

AUDIT AND SCRUTINY COMMITTEE4 AUGUST 2016Report by Deputy Chief ExecutiveEASTWOOD NURSERY ALLOTMENTS BOUNDARY WALL**PURPOSE OF REPORT**

1. To consider the decision by the Cabinet relative to proposals for the Eastwood Nursery Allotments Boundary Wall, which had been called-in in terms of agreed procedures

RECOMMENDATION

2. That the committee consider the Cabinet's decision in light of the terms of the call-in and the additional information provided at the meeting.

BACKGROUND

3. At the meeting of the Cabinet on 16 June 2016, consideration was given to a report by the Director of Environment providing an update on the current position regarding the Eastwood Nursery Allotment boundary wall and asking Cabinet to consider 4 options as outlined in the report. A copy of the report is attached (Appendix 1).

4. Having considered the report and following discussion, the Cabinet agreed to support Option 1 of the 4 put forward. This involved the Council funding and overseeing the reinstatement of the boundary wall to a brick wall specification at a height of up to 2.4m or an appropriate height at an estimate cost of £60,000 (subject to tender).

5. In accordance with agreed procedures, the Cabinet decision notice was issued to all Elected Members later that day.

REPORT

5. On Monday 20 June, a notice calling-in the Cabinet's decision was submitted. The notice was signed by Councillors Miller, Swift, Robertson, McCaskill and Gilbert, with Councillor Miller the lead signatory. The call-in notice listed 7 reasons for the call-in of the Cabinet's decision. These were

- Before the £60,000 expenditure goes ahead, the Council should be comfortable as to where the previous grant money has been spent and if there is any hint of misappropriation of funds it should not be approved.
- Whitelee Windfarm Fund approved a grant of £18,900. Is there written evidence that the ENAA group did provide their 12.5% share and why was the group allowed to breach WWF rules
- Grant money was supposed to have been used to supply electricity and water to the site. There were also grants for an outreach worker and school publicity. To date, there is no evidence of any of the above.

- Evidence grant money was transferred from Thornliebank TRA to ENAA.
- Councillor Fletcher stated the new wall was the fault of the building contractors not building to specification. Why was this builder given the contract, who approved them and who drew up the plans; ENAA Board or Council officers?
- Who quoted for the current price of £60,000? Has it gone to tender? What safeguards are in place to make sure it doesn't happen again in a few years' time?
- Ultimately, ENAA are Council tenants and if it all goes wrong the Council are left to responsible carry the can therefore a Council officer and/or a councillor should be represented on the ENAA Board.

6. In terms of the procedures for the consideration of a call-in Councillor Fletcher as the relevant Convener, Councillor Miller as the lead signatory to the call-in and relevant officers from the Environment Department, have been invited to attend the meeting to speak to the report, the Cabinet's decision and the call-in notice.

7. Having considered the report and having heard the evidence, the committee will reach a decision:-

1. If the committee agrees with the Cabinet's decision, the Cabinet's decision will be implemented immediately.
2. If the committee disagrees with the Cabinet's decision, a report, giving details of the committee's recommended changes and the reasons for them, will be prepared and submitted to the first available meeting of the Cabinet. In the event that a minority view in support of the Cabinet's decision has been expressed by members of the committee, this will be reflected in the report. The Chair of the committee will present the report to the Cabinet.
3. If, having heard from the Chair of the committee, the Cabinet accepts the committee's recommendations this will become the decision of the Cabinet. In these circumstances, the amended Cabinet decision cannot be the subject of a further call-in.
4. If, having heard from the Chair of the committee, the Cabinet is not prepared to accept the committee's recommendations, the matter will be referred to the next available meeting of the Council to decide whether either the Cabinet's original decision, or the committee's proposals, should be approved.

RECOMMENDATION

8. That the committee consider the Cabinet's decision in light of the terms of the call-in and the additional information provided at the meeting.

Report Author
Eamonn Daly, Democratic Services Manager 577 3023
eamonn.daly@eastrenfrewshire.gov.uk

EAST RENFREWSHIRE COUNCILCABINET16 June 2016Report by Director of EnvironmentEastwood Nursery Allotments Boundary Wall**PURPOSE OF REPORT**

1. The purpose of this report is to update the Cabinet on the current position regarding the Eastwood Allotment boundary wall and to ask Cabinet to consider options for the wall.

