

Committee:	Date:
Planning and Transportation	30 July 2014
Subject: Paternoster Square city walkway/public access	Public
Report of: Director of the Built Environment	For Decision

Summary

This report discusses options for public access through the Paternoster Square development, including Paternoster Square and the surrounding lanes and alleys.

Recommendations

Members are asked:—

- (1) To resolve to declare to be a city walkway all that way or place including Paternoster Square, Paternoster Lane, Paternoster Row, Canon Alley, Queen's Head Passage, Rose Street and White Hart Street shown hatched black on city walkway declaration plan CWDP - 01 - 08 at Appendix 2 to this report in accordance with the resolution annexed at Appendix 1 to this report subject to the limitations contained in the agreement described in recommendation (3) below.
- (2) To authorise the Town Clerk to insert an appropriate date for the coming into force of this resolution.
- (3) To authorise the Comptroller and City Solicitor to enter into an agreement with the owner of the land to be declared to be a city walkway to provide for the city walkway to be subject to limitations enabling the public right of way and of access to be temporarily suspended to the extent and for the minimum period that is required for any or all of the *following* purposes:—
 - (a) In the interests of public safety or security, where the need is first confirmed by a chief officer of the City of London Corporation or by an officer of the City of London Police holding at least the rank of superintendent; other than in cases of imminent threat, where such confirmation must be obtained within six hours of the suspension coming into force (or the suspension must cease).
 - (b) To permit works of maintenance, repair or renewal of the city walkway subject to prior approval from the City of London Corporation, which must be requested not less than 28 days prior to the proposed date of suspension; save in the case of emergency or de minimis works requiring less than 4 hours' suspension of access, which works must be notified to the City within 48 hours of such suspension coming into force.
 - (c) Force majeure.

Main Report

Background

1. A network of public highways existed to the north of Saint Paul's Cathedral from the Saxon resettlement of the City until the early 1960s, when the area was comprehensively redeveloped. In replacement for these ancient streets and footpaths, which were built upon, the Paternoster Row development that was completed in 1967 had a network of ground-level and high-level city walkways declared through it.
2. The Paternoster Row development was demolished in the early 2000s and a replacement redevelopment incorporating a pedestrian square and ground-level pedestrian passages was completed in 2003. This estate is known as Paternoster Square. It consists of Paternoster Square, Paternoster Lane, Paternoster Row, Canon Alley, Queen's Head Passage, Rose Street and White Hart Street and the adjoining buildings, viz Christchurch Court, Juxon House, Paternoster House, Paternoster Lodge, 1 Paternoster Square (Transcript House), 10 Paternoster Square, Saint Martin's Court and Warwick Court.
3. Conditions 9 and 10 of the planning permission for the Paternoster Square development require that replacement city walkways be constructed within the redevelopment.
4. On 22 July 2008 your Committee resolved that the square and lanes and alleys through the area, as shown on the plan **appended** to this report, be declared to be a city walkway.
5. Your Committee delegated to the Town Clerk authority to insert an appropriate date for the resolution to come into force but the replacement city walkway has not yet been declared. This is firstly because it took some years for it to be established that the square and passages had in all respects been constructed to a standard suitable for a city walkway. There was concern as to whether the square and passages would offer suitable safe passage for fully laden fire engines to access all parts of the estate particularly in the event of an intense high-temperature fire occurring in the redevelopment's extensive underground servicing areas. Secondly, the Paternoster Square development was a particularly sensitive site during the Occupy London protest, which took place from October 2011 to June 2012. The Occupy London encampment was on Saint Paul's Churchyard, but the original site for the encampment that had been planned by the protests' organisers was Paternoster Square.

Current Position

6. The company that owns and manages the Paternoster Square estate is Paternoster Square Management Ltd (PSML). A majority share in PSML was recently purchased by Oxford Properties Group, a major City landowner. After discussions with the Paternoster Square tenants (including the London Stock Exchange) Oxford Properties Group has concluded that a city walkway declaration may cause difficulties for how PSML manages the estate. Oxford

Properties Group has therefore approached the City with proposals for modifying public access arrangements and reserving a wider management rôle for PSML. Oxford Properties Group's requests are as *follows*.

- (i) The ability for PSML to restrict access to the estate in the case of a demonstration or terrorist threat.
 - (ii) The ability for PSML to restrict activities that [may] cause a nuisance to occupiers and other users [of the estate] such as street fundraising, filming and distribution of flyers and other solicitations.
 - (iii) The ability for PSML to enforce breaches of City byelaws [or other offences], such as ball games, busking, begging and rough sleeping, as they happen rather than relying on the police to respond.
 - (iv) The ability for PSML to withhold consent for events that, acting reasonably, it does not view as appropriate at Paternoster Square.
 - (v) The ability for PSML to deviate from the City's standard pedestrian wayfinding system, including a retail tenant directory.
7. These requests have been discussed between the Comptroller and City Solicitor and PSML's solicitors and both parties are agreed that most of these requests could not be provided for with a city walkway declaration. The City could, however, in practice accede to request (iv) on a case-by-case basis (although it could not prejudge individual applications for events, exhibitions, entertainments, street trading etc. on the city walkway); and could accede to request (v) if it chose to, although this would represent a departure from standard City practice and would likely set a precedent.

