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**Meeting of the Executive Member for  
Neighbourhood Services and Advisory Panel**

**19 January 2009**

Report of the Director of Neighbourhood Services

**PUBLIC RIGHTS OF WAY – REQUEST TO ADOPT ALLEYWAY  
BETWEEN SCARCROFT HILL AND MILL MOUNT**

**Summary**

1. This report considers a request to adopt a section of the above alleyway as a public highway, maintainable at public expense.
2. The report considers 2 options and recommends that the Advisory Panel advise the Executive Member to approve Option B and add the path to the List of Streets (LoS) with immediate effect.

**Background**

3. The alleyway in question commences between 12 and 14 Scarcroft Hill and links with the southern end of Mill Mount (Annex 1).
4. From a search of historic maps etc it is apparent that the Scarcroft Hill area was developed in the late 1890's. The alleyway in question was provided as a cut-through from Scarcroft Hill to Mill Mount and thence on to The Mount. Previous to the development Mill Mount was a dead end route.
5. The Council does not hold any records that confirm whether or not it is responsible for the route's maintenance. The alleyway is not recorded on the LoS, although a second rear alleyway leading off it is (Annex 1). Additionally, as the route is located within the former County Borough of York, which was excluded from the definitive mapping process in the 1950s, it is not currently recorded on a Definitive Map.
6. The Council is currently compiling a Definitive Map for this area and the alleyway in question makes up part of a longer route, including Mill Mount that is under investigation as to its status. Initial investigations suggest that this route, including the alleyway is a public right of way of at least footpath status as it has been used and is accepted by the public as such.
7. The alleyway is approximately 45 metres long with 8 metres of it, at the northern end, being in the ownership of All Saints School. From its junction with Scarcroft Hill to the school boundary the alleyway is surfaced with hexagonal paving sets, the remaining 8 metres in school ownership has a tarmac surface.

8. The alleyway is lit by 2 lighting columns, the first is situated to the rear of number 14 Scarcroft Hill at the junction of the alleyway in question with the alleyway which services the rear of Nos 14 to 60 Scarcroft Hill. The second is located within that part of the alley in the school's ownership.
9. The paved surface of the alleyway is in a poor state, [see photos in Annex 2] and has deformed and failed under some heavy vehicle loading. The condition of the surface is therefore not commensurate with its frequent use as a short cut from Scarcroft Hill, through to the school and then onwards to The Mount and vice-versa.
10. At the request of councillors, the route was incorporated into the 08/09 Safe Routes to School Programme. It was planned to widen the narrow gap through the school boundary, replace the step at this point with a ramp and replace existing kerbing with dropped curbs to remove the small step up. The scheme has been dropped, however, as the school did not want to encourage access at this point. Although reference was made to the poor state of the surface, extensive resurfacing works were not to be a part of this scheme.
11. A Land Registry search indicates that ownership of the alleyway is unclear, its not on the adjacent residents deeds, which seems to imply it may still be in the ownership of the original [unknown] developer.

## **Consultation**

12. The adjacent property holders, including the school, have been consulted and are pleased with what the council are proposing.
13. The Ward Members, Cllr S Fraser, Cllr J Gunnell and Cllr D Merrett, have been consulted and had not responded at the time the report went to print. If any comments from them are subsequently received they will be reported to the committee verbally.

## **Options**

14. Option A – Do not add the path to the List of Streets.
15. Option B – Add the path to the List of Streets with immediate affect.

## **Analysis**

16. Option A – As mention above the alleyway forms part of a longer route which is under investigation as to its status as part of the Definitive Mapping process for the former County Borough of York. As the route is very well used by both pedestrians and cyclists it is likely to be, barring the production of any evidence to the contrary, eventually recorded on the Definitive Map as a public right of way.
17. Before the route can be added to the Definitive Map extensive investigations have to be carried out to establish firstly, whether public rights exist and secondly, if they do, whether the route is maintainable at public expense. It is

not always the case that a public right of way is maintainable at public expense. It could be, if no owners are found, that no one is liable for its maintenance. The investigative process also provides an auditable paper trail for the alteration of the Council's legal records and ultimately the grounds for the expenditure of public money on maintaining its highways.

