

Report of: Strategic Director – Physical Environment

Environment Scrutiny Committee

Date: 26th March 2007

Report No:

Title of Report : Towpath Conditions on Fiddlers Island

Summary and Recommendations

Purpose of report: The purpose of this report is to address some of the issues raised by the Environment Scrutiny Committee at its meeting held on 12th February 2007.

Key decision: NO

Portfolio Holder: Councillor Jean Fooks

Scrutiny Responsibility: Environment

Ward(s) affected:

Report Approved by

Portfolio Holder: Jean Fooks

Legal: Jeremy Thomas

Finance: Andy Collett

Strategic Director: Sharon Cosgrove

Policy Framework:

Recommendation(s): The Environment Scrutiny Committee is invited to consider this report and make comments for the Executive Board to consider.

Background

1. The Chair of the Environment and Scrutiny Committee agreed to certify a discussion on the circumstances of the recent accident at the Thames Towpath as urgent business. The Committee agreed to ask officers for two separate reports on this matter. The first should outline the current arrangements for repairing the towpath. The second report was to be on the longer term plans for dealing with the towpath repairs and funding arrangements. This is the first of the two reports, which address the following issues that Committee wish to discuss at a special meeting:
 - The current arrangements for repairing the towpath.
 - Who is responsible for carrying out repairs?
 - Can Oxford City Council act alone in such matters and proceed with repairs without S42 funding from the County Council?
 - Whether the requests made by Councillor Dhall to repair the towpath were acknowledged and acted upon?
 - Whether the towpath should be sealed off when it was considered dangerous or when the river levels were higher than normal?

River Thames Footpath Maintenance

2. The towpath/footpath between Folly Bridge and Godstow Lock (footpath 320/3) and the bank needed to support it are highway maintainable at the public expense by virtue of a public path creation order (The Oxford City Council (Folly Bridge to Godstow) Public Path Creation Order 1966). It is the duty of the highway authority in the first instance to maintain the footpath and the riverbank that supports it.
3. Riparian owners and the Environment Agency are under no obligation to contribute to the cost of repair to the riverbank, which supports highway maintainable at public expense.

Highways Act 1980, Section 42

4. The City Council has claimed the right under section 42 of the Highways Act 1980 (the Act) to maintain certain highways within Oxford, which includes this footpath. In exercising the powers contained in section 42 of the Act the City Council is obliged in law to indemnify the County Council against any failure to maintain the section 42 highways for which it is responsible or negligent maintenance thereof.

Reimbursement Provisions

5. Having exercised the section 42 power the City Council is to be reimbursed by the County Council in accordance with Schedule 7 to the Act. On an annual basis (by 15th December) the City Council submits to the County Council an estimate of the cost of the maintenance of the section 42 highways for the next financial year.

6. In some previous years full surveys of every one of the 1255 streets and footpaths have produced estimates of the necessary work amounting to in excess of fifteen million pounds (£15M).
7. The estimates submitted by the City Council for the cost of maintenance works to the section 42 highways for the years 2005/6 and 2006/7 do not include full refurbishment of the footpath/riverbank along this stretch of the river.

Settlement of the section 42 Estimate

8. The County Council carries out its own assessment of the schemes submitted by the City Council in the section 42 estimate and has surveyors who measure the extent of deterioration in a street. This produces a rating known as the 'Relative Need Factor' (rnf) and in order to apportion the available budgets, thresholds are set above which schemes are pulled forward for programming.
9. The County Council can withhold approval of estimates submitted by the City Council so long as it does not do so unreasonably. Any decision is made in the light of the County Council's resources and other duties/priorities and within the constraints of the Standard Spending Assessments (SSAs). It is therefore in no position to fully fund these bids.
10. The City Council receives from the County Council a list of the approved schemes around February or March for the forthcoming financial year.
11. Historically the allocations for the City Council have amounted to around £1M.
12. This is apportioned between general maintenance (filling potholes and carrying out minor repairs), assessed maintenance (major schemes of footway reconstruction etc.) and cyclic maintenance (gully cleaning, grass cutting etc.).

Supplementary Estimates

13. At any time during a financial year the City Council may submit supplementary estimates for additional works to the County Council should these be identified through requests from Members and members of the public or as a result of reports from Street Inspectors carrying out six-monthly Inspections.

Oxford City Council's Obligations

14. Notwithstanding the County Council's decisions about whether or not to reimburse the cost of particular repair/maintenance schemes, the City Council retains the duty to maintain the section 42 highways, including the towpath.

15. The City Council may incur expenditure that is in excess of the reimbursement provided for by the County Council on maintaining section 42 highways but must act reasonably in doing so, taking into account its financial resources and the performance of its other statutory duties.

Requests made by Councillor Dhall

16. The towpath between Rainbow Bridge and the Fiddler's Island Bridge was inspected on the 4th January 2007 by City Works staff which preceded the requests made by Councillor Dhall. Work orders were placed the same day. The Chief Executive has written to Councillor Dhall in response to her letters of complaint

Closing the towpath when flooded.

17. Fiddler's Island is a long narrow strip of land lying between the main channel of the Thames and the side tributary known as Fiddler's Stream. The island is low-lying land and the section of towpath on it has not been raised above surrounding levels. This differs from other sections, for example from Folly Bridge to Iffley Lock, which has been raised.
18. During the course of a normal winter Oxford can expect to be put on a 'Flood Watch' by the Environment Agency at least once. A 'Flood Watch' is the first level of the three categories of warning and aims to warn that flooding of low lying land and roads is expected. This winter there have been 4 warnings issued so far, and we are aware that Fiddler's Island has been submerged during at least two of these warnings.
19. The line of the towpath is close to the Thames and in places there is only a small margin separating the path from the edge of the main river channel. When the towpath is under water ground features, like the edge of the river channel and the line of the path, are completely hidden from view. It is also impossible to gauge the depth of the water covering the path, which will naturally vary along its length. These visual clues are sufficient to deter the large majority of users from attempting to walk or ride along the path and they will seek an alternative route.
20. Winter flooding of the towpath is an occurrence that must have happened since the early use of the Thames for navigation. It is not customary, and would be extremely difficult given its open character, to formally close the path with warning signs and barriers.
21. There is a risk of holes forming in the path due to the movement of floodwater above the path and also through the ground. An extreme case may be that a section of path could collapse into the main river channel while submerged. This would be completely undetectable until the floodwater had cleared. Submerged washout holes and collapsed banks would become unexpected hazards for pedestrians and cyclists.

22. The hazards outlined above are real but are small risk. However, the deteriorating condition of the bank that the towpath relies upon for support means that the frequency with which these hazards appear is likely to increase.
23. Permanent signs have been erected warning users of the danger when water levels are high.

Recommendation

24. The City has many miles of footpaths adjacent to watercourses and other bodies of water that regularly flood. These watercourses and other water bodies have relatively open access, which is an important part of the character of the city. It is recommended that a risk assessment of the Thames Towpath and other waterside footpaths is undertaken to assess how Oxford City Council might respond to flooding episodes.
25. The Environment Scrutiny Committee is invited to consider this report and make recommendations for the Executive Board to consider.

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background papers: