

Committee:	Date:
Property Investment Board	23 July 2014
Subject: Adoption of Tower Gardens public footpath by the London Borough of Tower Hamlets	Public
Report of: Director of the Built Environment	For Decision
Summary	
<p>This report seeks agreement to the adoption of that part of the public footpath to the north of Tower Gardens (north) that is in the London Borough of Tower Hamlets by that authority, in order to allow it to be upgraded and form a step-free access route to and from Tower Hill Underground station. These works would be undertaken by the London Borough of Tower Hamlets or its agents using funding obtained through planning obligations entered into by Tower Hamlets in relation to developments in its area.</p>	
Recommendation	
<p>Members are asked to note the dedication of the public footpath to the north of Tower Gardens (north) through long public use; to agree to the adoption by the London Borough of Tower Hamlets of that part of the public footpath that is in that authority's area; and to authorise the entering into of any agreement that is necessary or desirable to effect the adoption.</p>	

Main Report

Background

1. There is a public footpath to the north of Tower Gardens (north) that forms an important public link between Trinity Square, Tower Hill Underground station and Wakefield Gardens to the west and Minories and Tower Gardens (north) to the east (and, across Minories, Tower Gateway Docklands Light Railway station). It allows pedestrians to pass the scheduled ancient monument of the City wall on a convenient alignment to the north of the wall.
2. The City boundary cuts across the public footpath, with the western side being in the London Borough of Tower Hamlets and the eastern side being in the City of London. (This counterintuitive arrangement, with the City to the east and Tower Hamlets to the west, results from the City boundary diverting from the historic alignment of the City wall in this area to ensure that the whole of the Tower of London and its liberties were outside the City. The Tower Liberty was included in the Whitechapel Poor Law Union and therefore formed part of the London Borough of Tower Hamlets upon that authority's creation in 1965.) The location of the public footpath and the City boundary is shown on the map that forms the appendix to this report.

3. That part of the public footpath to the east, in the City, is adopted and the City maintains it as the local highway authority for the public footpath. That part of the public footpath to the west, in the London Borough of Tower Hamlets, is not adopted and maintenance responsibility therefore rests with the landowner. The City is the landowner for the whole of the public footpath and Tower Gardens.

Current Position

4. The public footpath currently includes in its unadopted section in the London Borough of Tower Hamlets a small flight of steps. This forms a transition between the higher level of Trinity Place (the public footpath between Tower Hill Underground station and Wakefield Gardens) and the lower level of the main extent of the public footpath, which is aligned in level with the adjacent northern part of Tower Gardens (north).
5. As the local planning authority for the area, the London Borough of Tower Hamlets has identified the lack of level access to and from the Underground station as a significant barrier for some people with disabilities, such as wheelchair users, and for most people when encumbered with luggage, pushchairs etc. (which is particularly common at Underground stations at major tourist destinations, such as Tower Hill). Tower Hill Underground station is a key entrance point for the Tower of London, which is London's most-visited tourist attraction for its intrinsic historic significance and interest (as opposed to its collections). It is obviously highly desirable for step-free access along the public footpath to be provided if this is possible without compromising the location's critical historic features (such as the City wall), which, given the undistinguished nature of the public footpath itself and the relatively small change in level that is required, it is.
6. The London Borough of Tower Hamlets has obtained funding for a scheme to replace the steps with a ramp from Trinity Place down to the main level of the public footpath. This would involve regrading all (or almost all) of the Tower Hamlets section of the public footpath to ensure that the ramp's slope is acceptably and useably gentle. The scheme seems to your officers to be of significant public benefit.

Proposal

7. The most convenient way for this to take place is for the London Borough of Tower Hamlets to adopt that part of the public footpath that is in its area, which will then let that authority undertake the works; or to supervise the developer of a hotel development on Trinity Square (in Tower Hamlets) undertaking the works, if that is what is agreed between those parties as part of the planning obligation for the hotel or subsequently. In either case Tower Hamlets, as the local highway authority for that part of the public footpath in its area, could then proceed without further reference to the City, as the City's interest in the land underlying the public footpath would be unaffected by those highway works. Responsibility for any defects in the design or execution of the highway works would rest with Tower Hamlets as the local highway authority.

8. Ongoing maintenance of the public footpath following the regrading works would similarly rest with the London Borough of Tower Hamlets. The ongoing maintenance responsibility following the works could, however, be varied through a maintenance agreement under section 8(1) of the Highways Act 1980 if this was thought desirable. The City maintains the eastern part of the public footpath that is within the City, so this could be appropriate. However, the existing maintenance agreement between the City and Tower Hamlets in relation to the boundary roads has Tower Hamlets maintaining Trinity Square, and Trinity Place is wholly within Tower Hamlets and is maintained by that authority, so equally there would be few, if any, efficiencies involved with a transfer of post-construction maintenance responsibilities and this is therefore not proposed.
9. In summary, it seems appropriate for the London Borough of Tower Hamlets to adopt that part of the public footpath that is in its area by agreement with the City under section 38(1) of the Highways Act 1980, which sets out that:

where any person is liable ... by reason of tenure ... to maintain a highway ... a local authority ... may agree with that person to undertake the maintenance of that highway; and where an agreement is made ... the highway to which the agreement relates shall, on such date as may be specified in the agreement, become for the purposes of this Act a highway maintainable at the public expense and the liability of that person to maintain the highway shall be extinguished.

Corporate and Strategic Implications

10. 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 that all users are able to conveniently and equitably access as many locations as possible is a critical part of improving the pedestrian environment for all.

Financial Implications

11. There was some staff time involved with the drafting and publication of this report, and there will be further staff time involved in concluding the adoption agreement with the London Borough of Tower Hamlets. These costs are likely to be less than £1 000 and can be met from the Director of the Built Environment's and the Comptroller and City Solicitor's local risks. The costs are considered to be very minor in the context of efficiently facilitating step-free access to and from Tower Hill Underground station, a critical public transport facility used by tens of millions of visitors per year.

Legal Implications

12. The land below the public footpath is held by the City under four freehold titles. The balance of evidence indicates that the public footpath has been dedicated as a highway through uninterrupted public use. The proposed adoption by the London Borough of Tower Hamlets would make the public footpath

maintainable at that authority's expense. The land below and air rights above the highway would remain vested in the City.

Property Implications

13. The public footpath is already dedicated. Its adoption would ensure that the local highway authority for the area in which it is located would have the necessary control over it to ensure its proper maintenance.

Conclusion

14. The London Borough of Tower Hamlets adopting that part of the public footpath to the north of Tower Gardens (north) that is in its area by agreement with the City will serve to deliver an improved pedestrian environment for all in a key location around the Tower of London, one of London's most important visitor attractions.

Appendix: Map of the Public Footpath to the North of Tower Gardens



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