18. In general terms, a public right of way is maintainable at the public expense if it can be proved to have been in existence prior to the Highways Act 1959. If it were proven that public rights did exist then, because the route is surfaced, maintenance liability would not be taken on by Public Rights of Way, but would be passed to Highways Infrastructure (policy agreed by Members in September 2004).
19. Given the present poor state of repair of the path and the lengthy timescales involved as part of the Definitive Mapping process, this option is not recommended.
20. Option B – If this option were approved the alleyway would be added to the List of Streets with immediate effect. Investigations have already been carried out to determine the extent of work required to bring the route up to a standard suitable for adoption
21. The cost to repair the whole area hatched in yellow (approx 65m<sup>2</sup>) on Annex 1 would be minimum £10k. To repair the worst areas and make the surface safer for pedestrians would cost approximately £2k.
22. It should be borne in mind that if the alleyway were to be added to the List of Streets, the Council would be responsible for any future maintenance of the surface, with any future cost implications. The work may be undertaken next financial year, although this is subject to consideration and prioritisation of all requests for similar work throughout the city.
23. This option is recommended.

### **Corporate Priorities**

24. The approved option links in to the Council's Corporate Strategy (2007 – 2011) Priority for Improvement Statement:
  - No 3 “*Increase the use of public and other environmentally friendly modes of transport*”; and
  - No 4 “*Improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces*”.
25. The *hierarchy of transport users* is firmly embedded within the second Local Transport Plan (LTP2), with pedestrians and cyclists being given priority when considering travel choice. The adoption of this alleyway as a highway maintainable at public expense would encourage use and therefore fits soundly within Council transport policy. The encouragement of travel by sustainable modes also corresponds with other ‘wider quality of life objectives’ as contained

in the Community Strategy, such as those relating to health and also ties in with Objective 1.3 to: *Make getting around York easier, more reliable and less damaging to the environment*”

## **Implications**

- **Financial**

26. If Option B (recommended) were approved any future maintenance/remedial works identified would have to be funded from the existing Highways Infrastructure budget.

- **Legal**

27. Legal's comments have been incorporated into the report.

28. There are no implications for the following:

- **Human Resources (HR)**
- **Equalities**
- **Crime and Disorder**
- **Information Technology (IT)**
- **Property Other**

## **Risk Management**

29. In compliance with the Council's Risk Management Strategy, there are no risks associated with the recommendations of this report.

## **Recommendations**

30. That the Advisory Panel advise the Executive Member to select **Option B** and;
- 1) Authorise the immediate addition of the path to the List of Streets maintainable at the Public Expense.

**Reason:** To enable the alleyway to be maintained to a standard commensurate with its use

## Contact Details

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### Chief Officer Responsible for the report:

Terry Collins  
Director of Neighbourhood Services

Report Approved



Date 06/01/2009

### Specialist Implications Officer(s)

#### Financial

Patrick Looker (Finance Manager) 01904 551633

#### Legal

Sandra Branigan (Senior Assistant Solicitor) 01904 551040

### Wards Affected:

Clifton

All

For further information please contact the author of the report

### Background Papers:

Executive Member for Planning and Transport Report (01/09/04) *Public Rights of Way - Budgets*  
Highways Act 1959

