the Commons Act 1876'. The Freehold owners have not been approached in relation to the current proposal.

Neighbourhood Management have also been liaising with legal on the installation of relevant signs on site to state that caravans, camping and parking is not allowed on any part of Clifton Village Green. The proposed signs have not yet been installed (instructions to install signs is with Highways). Work with Community Protection has also commenced to look at a potential Public Spaces Protection Order for Clifton Village Green. However, this is at an early stage and further consideration of the evidence and consultation in accordance with the legislative and constitutional requirements is required before a decision on the making of such an Order can be taken.

It should be noted that the proposal is to enclose CVG only as indicated on the Plan, and not all of Clifton Village Green which includes some additional parts that are physically separate from CVG. It is acknowledged that the illegal occupation of CVG could be displaced to other parts of Clifton Village Green, however it is considered that enclosure of CVG is a priority as, in addition to being the only part of Clifton Village Green which has been illegally occupied to date, it is closest to Clifton Village Hall and residential properties.

The Freehold owner's solicitors have also asked for confirmation that in the event of installation of barriers at CVG the Council will be responsible for maintenance and liability issues. If the approval is given and bollards are installed, the cost to maintain the enclosure will be met from the Clifton South Councillors Ward Budget. In addition to confirmation that the enclosure complies with relevant legislation, the provision of an indemnity, and confirmation that the Council will be responsible for maintaining the enclosure, the solicitors have asked for the Council to cover their legal costs in providing approval (an initial estimate of £750 plus VAT has been given). Clifton South Ward Councillors have agreed to pay this.

Funds of £6,500 have been confirmed from Corporate Contingency for this project (CR00020), and a further amount of £6,500 was approved from the Area Capital Fund for Clifton South at the Area 8 Committee meeting held on 11th November 2015.

**Other Options Considered:**

Looking at appropriate signage which states you cannot park on the Green and a possible Public Spaces Protection Order (this is at the early stages at the moment). Another option could be taking enforcement action under the nineteenth century legislation, enforcement for the litter/flytips/criminal damage where we have the evidence, or possible injunctive proceedings. Not to have relevant measures in place will mean that travellers continue to occupy land and generate ASB issues for the residents who live near by and also making the two sites unusable by the public for leisure or exercise purposes.

The option of just placing bollards at the southern section of the Village Green (and not to either side of the track) with a drop down bollard at the southern point of the track running through the Green has been considered, however, this was not seen as the best option due to the reliance on those using the Village Hall, the resident living next to the Village Hall and users of the car park to ensure that the drop down bollard is always left upright.

**Background Papers:**

None

**Published Works:**

Area 8 Committee minutes of meeting held on 11th May 2016  
Area 8 Committee minutes of meeting held on 11 November 2015

**Affected Wards:**

Clifton South

**Colleague / Councillor Interests:**

There is no conflict of interest in this decision either by the ward councillors or any Nottingham City Council Officer/s.

**Any Information Exempt from publication:**

Yes

**Exempt Information:**

**Description of what is exempt:**

Legal Advice  
Planning Advice

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it contains legal advice relating to the proposed enclosure of Clifton Village Green which is professionally privileged.

Documents exempt from publication:

Legal comments Clifton Village Green.docx, The Village Green Plan.pdf, Opinion on Clifton Village Green 24 July 2015 (2).pdf, Planning Advice.docx

Consultations:

Date: 26/04/2016

Ward Councillors: Chris Gibson, Corall Jenkins, Steve Young

All three Clifton South councillors are in favour of enclosing part of the Clifton Village Green (as highlighted on the plan attached) with the installation of bollards to keep vehicles and travellers off site. Part funding for the installation of bollards and associated costs will be met from the Clifton South ACF and Deputy Leaders Budget.

Date: 11/05/2016

Area Committees: Area 8: Clifton North, South and Bridge (from May 2012)

The item was discussed at the February 2016 and May 2016 Area Committee meetings, giving those present at the meetings an update and processes being followed including legal issues. The proposal for enclosing the site as per the plan attached was supported by the Area Committee meeting in May 2016.

Date: 24/11/2015

Other: Residents of Clifton Village including Clifton Village Residents Association

Residents of Clifton Village were written to in November 2015 outlining proposals for the protection of the Village Green. From the total responses received from residents, 85% were in favour of Clifton Village Green being protected to keep travellers off site.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

Not to enclose the site will mean that the land is illegally occupied and thus generating issues of ASB and crime. This proposal will ensure that there is a reduction of ASB and any criminal activities through the installation of wooden bollards on both sites.

Equality:

EIA not required. Reasons: An EIA is not required as it would be disproportionate to carry out an EIA

Relates to Council Property Assets:

Yes

Decision Type:

Portfolio Holder

<b>Subject to Call In:</b>	<b>Yes</b>
<b>Call In Expiry date:</b>	<b>27/07/2016</b>
<b>Advice Sought:</b>	<b>Legal, Finance, Property</b>
<b>Legal Advice:</b>	<b>This advice is exempt from publication and is contained within an exempt appendix Advice provided by Tamazin Wilson (Solicitor) on 15/06/2016.</b>
<b>Finance Advice:</b>	<b>Funds of £6,500 have been confirmed from Corporate Contingency for this project (CR00020), and the remaining funds of £6,160 will be funded from Area Capital Fund for Clifton South. Advice provided by Claire Gavagan (Finance Business Partner (Communities)) on 08/06/2016.</b>
<b>Property Advice:</b>	<b>Property support this action however we note that the possible legal implications have yet to be considered and our support is given subject to the outcome of this.  Advice provided by Pippa Hall (Senior Estates Surveyor) on 05/05/2016.</b>
<b>Signatures</b>	<b>David Trimble (Portfolio Holder for Leisure and Culture)</b>
	<b>SIGNED and Dated: 19/07/2016</b>
	<b>Andrew Vaughan (Corporate Director Commercial and Operations)</b>
	<b>SIGNED and Dated: 18/07/2016</b>