Options

8. The initial two options are therefore declaring a city walkway as previously resolved by your Committee; or to accept that, in order to facilitate key City stakeholders' aspirations, the square and lanes and alleys should continue to be privately managed. The city walkway declaration would ensure public access through the area as of right whereas a privately managed estate would better meet the aspirations of the owners of and the leaseholders of the premises in Paternoster Square.
9. A third, "middle course", option could be for a city walkway to be declared but for it to be subject to limitations and conditions in accordance with section 6(1A) of the City of London (Various Powers) Act 1967, as inserted by section 33 of the City of London (Various Powers) Act 1987. This provides that a resolution declaring a city walkway may specify such limitations and conditions as may be required to give effect to any such reservations, limitations or conditions specified in an agreement with the owner or occupier of the land, in pursuance of which the city walkway is laid out.
10. The *following* limitations have recently been agreed for the proposed replacement city walkway at London Wall Place (i.e., the redevelopment of

Saint Alphage House including Saint Alphage Highwalk and part of Bassishaw Highwalk):—

The public right of access may be temporarily suspended to the extent that and for the minimum period that is required for the following purposes:

- (a) to permit works of maintenance, repair or renewal of the New City Walkways subject to prior approval from the City of London Corporation which must be requested not less than 28 days prior to the proposed date of restriction or closure, save in case of genuine emergency or of de-minimis works requiring less than 4 hours suspension of access but which must be notified to the City of London Corporation within 48 hours of such suspension; or*
- (b) in the interests of public safety or security where the need is first confirmed [by] the City of London Corporation or by a City of London Police Officer holding at least the rank of Superintendent other than in cases of imminent threat where such confirmation must be obtained within 6 hours of the closure, or the suspension of the right of way must cease; or*
- (c) Force Majeure.*

This agreement could form a model for a similar agreement and for similar limitations to the city walkway declaration at Paternoster Square. Were this course of action to be agreed it would be intended to complete the agreement and bring the resolution into force as soon as possible. In the event of a delay in completing the agreement with PSML the matter would be brought back before your committee to determine whether to make the resolution to declare the city walkway without the limitations proposed.

11. In terms of the wider management rôle that Oxford Properties Group seeks for PSML, this limited city walkway declaration would facilitate request (i) (cf. paragraph 6 above). As noted at paragraph 7 above, the City can, in practice, facilitate requests (iv) and (v) if it chose to, with both a limited and a standard (unlimited) city walkway declaration. This leaves requests (ii) and (iii) that could only be provided for by either retaining the existing private estate or by a city walkway declaration that was more limited than that agreed for the replacement city walkway at London Wall Place (as outlined at paragraph 10 above).
12. A city walkway declaration that is more limited than that agreed for the proposed replacement city walkway at London Wall Place is not considered appropriate as it would remove virtually all of the essential characteristics of a city walkway, leaving it as a city walkway in name only. This lack of transparency about the actual nature of public access to Paternoster Square in these circumstances is not considered to be desirable or in the public interest and such a more limited city walkway declaration is therefore not recommended.
13. **The main practicable options are therefore retaining the existing private estate as sought by the landowner and tenants of the estate; declaring a**

city walkway as previously resolved by your Committee; or declaring a city walkway that is subject to limitations such as those recently agreed at London Wall Place.

14. A further alternative has, however, been proposed by Oxford Properties Group, namely to declare certain spatially limited routes through Paternoster Square to be a city walkway and to retain the rest of the square in its current private status. This arrangement had been recommended to your Committee in 2006, but it is now considered by your officers that having the area held under two different regimes, with different parts having different legal statuses, would be confusing for all parties, and particularly for the public, as it would not in any way reflect the situation on the ground, with a purposeful unity to the design of the whole of the square and the surrounding lanes and alleys. Oxford Properties Group remain, however, of the opinion that this would be a desirable option to pursue.
15. On 30 June 2008 PSML entered into a maintenance agreement for the city walkway with the City. The agreement provides for PSML to be responsible for, in respect of the city walkway, maintenance, repairs, paving, re-paving, re-grouting, cleansing, lighting, drainage, provision of street furniture and the monitoring of compliance with any relevant byelaws and conditions of tables and chairs licences (“the city walkway services”). The agreement would come into effect with either a limited or a standard (unlimited) city walkway declaration. It contains a clause allowing either PSML or the City to terminate the agreement upon giving three months’ notice, in which case maintenance responsibility would revert to the City. It also provides step-in rights for the City in the event of failure by PSML to carry out any of the city walkway services to the minimum standard required by the City from time to time.