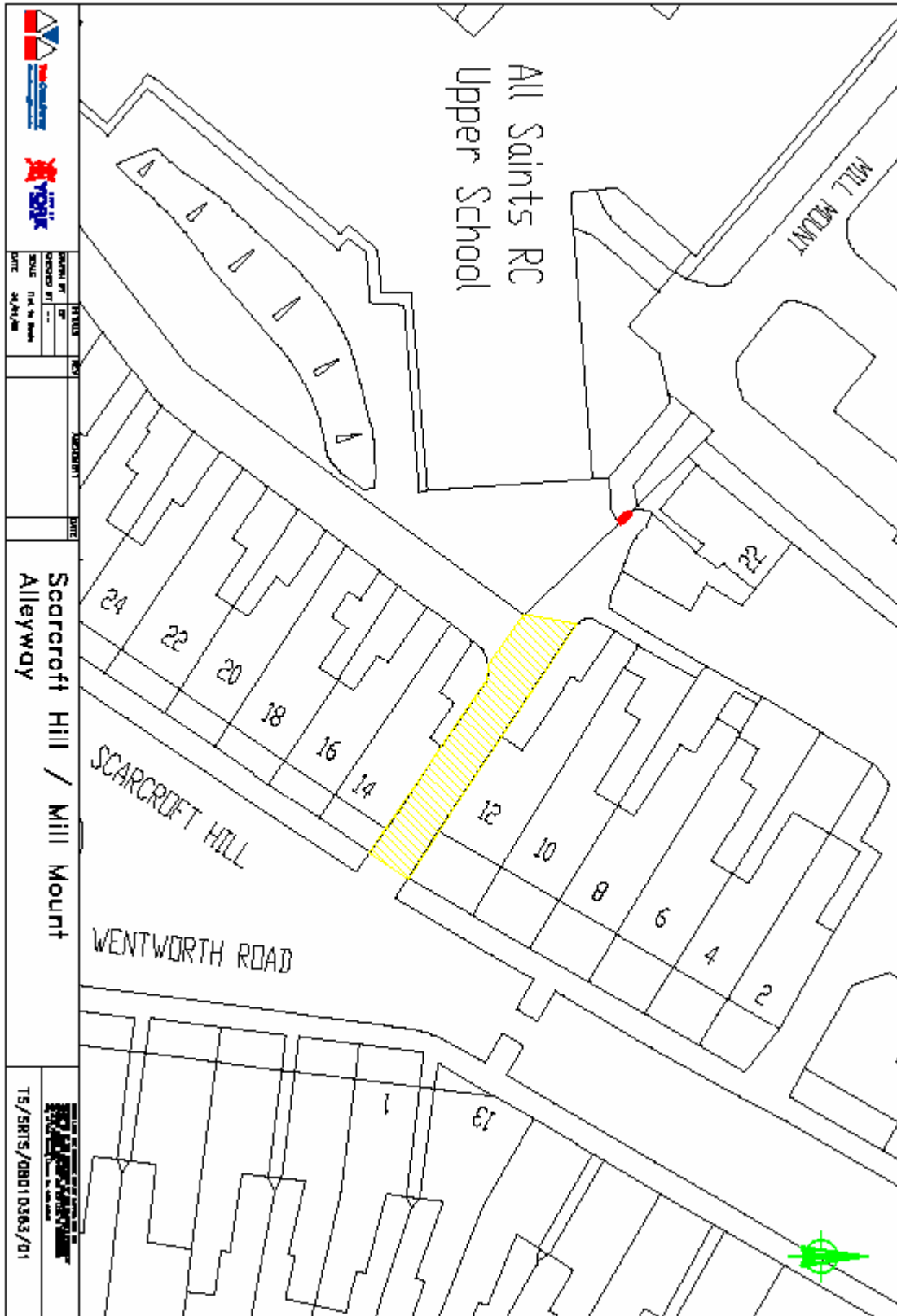
### Annexes

Annex 1 – Location Plan

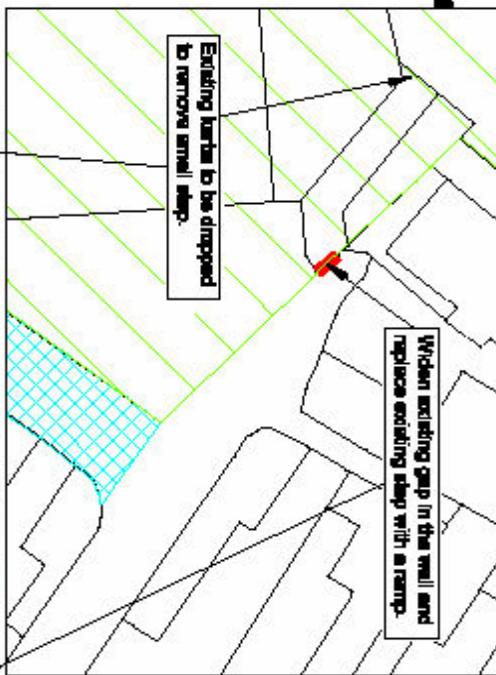
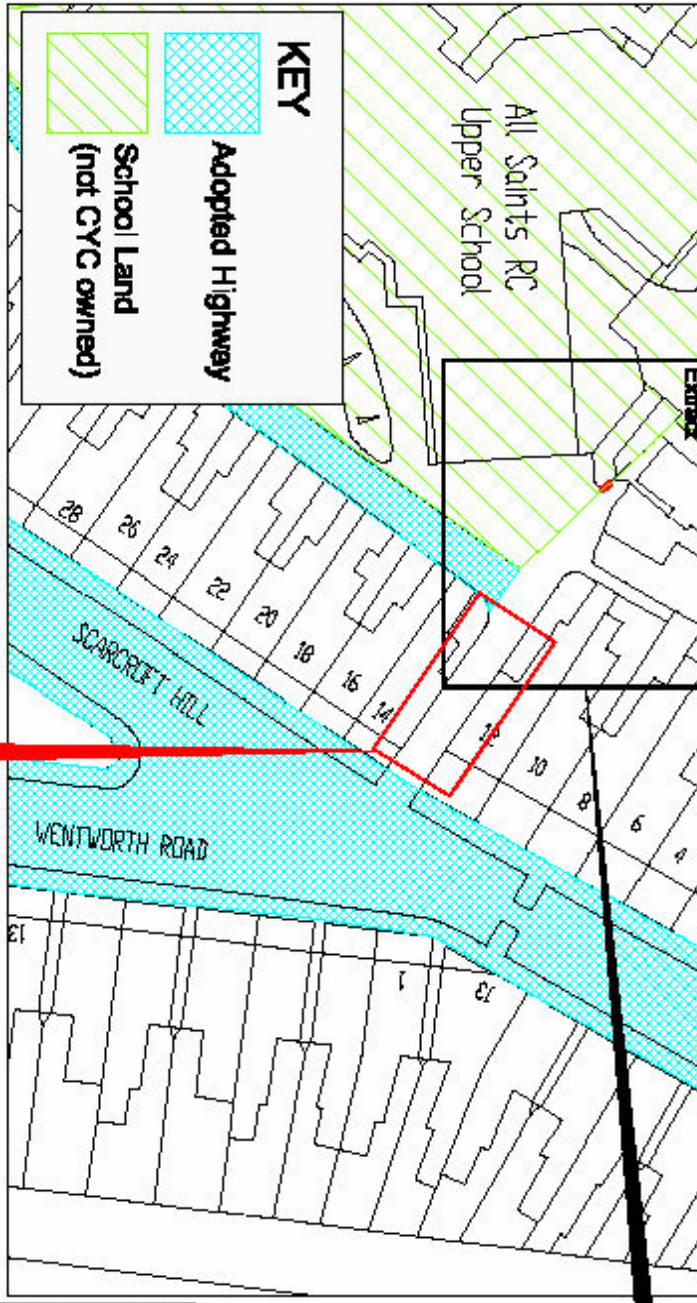
Annex 2 – Photos

22 December 2008

comm./190109 emap report – Scarcroft Hill







Photos showing existing condition of alleyway between No 12 and No 14 Scarcroft Hill



INITIAL	REV	AMENDMENT	
DRAWN BY: GP			
CHECKED BY: ND			
SCALE: Various			
DATE: 17/07/08			

All Saints Upper School – Mill Mount  
SRTS – 08/09

TS/SRTS/0801036

