

WEST DUNBARTONSHIRE COUNCIL

**Report by Chief Officer – Shared Services Roads & Neighbourhood
Chief Officer – Regulatory & Regeneration
Council: 23 March 2022**

**Subject: Response to motion to Council – 9 February 2022:
Williamson Avenue Wall**

1. Purpose

- 1.1** The purpose of this report is to provide a response to the motion approved at the West Dunbartonshire Council meeting held on 9 February 2022 in relation to two collapses of the privately owned wall at Williamson Avenue, Dumbarton.

2. Recommendations**2.1** Council is asked to:

- i. Note the actions taken to date by the Council in relation to duties under the Roads Act (Scotland) and the Building (Scotland) Act
- ii. Note that monitoring of the condition of the public road network will continue to determine if the road surface has deteriorated;
- iii. Approve that should the road surface deteriorate additional action will be undertaken to safeguard users of the public road potentially through the installation of concrete barriers with costs reclaimed from the owner of the wall;
- iv. Note the indicative costs to procure a survey and feasibility study by a Structural Engineer are in the region of £25,000; and
- v. Note the indicative cost for a repair / rebuild of the collapsed wall may be in the region of £300,000.

3. Background

- 3.1** Council approved the undernoted motion at its meeting on 9th February 2022;

This Council notes the Planning Committee granted permission on 8/12/21 to application DC21/268/FUL – “Reinstatement of partially collapsed wall with a gabion basket retaining wall and railings on top at 2 & 4 Williamson Ave, Dumbarton.

Planning Committee members were informed that the application for the work to reinstate the collapsed wall is only a partial solution to the wall. There is still no resolution to repair the earlier section of the wall that collapsed around 3 years ago.

The lack of any action to this part of the wall has now endangered the structure of the public road and pavement of Williamson Ave, following an assessment towards the end of 2021 barriers and restrictions have been introduced.

Notwithstanding the inconvenience to residents and the reduced parking available, local residents of the tenement flats have grave concerns that the foundations and structure of their property is at risk.

Residents have been raising their fears and concerns and believe West Dunbartonshire Council inaction in failing to enforce the dangerous building notices and shore up the public footway and road in the last three years has had a direct impact on their property.

Furthermore, residents are concerned many homes could become dangerous and uninhabitable and they potentially could end up homeless and owning debt on worthless properties.

In addition a further wall collapse could potentially cause injury or worse to an area which is part of a "safe walking route" to Braehead Primary School.

Council agrees West Dunbartonshire Council are part of the solution to safeguard and protect the residents homes in Williamson Ave and to ensure the footway and public road in Williamson Ave is made safe and secure.

Residents patience is running out and after three years waiting, this Council agrees that urgent action is long overdue.

Council therefore calls on the Chief Executive to:

- 1. Arrange for an urgent meeting (virtual if required) of local residents to listen and hear their concerns. The meeting should be attended by the relevant Council departments including senior officers from Building Services, Planning, Roads and Legal Services.*
- 2. To provide a full report back to the next ordinary Council Meeting on the history since the initial wall collapse and what action has been taken by West Dunbartonshire Council. What action WDC proposes to take to safeguard the public pathway & road in Williamson Ave.*
- 3. Provide options and related costs and recommendations for Council to make an informed decision on how to proceed in this matter.*

It is an undoubtable fact that earlier action in the initial wall collapse would have resolved this problem, delay is not an option and a solution must be found as soon as possible.

The following addendum has been included to the motion:-

That a fourth point be added, that the Council letter residents of Williamson Avenue providing them with a summary of what is happening and the other points that are being asked of the Council.

4. Main Issues

- 4.1** There have been two partial collapses of a privately owned retaining wall between Williamson Avenue and Meadow Road, Dumbarton.

The wall lies to the rear of the properties on Williamson Avenue and along the length of the street towards the bend where the road swings away from the wall. It stretches along the rear gardens and extends a considerable length to the rear of the adjacent properties. On the lower level it forms a natural boundary with the open amenity area of the adjacent park.

- 4.2** Construction is a traditional random rubble stonework with a concrete coping and metal railing. The wall has also previously had some degree of repairs with the introduction of small piers and weephole pipes at low level to allow water egress.

Towards the corner of where the road bends away from the wall there is a large section that has been rebuilt as a concrete retaining structure. The road is much closer to the wall at this point and exerts direct surcharge from vehicles to the area.

- 4.3** The barriers on Meadow Road prevent pedestrian access to the wall but still allow use of the pavement. The barriers on Williamson Avenue prevent usage of a small section of pavement which is not continuous along the top of the retaining wall, but finishes on the roadway. The footpath on the opposite side is unaffected.

The steps linking Williamson Avenue and Meadow Road are adjacent to the final part of the retaining wall, which was repaired a number of years ago and appears to be in a good state of repair.

- 4.4** The first initial small collapse took place in 2017 and a second larger collapse in 2020. The reason for the failure of the retaining wall was not obvious. Building Standards Officers attended both incidents.

- 4.5** The Council commissioned a Structural Engineers report following the second collapse in November 2020. The report advised that due to the partial collapse of the retaining wall and its proximity to the rear corner of Numbers 2 and 4 Williamson Avenue it may compromise the structural integrity of the foundations of these properties. The rear corner is only around 1 metre away from the wall and is well within the zone of collapse should the wall completely fail.

4.6 The Structural Engineer's assessment was that the residents of the flats at Numbers 2 and 4 should be evacuated immediately for their own safety until such times the wall could be made safe with a Dangerous Building Notice served on the owners of both properties.

