



**AYLESTONE, EYRES MONSELL AND FREEMAN  
AREA COMMITTEE**

**A. RESPONSES TO QUESTIONS RAISED AT THE MEETING ON 11 DECEMBER  
2006**

At the last meeting of the Area Committee the following questions were raised. These were passed onto the relevant officers after the meeting and the responses are below. The right hand column shows who answered the question.

- 100) Clarification was sought with regard to the legal status of public rights of way. It was queried whether an alleyway, such as the one between Richmond Road and Richmond Avenue, if it had been used as a public right of way for 20 years, automatically turned into a public right of way?

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**Response from Officers:**

At the last meeting of the Aylestone, Eyres Monsell and Freeman Area Committee a question was raised: "Whether an alleyway, such as the one between Richmond Road and Richmond Avenue, if it had been used as a public right of way for 20 years, automatically turns into a public right of way?"

From the minutes of the meeting on 11th December it appears that the alleyway is a pathway that runs between Richmond Road and Richmond Close via the back of a number of residential properties. The alleyway has been gated at both ends to restrict the use of this route by the public due to complaints/concerns of local residents about community safety. The alleyway is only accessible to residents who have gates that back into the alleyway itself and each of these residents have a key to the gate. The gates can now only be unlocked from the inside, although previously residents living next to the alleyway were also issued with keys. There was also some suggestion that there were gates present on the alleyway prior to the steps taken by the Community Safety Team.

**Legal position**

There are two ways in which a public right of way can be created.

- 1) If the owner of the land dedicates that land for use by the public in some way, or
- 2) Is by deemed dedication under statute.

Deemed dedication arises where there has been uninterrupted public enjoyment, as of right, for a full 20 years. If this is so, the way is deemed to have been dedicated as a highway, unless there is

sufficient evidence that there was no intention during that period to dedicate it . A notice erected and maintained by the landowner, visible to persons using the way as a highway, showing an intention inconsistent with the dedication of the way as a highway, is sufficient evidence. Alternatively where a notice erected is subsequently torn down or defaced, the owner of the land may give a notice to the appropriate Council, that the way is not to be dedicated as a highway. A person may also submit maps of their land, showing the ways that have been dedicated and subsequently make declarations that no further ways have been dedicated. In the absence of any proof to the contrary, these acts negative an intention to dedicate.

Generally, case law provides that enjoyment 'as of right' means openly, not secretly and not by force and not by permission from time to time. If the users hold an honest belief that there was a public right of passage and the land owner does nothing to correct this, it will be 'as of right' within the meaning of the statute.

### **Further action**

Hopefully the above summary of the legal position is sufficient for the Committee. If the Regeneration & Culture Department wants to verify the status of this alleyway then Legal Services would be pleased to give a view based on the full facts known.