

ABERDEEN CITY COUNCIL

COMMITTEE	Operational Delivery Committee
DATE	29 May 2018
REPORT TITLE	Lane between 42 and 44/48 Kings Crescent
REPORT NUMBER	PLA/18/020
DIRECTOR	Steve Whyte
CHIEF OFFICER	Stephen Booth/Gale Beattie
REPORT AUTHOR	Louisa Ratana-Arporn/Mark Wilkie
TERMS OF REFERENCE	1

1. PURPOSE OF REPORT

- 1.1 To advise Committee on the possibility of the lane between 42 and 44-48 Kings Crescent being adopted to the public road network or other options to improve the lane to an adoptable standard and confirm what actions have been taken to remove the barrier that had been erected at the lane.

2. RECOMMENDATION(S)

- 2.1 The Committee is asked:
- 2.1.1 to note that this section of road is confirmed as not built to an unadoptable standard;
- 2.1.2 and to confirm that the Council has no intention of adopting it;
- 2.1.3 to note that access to the road has not been restricted since notice was served on the owner of the barrier;
- 2.1.4 to note that the land is surplus to Council requirement.

3. BACKGROUND

- 3.1 The lane between 42 and 44/48 Kings Crescent is a dead-end lane that was formerly a road to where the First Bus Depot is now situated. When the land was sold to First Bus, the road was closed off.
- 3.2 A barrier was erected by the occupier at 44 Kings Crescent. The owner had taken issue with fly-tipping and parking at King's Crescent.
- 3.3 The lane is owned by the Council. The lane is not adopted, nor is it a designated parking area. We are aware that the majority of the owners/occupants at 42 and 44/48 King's Crescent have rights over the land to access their gardens.

3.4 A Motion was brought to Council on 23 August 2017 with the following recommendation:

Council notes that a barrier to the lane between 42 and 44/48 King's Crescent has been erected since late 2015 and that this was done without permission of the Council who are the land owners.

Council instructs the Interim Director of Communities, Housing and Infrastructure:-

- (1) that no attempt should be made to sell the lane between 42 and 44/48 King's Crescent;
- (2) that proceedings to have the barrier removed from the lane should be commenced; and
- (3) that a report should be brought forward to the relevant committee on the possibility of this lane being adopted into the public road network or other options to improve the lane to an 'adoptable' standard.

3.5 The Council resolved to approve the notice of the Motion.

3.6 In order to make this section of road adoptable, and noting it is a dead-end, a turning head would be required so that vehicles using it could leave and enter King's Crescent in forward gear. There is no space available to construct a turning head and the adjacent land is unavailable. The lane is about 31m long, measured from the rear of King's Crescent east footway, which is adopted. There are footways which are about 1.2 to 1.4m wide for the first 11m of the lane, where the road width tapers down to 3.5m. The remaining 20m section has no footways and is in a state of disrepair. Although the spacing between the wall on the north side and the buildings on the south side is about 6.0m, hardstanding of at least 1.0m width should be provided on each side to enable vehicles to turn safely – this would reduce the effective road width to 4.0m and leave inadequate space for cars parking and turning.

3.7 As the road is not to be adopted then for the lane to be improved there would need to be a business case brought to the appropriate capital board looking to undertake the work to carry out upgrade works to the lane and maintain thereafter.

4. FINANCIAL IMPLICATIONS

4.1 There should be no financial implication regarding adopting the lane as it cannot be brought up to adoptable standards. This is due to the physical nature of the lane as explained in 3.6.

4.2 Should the option in 3.7 be explored there would be financial implications in order to carry out upgrade works and maintain the lane thereafter. Establishing the costs for this would require significant time.

- 4.3 There will be additional resource required for staff to manage and realise the works in 3.7.
- 4.4 If the Committee was minded to require works rather than have the lane adopted then the Corporate Landlord would be required to: bid for capital funding for the improvement work; employ the appropriate service to undertake these works; and then establish a budget to pay for the annual maintenance cost. There is currently no revenue budget for these annual costs.

5. LEGAL IMPLICATIONS

- 5.1 The lane is within Council ownership therefore the Council can undertake appropriate works on the ground. However, there are access rights across the ground therefore any works would have to be undertaken in such a fashion that they do not impede these rights.
- 5.2 If any works were to be undertaken, prior to commencement, all third-party rights over the ground would have to be reviewed by our legal team to ensure all rights are preserved during any works.
- 5.3 If the Council recommend to undertake works on the lane further legal resource will be required to ensure all third party rights are respected during any potential works.

6. MANAGEMENT OF RISK

- 6.1.1 The following risks have been considered with regards works to the lane:
- 6.1.2 **Financial:** There will be financial implications as outlined in Section 4 of this report should the lane be improved. The risk mitigation will be that the lane will be in good repair which should limit annual maintenance costs. Prior to the motion to remove the barrier, there had been considerations by the Corporate Landlord, following a request from an adjacent owner around granting a Licence to occupy the lane in return for a rent. This would have produced a small revenue for the Council and mitigate the Council's responsibility of having to maintain the land.
- 6.1.3 **Employee:** As per 4.3 staff resource would be required to arrange and manage the works as well as maintenance thereafter. This could have an impact on other areas of work.
- 6.1.4 **Customer/Citizen:** It is understood if the Council adopt/improve the lane or if the Council do not improve the lane this may have both a positive and a negative impact on citizens. In order to mitigate this the Council should clearly inform local residents of the decision that is taken and the reasons why.
- 6.1.5 **Environmental:** The future of the lane does not have any consequences for environmental risk.

6.1.6 Technological: It is not considered there are any risk in this area.

6.1.7 Legal: Please see Section 5. There will be potential risks around legal access rights if works are undertaken on the lane. To mitigate these risks the Councils Legal Team would have to be involved to ensure all appropriate permissions or access rights are protected during any works on the lane. If no works are undertaken this would not be an issue.

6.1.8 Reputational: By not adopting the lane or improving its standard there could be reputational issues based on a perception that the Council is not looking after its own ground. To mitigate this risk the lane if not adopted or improved could be added to a regular inspection rota to ensure it is kept neat and tidy.

6.2 Risk table: the level of risk is tabled below in terms of high, medium or low:

Risk Element	Risk level
Financial	High
Employee	Medium
Customer/Citizen	Medium
Environmental	N/A
Technological	N/A
Legal	Medium
Reputational	Low

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	It is not believed that improving this lane or conversely not improving this lane would have any effect on the economy of the city.
Prosperous People	The local residents have indicated their support for undertaking improvement but also for not improving the lane. It is therefore understood that undertaking the work may benefit some residents in the area however may also have a negative effect on others
Prosperous Place	The improvement of the lane may make the area look nicer and benefit the Place of Aberdeen. However if appropriate inspections are put in place

	then this might mitigate any negative effect by not improving the lane to adoptable standard.
Enabling Technology	There are no technology impacts by this report

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Completed.
Privacy Impact Assessment	N/A
Duty of Due Regard / Fairer Scotland Duty	N/A

9. BACKGROUND PAPERS

None.

10. APPENDICES (if applicable)

None.

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