
Meeting of the Executive Members for City Strategy and the Advisory Panel

2 June 2008

Report of the Director of City Strategy

PUBLIC RIGHTS OF WAY – PETITION SEEKING THE ADDITION OF DEAD MAN’S ALLEY, CLIFTON TO THE LIST OF STREETS MAINTAINABLE AT THE PUBLIC EXPENSE

Summary

1. This report is in response to the receipt of a petition (Annex 1) signed by 78 residents of Clifton and surrounding areas, requesting that the path known as Dead Man’s Alley be adopted by the Council.
2. The report considers 2 options to progress the matter and recommends that the Advisory Panel advises the Executive Member to approve Option B and add the path to the List of Streets with immediate effect.

Background

3. The petition that is the subject of this report was presented to the meeting of the Full Council on 24 January 2008 by Cllr H Douglas, on behalf of residents of Clifton. It is entitled “*Dead Man’s Alley*”. The statement for the petition request reads:

“We the undersigned call on the City of York Council, to formally adopt the Public Footpath known as Dead Man’s Alley in Clifton, York”

4. The route of Dead Man’s Alley is recorded on the 1851 OS map for the area as a physical feature which existed on the ground. It links Clifton (Road) to Clifton Green Primary School, at the southern end of Kingsway North (see Annex 2 Location Plan). The path is approximately 250 metres long, has a tarmac surface, is street lit and signed as a walking route to Clifton Health Centre and Kingsway School. Compared to footway and path surfaces in the immediate vicinity the surface on Dead Man’s Alley is of a relatively lower standard (see Annex 3 photos).
5. The Council, does not hold any records that confirm whether or not it is responsible for the routes’ maintenance. The route is not recorded on the List of Streets Maintainable at the Public Expense (LoS) i.e adopted. 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. Nonetheless the path has been used and is accepted by the public as a public right of way.

6. Prior to 1974 the path may have been surfaced by York County Borough Council, which would have been highway authority at the time. From 1974 York City Council may have surfaced the route in their capacity as agents for North Yorkshire County Council, who were highway authority. Recent case law dictates that if a highway authority undertakes maintenance work on a path it assumes maintenance liability for it by default, whether or not it is recorded on the List of Streets.

Consultation

7. As this report is to advise the Advisory Panel of the receipt of the petition no external consultation has taken place. The Ward Members, Cllrs D Scott, K King and H Douglas have been consulted and offer the following:

Cllr D Scott; *"I support the application. This is an historic and well used footpath. Residents and Ward Committee have made great efforts to clean and improve the environment of this footpath."*

Cllr K King; *"I would agree with David"*

Cllr H Douglas; *"My support goes without saying since I did the petition"*

Options

8. There are no options other than to add Dead Mans Alley to the Highway Authorities list of adoptable streets.

Analysis

9. Due to its location, within the former County Borough of York, it appears likely that the path has been maintained, in the past, by the Highway Authority or as an agent of it and has purely been missed off the LoS. If this option were approved the path would be added to the List of Streets with immediate effect and the Council would become responsible for its maintenance.
10. This option is recommended.

Corporate Priorities

11. 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*”.
12. 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 Dead Man’s Alley 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**
13. If approved any future maintenance/remedial works identified would have to be funded from the existing Highways Infrastructure budget.
- **Legal**
14. Legal Services advise that as it would appear that the way has been maintained by the Highway Authority for many years, the conclusion is self-evident. In short, Dead Man's Alley is a highway maintainable at the public expense already.
15. There are no implications for the following:
- **Human Resources (HR)**
 - **Equalities**
 - **Crime and Disorder**
 - **Information Technology (IT)**
 - **Property Other**

Risk Management

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

Recommendations

17. That the Advisory Panel advise the Executive Member to:
- 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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Report Approved **Date** 19/05/08

Specialist Implications Officer(s)

Financial

Patrick Looker (Finance Manager) 01904 551633

Legal

Martin Blythe (Senior Assistant Solicitor) 01904 551044 – See para 14

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 – Petition

Annex 2 – Location Plan (Dead Man's Alley)

Annex 3 – Photos