RECOMMENDATIONS

2. The Cabinet is asked to consider the three options outlined in paragraph 18 of this report and agree an appropriate course of action.

BACKGROUND AND REPORT

3. Following Cabinet agreement, Eastwood Nursery Allotments Association (ENAA) were granted a lease for the former nursery site within Eastwood Park in April 2012. Under the terms of this lease, liability for maintenance for the site (including the boundary walls and fences) became the responsibility of ENAA. The entire allotment site including the boundary walls and fences however remain in the ownership of the Council.

4. In 2013, the original 2.4m engineering brick wall, a substantial feature in the immediate location which screened a large part of the site, was deemed unsafe following an inspection. Following advice from Property and Technical Services, the wall was subsequently demolished along the entire elevation totalling approximately 80 metres in length.

5. Considerable discussion took place between the Council and ENAA regarding the reinstatement of the wall, with ENAA ultimately accepting responsibility for the wall under the terms of the lease.

6. In October 2013, ENAA were successful in securing £18,900 from the Whitelee Windfarm Fund towards the cost of the wall reinstatement. Funding was also secured from the Climate Challenge Fund, with a small balance funded by ENAA itself. A condition of the Whitelee funding was that the specification of the wall should be agreed in advance with Property and Technical Services. The specification was subsequently agreed as being a "like for like" 2.4m high brick construction.

7. ENAA subsequently appointed Young Enterprise Scotland to undertake the work.

8. Over the course of the prolonged period from October 2013 into 2015, considerable discussions took place with both ENAA and Young Enterprise Scotland (YES) regarding the construction of the wall. YES subsequently indicated that they would be unable to construct the wall to a 2.4m height within the budget available and, as a result, Property and Technical Services subsequently agreed in April 2015 that the wall height could be reduced to 1.8m. Whilst lower than the original wall, Property and Technical Services, taking into account all factors including the financial position of ENAA, took the view that a substantial 1.8m high wall would be an acceptable boundary treatment for an allotment site. Work was scheduled to commence in May/June 2015.

9. As a result of a subsequent dispute with ENAA, YES withdrew from the project in August 2015 having made very limited progress on site.

10. In view of the potential of legal proceedings by the Council, ENAA made contact with the Council and sought agreement to appoint an alternative local contractor to complete the wall. As part of these discussions and in order to allow the boundary of the site to be reinstated once and for all, Property and Technical Services agreed that the specification could be changed to allow ENAA's contractor (Michal Kurek Building Services) to undertake the work within the remaining budget available. Agreement was therefore reached that the wall could be constructed to a height of 1.8m to a brick and timber infill design for screening purposes, in accordance with the picture shown in Appendix 1a to this report

11. The works were subsequently completed by the Contractor, but to a design which slightly differed from that agreed with PaTS i.e. the timber infill was completed in rough and unfinished timber and was not a continuous timber infill. The wall as currently constructed is shown in Appendix 1b. Councillors have received a number of representations from within the local community asking that the wall/fence be replaced in order that the activities within the site can be more adequately screened. Complaints relate to the detriment to the visual amenity in the area

12. As a result the replacement boundary is of a standard which some residents in the immediate area consider to be unsatisfactory. This is because the height is 0.6 metres lower than the original brick wall and the timber infill does not screen the activities of the site as significantly as the previous wall.

13. Whilst the actual on site construction has been considered acceptable by both PaTs and Building Standards following inspection at key stages, a structural engineer subsequently appointed by the Council has advised that when the wall is subject to wind loading, the movement developed in the brick piers exceeds the design capacity of the wall. Having solid wood inserts with no spaces would in all probability exacerbate the wind loading issue. The consultant has also recommended, **if** the wall is being replaced to a solid wall brick specification, then its height should not exceed 1.8m.

14. ENAA are a well-intentioned local group who are seeking to develop a project which will be of value to local residents. The project clearly will assist the Council in meeting its Single Outcome Agreement objectives and will help address local demand for allotments which is in accordance with the spirit of the recent Community Empowerment (Scotland) Act. In addition, the Act is centred around facilitating and empowering community groups to take on responsibility for assets.

