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

14 July 2008

Report of the Director of City Strategy

PUBLIC RIGHTS OF WAY – PETITION SEEKING THE ADDITION OF CHAPEL ALLEY, FULFORD TO THE LIST OF STREETS MAINTAINABLE AT THE PUBLIC EXPENSE: PRESENTATION OF SURVEYS AND COSTS

Summary

1. This report follows up a request made by the Advisory Panel in January 2008, to identify the cost to the Council of adding Chapel Alley, Fulford to the List of Streets Maintainable at the public expense (LOS).
2. The report seeks approval for Option B so that the alleyway can be added to the LOS with immediate effect and the surface of the path be maintained to a standard commensurate with its use.

Background

3. The petition to adopt Chapel Alley was considered by the Executive Member for City Strategy and the Advisory Panel in January 2008, with the decision taken to progress the request to adopt the path and authorise officers to carry out the necessary surveys and costing required to bring Chapel Alley up to an adoptable standard.

Consultation

4. The Ward Member, joint Definitive Map Modification Order applicant and Lead Petitioner (Cllr K Aspden) has been consulted and offers the following: *“As Ward Councillor for Fulford, can I strongly recommend that members accept Option B - to accept the presented costing of the scheme and add the path to the LoS with immediate effect. As my petition to Council showed, Chapel Alley is a very well used pathway, between the busy areas of Main Street and School Lane, for a variety of residents in Fulford. The fact that our local Ward Committee, as voted by local residents, allocated £2,000 as a contribution towards this scheme, shows the local strength of feeling. I know that the pedestrians who use this path will be delighted to see any improvements.”*

Options

5. Option A – Do not accept the presented costing of the scheme, but continue to progress the Definitive Map Modification Order application method, to add the path to the Definitive Map, as and when resources allow.
6. Option B – Accept the presented costing of the scheme and add the path to the LoS with immediate effect.

Analysis

7. Option A – This option was discussed in detail in the original EMAP report. In summary, Cllr Aspden and Fulford Parish Council submitted a DMMO Application to add the path to the Definitive Map in April 2007. The path is likely to be, barring the production of any evidence to the contrary, recorded as a public right of way (PROW).
8. Notwithstanding this, it is not always the case that a PROW is maintainable at public expense. For a PROW to be maintainable at the public expense it must be proved to have been in existence prior to the Highways Act 1959. If it were proven that public rights did exist then the Council's PROW Team would take on maintenance liability, although not up to the standard of a normal footpath/footway due to budgetary constraints. PROWs such as this are now maintained by Highways Infrastructure out of the existing Highway Maintenance budget.
9. The DMMO Application for Chapel Alley is currently bottom of a list of 19 DMMO Applications received by the Council. DMMO Applications are currently dealt with in the order in which they are received. At current resource levels the PROW Team are determining one DMMO application per year.
10. Given the present poor state of repair of the path coupled with the predicted lengthy timescale involved in processing the DMMO Application, this option is not recommended.
11. Option B – As approved at the original meeting in January 2008, the Council's Engineering and Consultancy Team were requested to carry out the surveys and costings required to investigate the cost to the Council of adopting Chapel Alley. Two estimates were prepared:

Estimate 1 assumed that the existing construction of the path was inadequate and that a new sub-base would be required. **Grand Total £6756.26** (+ £2600 for manufacture and installation of cycle barrier at School Lane end of path).

Estimate 2 assumed that the construction of the path was adequate and that a new sub-base would not be required. **Grand Total £4426.51** (+ £2600 for manufacture and installation of cycle barrier at School Lane end of path).

12. It was not possible to determine whether or not the sub-base was adequate without digging test holes at intervals along the path. Additionally any test holes would only give indicative results of the particular section tested, not the whole route. Quote 1 therefore presents the worst case scenario with regards to the cost of bringing the alley up to an adoptable standard.
13. However, bearing in mind the age of the path and it's sketchy maintenance history it is highly likely that the sub-base will be inadequate along its full length or at least along sections of it. So, although Quote 1 is the most expensive, the reconstruction of the path including relaying a new sub-base would, in fact, provide best value for the Council in the long run as the work would be guaranteed to last longer and the path should not require any maintenance within the near future.
14. Should this option be approved and the path be added to the LoS with immediate effect it would be surveyed by Highways Infrastructure and then ranked along with others, within the network, that require improvement and/or maintenance.
15. The list of approved planned works for 2008/09 has already been determined by Members (3rd March 2008) and the ranking of works for Chapel Alley would form part of the forward programme assessment for 2009/10 or beyond. The exact timing of any works cannot be predicted at this stage as it is dependent on the ranking of other competing schemes and the budgets available.
16. Additionally, should the alley be added to the LoS, it would be included within the Council's routine, cyclic, sweeping regime.
17. With regards to street lighting, the lighting column located within the alley is currently owned and maintained by CYC street lighting. Should this option be approved there would be little or no change in its current status. As the lighting is at the relevant standard from when the original unit was installed there would be no obligation to upgrade the levels at this location. The only change that would come about is if the Ward wished to fund an improvement scheme should the alley be added to the LoS, which, as the alleyway is currently not adopted, is presently not permitted.
18. Notwithstanding the above, if this option were to be approved, the Council still has a statutory duty to record all such paths on the Definitive Map. The outstanding Definitive Map Modification Order application to determine the legal status of the path would therefore have to continue to be processed by PROW as and when resources allow.
19. This option is recommended.

Corporate Priorities

20. As both options would ultimately have the same outcome, both link 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”.

21. 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 Chapel 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

22. Both options would have the same financial implications in that the Council as highway authority would ultimately become liable for the maintenance of the surface of Chapel Alley, albeit through different processes.
23. Approval of either option would result in the cost of the reconstruction of the path, and any subsequent maintenance of it, coming out of the existing Highway Maintenance budget, held by Highways Infrastructure.
24. This is because PROW does not hold a budget large enough to maintain paths with a tarmac surface (the initial reconstruction of the path would equate to approximately 30% of the PROW annual budget), so the maintenance of the path would be transferred to Highways Infrastructure in accordance with a decision made by Members in September 2004, where it was determined that those paths recorded on the Definitive Map, but which lie within the urban areas of York, be maintained out of the Highways Maintenance budget.

Human Resources (HR) - none

Equalities - none

Legal - none

Crime and Disorder - none

Information Technology (IT) - none

Property - none

Other – none

Risk Management

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

Recommendations

26. That the Advisory Panel advise the Executive Member to select **Option B** and authorise the addition of Chapel Alley to the LoS with immediate effect.

Reason: In order that Chapel Alley may be maintained to a standard commensurate with its use and to ensure that the works are carried out on a needs and 'worst-first' basis.

Contact Details

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Report Approved

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Specialist Implications Officer(s)

Financial

Patrick Looker (Finance Manager) 01904 551633 – none received

Legal

Martin Blythe (Senior Assistant Solicitor) 01904 551044 – para 18

Other

Fred Isles (Maintenance Manger – Highways Infrastructure) 01904 551444

Wards Affected:

All
Fulford

For further information please contact the author of the report

Background Papers:

- PROW(R)/030 Chapel Alley, Fulford
- Executive Member for Planning and Transport Report (01/09/04) *Public Rights of Way - Budgets*
- Highways Act 1959
- Local Government Act 1972 s101
- Highways Act 1980 s50(2)
- Wildlife and Access to the Countryside Act 1981
- Public Rights of Way Statement of Priorities

Annexes

None