

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

3239

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Department:

Commercial and Operations

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Subject:

Revised Proposal for Enforcement Strategy in relation to Cavendish Court

Total Value:

Up to value of £160,000 (Type: Revenue)

Decision Being Taken:

To note that legal notices will be issued to ensure that improvement works are carried out at Cavendish Court and that the landlord will be responsible for carrying out the remedial work estimated at a total cost of £160,000.

If the notices are not complied with, to delegate authority to the Corporate Director for Commercial and Operations to go out to tender and award contracts for the remedial work within the £160,000 budget.

Reasons for the Decision(s)

1.1. Cavendish Court is in serious disrepair. The external access walkways and staircases are structurally unstable due to the degradation of the internal steelwork and are currently being held up by scaffolding. There are other more minor issues with the building such as general repairs and maintenance needed to the roof and brickwork. Additionally, there are category 1 and 2 hazards present within the individual dwellings. The Council has a legal duty to respond to category 1 hazards and the discretion to deal with category 2 hazards.

A A A Neighbourhood Renewal Assessment (NRA) was prepared in relation to the property and formed the basis of the Executive Board's decision of 16th September 2014. This indicated that the most appropriate course of action at that time was the declaration of a Clearance Order under Sections 5 and 7 of the Housing Act 2004.

Following this decision, and through the consultation period it became apparent that the financial cost of clearance was significantly higher than the original costings. In addition, the owners of the flats started to show an interest in forming a management company and carrying out the necessary repair works. Clearance has therefore not been progressed while the owners were seeking to progress matters and a review of the most appropriate course of action was undertaken in light of this information.

In January 2017, the Safer Housing team reviewed the previous enforcement decision and has subsequently carried out detailed and extensive site inspections, liaison with owners of the dwellings and internal collaboration with relevant parties. As previously the recommended methodology of using an NRA has been followed.

The Council is under a legal duty to take the most appropriate form of enforcement action, which is now considered to be action to improve the property. This is based on the updated NRA and the more definite proposals from leaseholders to put a management company in place as well as their costed and budgeted plans for renovation and improvement of the whole building. The Council has the powers under part 1 of the Housing Act 2004 in respect of the various individual flats and the communal areas, and to serve any Improvement Notices or Prohibition Notices necessary under the Housing Act 2004 together with the Building Act 1984 (or such other appropriate legislation) to ensure the safety of the site and its occupiers.

Although the management company is being put in place and works are planned it is proposed that legal notices be served to ensure that the necessary works are carried out and /or formal prosecution or financial penalties applied if there is failure to deliver on the proposals. There will only be a cost to the Council if works in default have to be carried out.

Other Options Considered:

1.1. Clearance remains possible, however, increased finance would be required to enable this option to be taken forward. Clearance would leave the loss of 15 homes which may or may not be replaced depending on future options for the land use. This is not the recommended course of action from the updated NRA.

To take no action- This is not a realistic option as temporary structural support is in place following emergency action taken by the authority under the Building Act nine years ago to secure the unsafe walkways. The rental of this temporary support is an on-going financial burden to the council. Additionally, category 1 hazards have been identified under the Housing Act 2004 exist so the Council has a legal duty to act. This option is therefore not considered appropriate.

The total prohibition of the block has been considered but there are negative social implications, the costs are high and the sight is likely to become a blight. This is not the desired course of action for the leaseholders, the freeholder, tenants or local councillors. This is not the recommended course of action from the NRA.

Background Papers:

None

Published Works:	Executive Board report and minutes - 16 September 2014 - Housing Enforcement Action - Cavendish Court, Woodborough Road
Affected Wards:	Mapperley
Colleague / Councillor Interests:	None
Consultations:	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	EIA attached.
Equality:	Please login to the system to view the EIA document: EIA v2.pdf
Social Value Considerations:	N/A
Decision Type:	Portfolio Holder
Subject to Call In:	Yes
Call In Expiry date:	24/08/2018
Advice Sought:	Legal, Finance, Procurement, Equality and Diversity

Legal Advice:

The original decision regarding enforcement action was referred to the Executive Board on the basis of the sensitivities around the site and the significance of declaring a Clearance Area. As circumstances have changed since that decision was made a revised NRA has been carried out.

As hazards exist both in the building as a whole and in the individual flats the Council is still under a duty to take the most appropriate enforcement action out of a series of options prescribed by section 5 (2) of the Housing Act 2004. The recommendation in this decision allows the Corporate Director to use his delegated powers to serve either Improvement Notices or Prohibition notices to secure the improvement of the property (these being options provided under s5(2)) and to use other alternative powers alongside these notices to further ensure the improvement of the site and secure its safety for those occupying it. In the event that these courses of action were not successful in achieving the necessary outcomes consideration could potentially be given to re-visiting the Board's earlier decision should that be necessary and appropriate.

As indicated in the accompanying documentation the various forms of notice to be served all carry rights of appeal and potentially may be challenged by the recipients which may have further costs implications. Advice provided by Ann Barrett (Team Leader) on 10/05/2018.

Finance Advice:

The current capital programme includes a scheme 'Housing Enforcement Action - Cavendish Court' (Project 17142). As at the 31st March 2018 £507k of this project was unspent.

This project requires £160k of Capital resources which will be reallocated from the aforementioned approval. The result will be a reduction in the approval and funding included within project 17142 (reducing the £507k funding to £347k).

Following the approval of this decision the Capital Programme will be amended accordingly.
Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 18/04/2018.

No further amendments required 31/07/2018, Tom Straw (Senior Accountant - Capital Programme).

Procurement Advice:

This report raises no significant procurement issues. Should any procurement(s) be required as a result of the proposals set out within the report these should be carried out in conjunction with the Procurement Team and in line with Contract Procedure Rules and the Public Contracts Regulations. Advice provided by Sue Oliver (Category Manager - Procurement) on 16/03/2018. No further amendments required 27/07/2018

Equality and Diversity Advice:

The proposal raises no significant equality issues that aren't adequately covered within the Equality Impact Assessment particularly as citizens will remain in situ therefore having access to all support systems. Advice provided by Adisa Djan (Equalities and Diversity Consultant) on 18/07/2018.

Signatures

Toby Neal (Portfolio Holder for Community Protection)

SIGNED and Dated: 17/08/2018

Andrew Errington (Director, Community Protection)

SIGNED and Dated: 16/08/2018