15. It is acknowledged in hindsight however that groups such as ENAA might lack the experience, resources and expertise to oversee a project such as the construction of a major new wall and perhaps the experience to date is evidence that the project management of the construction of this wall was too much to have expected of most or indeed any local community group. These lessons learned will be helpful as the Council considers implementation of the terms of the Community Empowerment (Scotland) Act.

16. This raises a question for the future as to whether such groups should have to take on full repairing and insuring leases, and also the level of professional support provided by the Council over a range of services.

17. The situation as it currently stands is that those living in the immediate locale are unhappy with the standard of the replacement wall/fence, yet ENAA have no financial resources to reconstruct the boundary wall to its original height or specification. The Council therefore needs to consider whether the existing wall/fence as it currently stands is acceptable and, if not, whether the responsibility for this should rest with ENAA or fall to the Council. Whilst, under the terms of the lease this responsibility clearly falls contractually to ENAA, in the absence of any significant financial resources it is unlikely that ENAA will ever be in a position to achieve this.

OPTION APPRAISAL

18. Taking all this into account, a number of options have been identified for the Cabinet to consider.

- (i) Allow the replacement wall to remain as at present

The Cabinet should note that the consultant structural engineer has advised that, when the wall is subject to wind loading, the movement developed in the brick piers exceeds the design capacity of the wall. In addition, there have been complaints from Elected Members and residents regarding the visual amenity of the area due to the existing wall.

- (ii) The Council fund and oversee the reinstatement of the boundary wall to a brick wall specification at a height of up to 2.4m or an appropriate height at an estimated cost of £60,000 (subject to tender).

The Council will need to make financial provision from capital or revenue budgets. Also, specialist advice would need to be sought on the structural issues of building a brick wall of 2.4m

- (iii) The Council fund and oversee the reinstatement of the boundary wall to a solid timber fence specification at a height of 2.4m at an estimated cost of £20,000 (subject to tender).

The Council will need to make financial provision from capital or revenue budgets

- (iv) Ask the tenant to reinstate the boundary wall to an agreed specification and height.

ENAA have indicated they have no financial resources available to reinstate the wall. It is likely therefore that, should the Cabinet agree on this course of action, the wall will not be able to be reconstructed by ENAA. Council Officers would need to consider in this instance whether the current situation constitutes a breach of lease conditions and, if so, what action needs to be taken. This could include steps to terminate the existing lease.

FINANCE AND EFFICIENCY

19. If Cabinet decides to agree to take responsibility for the reconstruction of the replacement wall or fence, financial provision will need to be made within either revenue budgets or the Capital Plan.

CONSULTATION

20. There has been no consultation with ENAA regarding the detailed terms of this report at this point in time.

PARTNERSHIP WORKING

21. If Cabinet decides to agree to take responsibility for the reconstruction of the replacement wall or fence, financial provision will need to be made within either revenue budgets or the Capital Plan.

IMPLICATIONS OF THE PROPOSALS

22. There are no staffing, property, legal, IT, equalities, sustainability or other implications associated with this report

CONCLUSIONS

23. The Cabinet needs to consider the options available regarding the existing wall at the Eastwood Park allotment site. The lessons learned regarding the responsibilities placed upon a community group will be useful as the Council considers implementation of the Community Empowerment (Scotland) Act

RECOMMENDATIONS

24. The Cabinet is asked to consider the three options outlined in paragraph 18 of this report and agree an appropriate course of action.

Director of Environment

May 2016

Further information can be obtained from
Phil Daws, Head of Environment (Housing and Property Services) 0141 577 3186 or
phil.daws@eastrenfrewshire.gov.uk, or;

Stuart Free, Principal Officer Asset Management 0141 577 3278 or
stuart.free@eastrenfrewshire.gov.uk

Cabinet Details

Jim Fletcher Home: 0141 639 0265
Leader of the Council Office: 0141 577 5107/8

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Appendix 1a

Design of Wall as Agreed



Appendix 1b

Wall as Constructed

