

20. CHANCERY LANE RIGHT OF WAY

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The purpose of this report is to re-present, with further information, the opportunity for the Council to secure a formal easement for public thoroughfare in perpetuity through the existing Chancery Lane and seek a decision on whether or not to pursue this prospect.

BACKGROUND

In May 2001, the Committee considered the attached report and deferred consideration of this item to enable a legal opinion to be obtained from the Legal Services Manager on the possibility of using the equitable rights-of-way provision to protect the public rights of access.

NEW INFORMATION

In the course of seeking legal advice on the possibility of securing an equitable easement the current adjoining owners of the AMP site ("Emmons"), that is the building to the west of Chancery Lane at the southern (Square) end, entered into litigation with RFD Investments Limited. One of the aspects of this case that had some relevance to the issues facing the Council was the fact that Emmons were arguing for an easement in gross in favour of the public. We therefore held off on bringing this matter back to the Committee until the outcome of this case was known. Unfortunately, this argument was not upheld by the Court.

We are, however, now aware that Emmons do have a right-of-way over contiguous parts of Chancery Lane from the Square to Gloucester Street. This was not understood at the time of the May report. Although these rights are not over the full width, they do slightly reduce the risk of RFD's ability to totally close the lane. This could only occur with Emmons' approval or if RFD were also to purchase Emmons property.

With exception to the above, the information contained in the earlier attached report remains pertinent.

In addition our legal advice is that:

- *"No grounds exist to enable the Council to successfully argue that there is already an equitable easement in gross over Chancery Lane.*
- *It is not possible for Council to "piggyback" on the rights enjoyed by Emmons".*

COST

In an effort to assist Council's deliberations we have also endeavoured to agree a price for the easement with RFD Investments. The outcome of these discussions are included in the Public Excluded section.

Recommendation: That the opportunity to purchase an easement be declined.

Chairman's Recommendation: That the above recommendation be adopted.