

Delegated Officer Report

Decision Maker: Emma Barton - Executive Director for Place & Economic Growth

Date of Decision: 5 July 2022

Subject: Laurel Avenue Embankment Stabilisation Works - Phase 1

Report Author: Jember Weekes

Ward (s): Chadderton Central

Reason for the decision: This report seeks approval for Council intervention to procure scheme development of the remedial works needed to stabilise and prevent further erosion to the embankment (under Council Corporate Landlord ownership) adjacent to domestic property 33 Laurel Avenue in Chadderton.

Summary: The Council has an ongoing civil claim in relation to ground movement of the driveway and conservatory at 33 Laurel Avenue, The Council accepts that there has been material movement of the ground as alleged, however the cause of this is currently unknown. As this is Council land, the landowner is required to take reasonable steps to stabilise the area to minimise any future liabilities.

This has been expressed to the Council Highway and Engineering department along with instruction for a scheme to be undertaken to stabilise the embankment. Subsequently, utilising the Oldham Council framework contract Lot 12 (Minor Works – Highway Structures & Drainage), a robust series of investigation and design works are proposed, together with an outline scope of remedial works and delivery programme.

Phase 1 Scheme Development – Estimated budget - £60,000 (which includes for the quotation provided by Rowan Ashworth and an uplift for contingency) - Estimated timescale for delivery 5 months

- Ground Investigation
- Structural Survey of the adjacent domestic property (prior and following investigation works)
- Ecology Surveys
- Feasibility Study (determine most appropriate remedial works)
- Detailed design of permanent solution
- Procurement (assuming full tender process)

Phase 2 Construction – Estimated budget - £260,000 - Estimated timescale for delivery 7 months

- Traffic Management
- Tree removal and reinstatement
- Major earthworks (incl. piling or soil nailing)
- Land reinstatement
- Structural Survey of the adjacent domestic property (prior and following the stabilisation works)

At present this report is solely in relation to the budget required for the completion of Phase 1 of the above works due to the exact budgetary requirements being largely unknown until the completion of the scheme development phase.

The fees in connection for Phase 1 are approx. £14k.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1

Proceed with Phase 1 - scheme development as detailed in this report and recommended by the

council Risk & Insurance Team and, to procure scheme development of the remedial works needed to stabilise and prevent further erosion to the embankment. Phase 1 works would be largely procured by way of a direct award under the Construction and Highways Works and Services Framework Agreement (CHWSF) - Lot 12 (Minor Works – highway structures and drainage) with the highest-ranking contractor being appointed to deliver works up to a value of £49,999.

Option 2

Do nothing - The Council is at risk of further financial losses arising from the owner should further damage occur to the property

Preferred Option

The preferred option is Option 1.

Reason(s) for recommendation

Option 1 requires a significant increase in capital expenditure but is likely to cost the council substantially less than a potential damages claim should the Council not take steps to restore the embankment to a condition where it provides support to the adjoining land.

Consultation: including any conflict of interest declared by relevant Cabinet Member consulted.

N/A

Recommendation(s):

Proceed with Phase 1 - scheme development as detailed in this report and to procure scheme development of the remedial works needed to stabilise and prevent further erosion to the embankment. Scheme development would be procured by way of direct award under the Construction and Highways Works and Services Framework Agreement (CHWSF) - Lot 12 (Minor Works – highway structures and drainage) and the Council would appoint the highest-ranking contractor to deliver works up to a value of £49,999.

Implications:

What are the financial implications?

The cost of the works is classified as Capital Expenditure and will be funded from within the

People and Place – Asset Management programme.

In March 2020, CIPB approved an allocation of £0.725m for the known and future works needed across the borough for drainage schemes, this included walkways, foot paths, bridges, retaining walls and open spaces.

Individual schemes have been approved since March 2020 and the balance of funding now stands at £0.530m.

As indicated in the report, the cost of the phase 1 schemes estimated to be £0.074m, inclusive of all fees, meaning there is sufficient resource held to fund the scheme.

(Jamie Kelly)

*What are the **legal** implications?*

The Construction and Highways Works and Services Framework Agreement (CHWSF) - Lot 12 relates to Minor Works – highway structures and drainage. There are 4 contractors appointed to the framework and there is an anticipated annual spend of £100k under this Lot.

The framework agreement allows for a direct award where the proposed call off contract has a value of £49,999 or less. For values of £50k or more, a mini competition is held between any interested contractors appointed to the framework. Phase 1, as detailed in this report, would require the highest-ranking contractor under Lot 12 to be appointed by direct award. The value of the award is estimated to be below £50k

(Sarah Orrell)

*What are the **procurement** implications?*

The design services, surveys, and construction works are considered extremely urgent to ensure the health and safety of the area and that the Council are not found to be in breach of its measured duty of care. The cost estimates detailed within the report are below the public contract regulations thresholds and therefore the Council must adhere to its own contract procedure rules which in cases of extreme urgency relating to health and safety, provide

provision to directly engage suitably experienced organisations to undertake the required works as soon as possible – the company(s) must be suitably experienced and have all required health and safety and Insurance provisions in place. The client department has the option to complete an approval report on a retrospective basis which allows for the works to start on site straight away.

(Dan Cheetham)

*What are the **Human Resources** implications?*

N/A

(Catherine Pearson)

*What are the **Children and Young People** Implications?*

None

***Equality and Diversity Impact Assessment** attached or not required because (please give reason)*

N/A

*What are the **property** implications*

N/A

Risks:

The risks associated are that if the work is not undertaken to the Council land adjoining 33 Laurel Avenue, the damage could increase and there is a risk that eventually the whole property could subside substantially, As the Council are now on notice of the lack of support, the Council has a duty to repair it's land. If the repairs are carried out in a timely manner the Council currently can maintain it's defence for the cost of repairs to the owner's property and personal injury claim.

(Vicki Gallacher)

Approved by Mark Stenson (Head of Corporate Governance)

Co-operative agenda

N/A (Jonathan Downs)

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?

Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?

Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? Yes

Report Author Sign-off:	
Jember Weekes	
Date: 24th June 2022	

In consultation with the Executive Director for Place & Economic Growth



Signed :

Date: 05.07.2022