4.7 Building Standards Responsibilities

In terms of the Building (Scotland) Act 2003 building owners are responsible for preventing their buildings falling into a dangerous condition. The powers given to Councils by the Act do not diminish this responsibility but are merely a 'safety net' that must be used to protect the public when it appears to a Council that, for whatever reason, a building owner has failed in their duty to fulfil this responsibility.

4.8 The Council has a duty to carry out any such work as it deems necessary to prevent access to any dangerous building or neighbouring road or public place. This was achieved by the use of Heras fencing and barriers to exclude the public from going too close to the wall. Similar fencing was erected at the higher garden ground. Warning signage was also put in place.

4.9 In addition it should be noted that under Building Standards legislation:

- The local authority should only carry out the minimal work required at the lowest cost to make safe an area affected by the dangerous building (achieved by the fencing and barriers in this case);
- It is not the responsibility of the local authority to repair or maintain private property;
- It remains the owners' responsibility to repair and maintain their property;
- If the situation were to deteriorate further, the Council may carry out urgent works as required. These would be the absolute minimum and would not require any further consents. Once the area was deemed safe the Council would take no further action. The Council would then recover the associated costs from the owners.

4.10 The wall was monitored daily by Building Standards Surveyors for several weeks after the second collapse and at regular intervals since with no further significant movement detected.

There is no remit for the rest of the wall to be inspected, nor for Building Standards in terms of their Statutory responsibilities to insist on maintenance being carried out on the remainder of the wall following the initial collapse.

4.11 The Planning Committee considered a proposal at the meeting held in December 2021 and the Committee approved a new gabion basket retention wall construction. This repair will address the second collapse sited to the rear of the tenement flats. It is expected that the reconstruction work will commence on the wall on 21st March 2022.

4.12 Roads Services Responsibilities

The Council has a duty to maintain a safe public road network and can issue a notice to an owner of an asset that may cause a danger to a road or to road users. A 28 day notice would be served under the Roads (Scotland) Act 1984 Section 91 and the asset owner would be required to arrange and carry out repairs. If not carried out the Council would carry out the works and recharge the owner. If the danger is viewed as an imminent danger the 28 day notice may be dispensed with to facilitate the Council to carry out repair works and recharge the owner.

4.13 Following a second structural survey of the site in October 2021 it was determined that the load from moving / parked cars was causing additional stress on the part of the privately owned wall that initially collapsed.

4.14 The road condition has continued to be monitored and there has been no visible deterioration to the road surface at this time.

To reduce the risk to road users barriers and cones have been installed to limit vehicles using the footway area for parking. The condition will continue to be monitored for evidence of potential failure.

4.15 A drainage survey of the carriageway drainage has been undertaken by Officers and the drainage system is considered sufficient for the location.

4.16 Should, following inspection, deterioration of the road surface be noted concrete vehicle barriers will be installed to prevent vehicles entering the at risk zone. At this point it would be able to justify the issuing of a notice to the landowner and to recharge the cost of any implemented mitigation measures.

4.17 The present condition of the wall and the area that has failed does not lend themselves to an easy fix and will involve ground stabilisation and demolition prior to rebuilding.

4.18 To determine the potential design solution and implementation costs the Council would be required to procure a Structural Engineer to carry out ground investigation and structural surveys of the wall. It is anticipated that this will likely cost in the region of £25,000. There is no budget available to carry out this work.

4.19 The potential solution may be sheet piling, concrete blocks, gabion baskets or stonework repair. The Engineer's report would set out the recommended solution and the costs involved. Initial cost estimates are in the region of £300,000.

4.20 The Roads Service do not have a budget available to carry out either the survey, design or implementation of the repairs to the privately owned wall. It

is not permitted to direct public funds to repair a privately owned asset unless a notice has been served and the incurred costs will be repaid.

- 4.21 A letter providing an update on the actions carried out to date was issued to the residents of Williamson Avenue. These were hand delivered and issued via email if contact details known.
- 4.22 A virtual residents' meeting was held at 5pm on the 15th March 2022. Three residents attended and Officers provided an update on the actions undertaken to date and residents had the opportunity to ask questions.

5. People Implications

- 5.1 There are no direct people implications resulting from this report.

6. Financial and Procurement Implications

- 6.1 There is no budget available for either the survey, design or repair/reconstruction of the privately owned wall. The indicative cost for an Engineer's survey is in the region of £25,000. The Engineer's report is required to provide costs for repair or rebuilding of the wall at the site of the first collapse. Early cost estimates are in the region of £300,000.

Both pieces of work would require to be procured.

7. Risk Analysis

- 7.1 Failure to address the issues identified with the condition of the privately owned wall may result in further collapses.

Should the Council fund fully or partly the survey, design or construction it would set a precedent for the use of public money to fund works on privately owned assets.

8. Equalities Impact Assessment (EIA)

- 8.1 An initial screening confirms there is no adverse impact.

9. Consultation

- 9.1 As detailed in the main issues section of this report engagement has taken place with residents and other interested parties. This has informed the recommendations made in this paper.

10. Strategic Assessment

- 10.1 This report supports the Councils Strategic objective of efficient and effective public services that improve the lives of residents.

Gail MacFarlane
Chief Officer – Shared Services Roads & Neighbourhood
Date: 15 March 2022

Person to Contact: Gail Macfarlane, Chief Officer – Roads & Neighbourhood Services
Peter Hessett, Chief Officer – Regulatory & Regeneration
Pamela Clifford, Planning Manager
Judi Ferguson, Principal Building Standards Surveyor

Appendices: None

Background Papers: None

Wards Affected: Dumbarton