
**Decision Session -
Executive Member for City Strategy**

7 September 2010

Report of the Director of City Strategy

**HIGHWAYS MAINTENANCE SERVICES - PETITION SEEKING THE
ADDITION OF BRACKENHILLS SNICKET, POPPLETON 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) with 448 signatures of residents of Upper and Nether Poppleton, requesting that the path linking Brackenhills to The Green, Upper Poppleton be added to the List of Streets Maintainable at the Public Expense ((LoS) adopted) by the Council.

Recommendation

2. It is recommended that the Executive Member approves Option A and authorises the addition of the snicket to the LoS.

Reason

3. 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 location, use and also to public expectation.

Background

4. The snicket in question links Brackenhills to The Green in Upper Poppleton (see Annex 2 Location Plan). The path is approximately 80 metres long and has a tarmac surface along the majority of the route apart from where it goes over a flagged forecourt to the front of Hudson Moody Estate Agents and the White Horse Hotel Public House. There is one street light, located to the rear of the pub, where the path turns into Brackenhills. There is also a cycling prohibited sign located at both ends of the route.
5. The route is extensively used, but the surface is deteriorating (see Annex 3 photos). It is not recorded on the LoS i.e. adopted and although it is not recorded on the Definitive Map and Statement its public status is not in question as it has been used and accepted as a public right of way since the early 1960s.

6. Notwithstanding the above, it should be noted, that even if it were recorded on the Definitive Map, as investigations show that the path was not used by the public prior to the Brackenhills estate being completed in the early 1960s, i.e. it was not in existence prior to the Highways Act 1959, then the path would not automatically be maintained by the council.
7. It is understood that the path used to be used as a cut through for employees working at a market garden, which was located where the Brackenhills estate is now. This land was sold for development and the Brackenhills estate was subsequently completed in the early 1960's. Workers on the Brackenhills development had continued to use the cut through to get to The Green. The developer then surfaced the cut through and effectively dedicated the route as a right of way between Brackenhills and Main Street. However, unlike Brackenhills itself, the cut through was never put forward for adoption.
8. The council has no record of having carried out any maintenance on the route. Initial investigations also reveal that no formal maintenance work has been carried out by the Parish Council or on behalf of the Ward Committee. It is evident that neighbouring property holders maintain the hedges and fences which are adjacent to the route. A local resident sweeps the route on a regular basis as a voluntary contribution to the village.
9. Being a public right of way, albeit unrecorded, the council has a duty to ensure that it is maintained to a convenient standard and remains unobstructed. Because the route is not recorded on any of the council's highway records however, it receives a very low priority within both Public Rights of Way and Highways Maintenance Services' work plan.
10. The petition that is the subject of this report was received at the Council's Executive meeting on 8 April 2010. "*Petition on Brackenhills Snicket*". The statement for the adoption request reads:

"We the undersigned call for the snicket between Brackenhills and The Green, Upper Poppleton to be adopted by the City of York Council so that improvement and ongoing maintenance can be carried out.

We understand that this path has long been a public right of way in Poppleton and we would like this adoption to take place as quickly as possible".

Consultation

11. Ward Members and Group Spokesperson(s) have been consulted. Their comments, verbatim, are:

Ward Councillors

Cllr I Gillies – "*This is a snicket used by many residents in Poppleton going to and from The Green. I have worked with the Parish Council, and presented a petition at Full Council re adoption which I fully support. The street lighting in the snicket is maintained by the Council, and as you say there is a "No Cycling" notice, I believe at both ends of the snicket. Unfortunately this and*

dog fouling cannot be reported as it is not adopted. There was also a problem during the last winter, as no one took responsibility for the dangerous state of the path.”

Cllr P Healey – *No comments received*

Cllr B Hudson – *“This snicket has been the subject of a number of complaints and an area of anti social behaviour and I would therefore support this request”.*

Group Spokespersons

Cllr Steve Galloway (Lib Dem) – *No comments at this stage*

Cllr R Potter (Lab) – *It would seem sensible to adopt the snicket*

Cllr I Gillies (Cons) – *See comments above*

Cllr A D’Argone (Green) – *No comments received*

12. Public Utility companies have been consulted re their plant requirements, those that have replied are listed below:
 - Cable and Wireless – Not affected
 - Kingston Communications – Not affected
 - Northern Gas Networks – Low Pressure gas pipe to the east (along Main Street) but the snicket is not affected.
 - NEDL – Cables from Brackenfills, along the snicket to lighting column on corner to rear of pub.
 - Marston Moor Internal Drainage Board – Not affected
13. There are 3 x man-hole covers along the snicket and it is understood that these service private drains from adjacent properties.