Proposal

16. The recommended option is declaring a city walkway that is subject to limitations such as those recently agreed at London Wall Place (cf. paragraph 10 *above*). The alternative options for your Committee to consider are summarised in paragraphs 13–14 *above*.

Corporate and Strategic Implications

17. Improving the City’s pedestrian environment is a medium-term priority in the Community Strategy theme of “the Heart of a World Class City which protects, promotes and enhances our environment”. Ensuring public access through key locations is a critical part of improving the City’s pedestrian environment for all.

Implications

18. Declaration of a city walkway would have a small financial cost as the declaration must be publicly advertised, including through publication in a local newspaper (the City uses the *London Evening Standard*). This cost would be less than £1 000 and can be met from the Director of the Built Environment’s local risk. There is no requirement for public consultation and no opportunity

for objections to be made; the public advertisement is to give notice of the declaration having been made by your Committee.

Conclusion

19. It is now appropriate to determine the future of public access through the Paternoster Square development by deciding between retaining the existing private estate; declaring a city walkway as previously resolved; or declaring a city walkway that is subject to limitations such as those recently agreed at London Wall Place. The first option is sought by the key City stakeholders who are the owners of and the leaseholders of the premises in Paternoster Square; the final option is recommended to your Committee by your officers as an appropriate balance between the landowner's and the public's interests, as established by the precedent of the replacement city walkway at London Wall Place.

Appendix 1:

resolution to declare the city walkway

Appendix 2:

City Walkway Declaration Plan (CWDP - 01 - 08)

Background Papers:

- report of the City Planning Officer of 25 April 2006:
"A strategy for the enhancement and use of public space in and around the square"
- report of the City Planning Officer of 3 June 2008:
"Discontinuation of city walkways at Paternoster Square"
- report of the City Planning Officer of 22 July 2008:
"Declaration of City Walkway—Paternoster Square"

Appendix 1:

RESOLUTION OF THE PLANNING AND TRANSPORTATION COMMITTEE

(under powers delegated to it by the Court of Common Council on 19 July 2001)

DATED [date to be inserted by the Town Clerk]

WHEREAS the Mayor and Commonalty and Citizens of the City of London acting by the Planning and Transportation Committee pursuant to the delegation to that Committee specified above (hereinafter called “the City”) are authorised by section 6 of the City of London (Various Powers) Act 1967 (hereinafter called “the Act”) **BY RESOLUTION TO DECLARE** any way or place in the City of London appearing to the City:—

- (i) to be laid out or otherwise suitable for a city walkway within the meaning of section 5 of the Act;
- (ii) to which access is available directly from a street or another way or place which is a city walkway; and
- (iii) which is laid out or rendered suitable for a city walkway in accordance with one of the provisions specified in subsection (1) of the said section 6

TO BE A CITY WALKWAY as from such date as may be specified in such resolution

AND WHEREAS it appears to the City that:—

- (i) the way or place specified in the Schedule hereto is laid out or otherwise suitable for a city walkway within the meaning of section 5 of the Act; and
- (ii) access to such way or place is available directly from a street or another way or place which is a city walkway

AND WHEREAS the City has entered into an agreement pursuant to subsection (1A) of the said section 6 containing limitations to which this resolution gives effect

NOW THEREFORE the City in pursuance of subsection 1 of the said section 6 by resolution **HEREBY DECLARES** the way or place described in the Schedule on and after [date to be inserted by the Town Clerk] to be a city walkway

SUBJECT TO THE FOLLOWING LIMITATIONS enabling the public right of way and of access to be temporarily suspended to the extent and for the minimum period that is required for any or all of the following purposes:—

- (a) In the interests of public safety or security, where the need is first confirmed by a chief officer of the City of London Corporation or by an officer of the City of London Police holding at least the rank of superintendent; other than in cases of imminent threat, where such confirmation must be obtained within six hours of the suspension coming into force (or the suspension must cease).

- (b) To permit works of maintenance, repair or renewal of the city walkway subject to prior approval from the City of London Corporation, which must be requested not less than 28 days prior to the proposed date of suspension; save in the case of emergency or de minimis works requiring less than 4 hours' suspension of access, which works must be notified to the City within 48 hours of such suspension coming into force.
- (c) Force majeure.

THE COMMON SEAL OF THE MAYOR AND
COMMONALITY AND CITIZENS OF THE CITY
OF LONDON was hereunto affixed in the
presence of:—

Authorised Officer
Guildhall
London
EC2P 2EJ

Dated [date to be inserted by the Town Clerk]

THE SCHEDULE

ALL THAT way or place more particularly shown hatched black on city walkway declaration plan CWDP - 01 - 08 as "City walkway to be declared" being all that way or place including Paternoster Square, Paternoster Lane, Paternoster Row, Canon Alley, Queen's Head Passage, Rose Street and White Hart Street.