Options

14. Option A – Authorise the addition of the snicket to the LoS.
15. Option B – Do not authorise the addition of the snicket to the LoS.

Analysis

16. Option A – If the path were added to the LoS then it would be maintained to a standard that users would expect of a well used urban route; the public seeing this route as no different to other similar adopted snickets in York.
17. Before the council accepts a route for adoption it is usual for the landowner(s) to bring it up to an adoptable standard. However, Land Registry searches have determined that the land over which the snicket runs is not registered. What is recorded is that Rural Builders (Poppleton) Ltd who, it is understood, developed the Brackenfills estate, granted private rights of access along the

snicket to the adjacent properties off The Green (the pub and what is currently Hudson Moody). It is most likely therefore that the land in question was at the time owned by Rural Builders (Poppleton) Ltd. A company search, however, reveals that the company has been dissolved and there are no contact details.

18. Highways Maintenance Services have carried out a survey of the snicket. To bring the route up to an adoptable standard would mean rectifying a number of actionable defects.
19. Briefly, the work that would be required includes:
 - Resurfacing 30 linear metres of the existing footway: Cost £500 approx
 - Relay pcc flags in private area: Cost £60 approx
 - Replace 3 No. surface water gullies (drains from private roof areas) with pedestrian friendly type - existing type are original and at the present time are the responsibility of the property owner. As they are not pedestrian friendly they are a hazard: Cost £500 approx
 - There are 2 No. brick buttress. It appears that they are part of the original construction of the wall and were most likely present when the path was 'dedicated' to the public. They are at a very low level and protrude into the footway surface. These would have to be protected by 4 No, Groves type bollards: Cost £618 approx
 - Some weed killing is required: Assume £100
20. Although the boundary fence of one of the properties is in poor condition and does not prevent the fall of material onto the footway, the council would not be responsible for its maintenance. Additionally, if the single street light should fail there is no other illumination along the route.
21. The total cost of the above is approximately £1778. As there is no landowner to recharge the above work, the authorisation of this option would mean that it is highly likely that the council as highway authority would be required to fund the work. If the work were to be met by Highway Maintenance Services budgets then the improvements required would be prioritised against any similar requests throughout the City.
22. Option B – If the path were not added to the LoS then the condition of the route is likely to deteriorate further. The council would however, remain liable for it.
23. With regards to repairing the route, the parish council could maintain it under s50(2) of the Highways Act 1980 (which permits a local council to undertake maintenance on any footpath that is privately maintainable within its area) without the concern of becoming liable for its future maintenance.
24. This option is however not recommended as it would not guarantee the ongoing and future maintenance of the route.

Corporate Priorities

25. Option A links in to the Council's Corporate Strategy (2009 – 2012) of the Council making York a Sustainable City in that improvements to the surface of the path will encourage its use as an alternative to the car.
26. Additionally, 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 the snicket 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.

Implications

Financial

27. As detailed in para 19 above, the approximate cost of bringing the snicket up to a suitable standard is in the region of £1778. If these improvements were to be met in the first instance by the highway authority, because there is no landowner, the council would not be able to recover these costs.
28. The addition of the route to the LoS will place minimal increased pressure on Highways Maintenance Services budgets.

Legal

29. If the route were not adopted, as it is considered a public right of way (a public highway) the council is still responsible for ensuring it is in a safe and convenient condition for the public to use. In this instance as the landowner is not known, the council is not able to take action against them to ensure the snicket is maintained to a suitable standard. Additionally, if someone were to injure themselves the council would still be liable. There is therefore a risk to the council if the route is not adopted. If the council takes on maintenance liability and the route is added to the LoS so that it can be properly maintained then the risk of an accident occurring is reduced.
30. There are no implications for the following:
 - **Human Resources (HR)**
 - **Equalities**
 - **Crime and Disorder**
 - **Information Technology (IT)**
 - **Property Other**

Risk Management

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

Contact Details

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Report Approved

Date 24 August 2010

Specialist Implications Officer(s)**Financial**

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Wards Affected:

Rural West

All

For further information please contact the author of the report

Background Papers:

Highways Act 1980

Annexes

Annex 1 – Front page of the Petition

Annex 2 – Location Plan (Snicket)

Annex 3 – Photos