

Memorandum: Background information for members of Holford Parish Council in relation to the removal of highways jurisdiction over a gravelled area adjacent to the highway at Honeymead, Combe Road, TA5 1RZ.

This note is submitted by the owners Sean Craufurd Smith, Rachael Craufurd Smith and Leslie Hoose, in order to provide some background information which may be useful to the members of the Council. They take this opportunity to wish the new (and continuing) Council members well, and express their hope that they may have a rewarding period of office.

What is being proposed by the Highways Authority is the removal of highways jurisdiction over an area of the gravelled parking area at the entrance to Honeymead. The land in question is, and has been, throughout the period of Highways Jurisdiction, part of the property in question.

According to the Highways Act of 1980, which brought together powers already possessed by the appropriate authorities, those authorities have a duty to maintain the road system and keep it free and unencumbered for pedestrian and vehicular traffic. In order to do this they are required to have records of the boundaries of highways. Normally this presents no problems because the boundary of your property is usually clearly demarcated by a wall or hedge or fence. In the case of Honeymead, however, this led to the problem which is now in the process of being resolved. Unlike most properties, the physical boundaries on the Northern edge of Honeymead were not fenced off in this fashion, presumably because it was necessary for vehicles to have access to the area in connection with whatever activities were carried on in the range of buildings which then existed on the hill side of the property.

As a result, whoever drew the line which came down, and which has since defined, the left side of Stowey Lane, when they reached Honeymead, drew the line which marked the limit of the highway as being, not at the property's edge, but, rather, following the line of garage front, entrance gates and fence which lie on the southern end of the gravelled area. Although the British respect for the ownership of private property ensured that ownership was never transferred from the owners to anybody else, what was imposed upon the owners was the removal of their right to control what happened on their land. Thus, at a stroke (of a yellow marker pen) we lost the ordinary rights of property owners to do what they feel to be appropriate with their own property. Under some circumstances, this would be appropriate, but no such circumstances operate in this case.

Highways has determined that the area in question is not needed for highways purposes and that Highways' legitimate requirements will be fully met by the retention of a two metre strip along the margin edge of our property. This strip will thus remain subject to

highways usual jurisdiction. Thus, as Nicola Bown, Principal Engineering Resource Officer, at County Hall accurately stated in a letter on 10/07/13:- –

‘ ... unless parking restrictions are in place, the general public have the right to use the highway for passage and any other uses reasonably incidental to this right, such as pausing to rest or take refreshments or parking a car, as long as they do not unreasonably interfere with the right of passage.’

We consider Highways approach to be correct. The state should only restrict private rights where there is a clear need and established legal basis. Highways itself has, during our ownership, never made any use of this area, nor sought to maintain it, the land in fact being maintained by the property owners. The needs of the highway users in relation to passage along Stowey Lane will remain more than adequately protected by the 2 m strip, allowing cars and pedestrians to pull in if required for purposes incidental to passage. It will, of course, be a matter for Highways to decide how to exercise and enforce its rights over this area. Most importantly from our perspective, we will once again be able to exercise the usual rights of an owner over most of our property.

The Highways Authority, which have constructed this proposal, will be content to put it forward to the Court on its anticipated approval by the Parish and District Councils. The cost to us, as applicants, in terms of thousands of pounds, has been very significant, but no further time or money will then be spent on the resolution of the difficulty¹, and a long period of negotiation will have been brought to a happy conclusion.

An almost identical proposal was considered by the Parish Council some years ago. Although the Parish Council was content for the matter to proceed to the magistrates court, the matter was not pursued because of the need to clarify the supporting map, which has now been done. The approval, by the Parish Council of the revised proposal put before them will be much appreciated.

Leslie Hoose, for the owners.

05/05/19

¹ Such costs relate to the reimbursement to the Highways Authority of legal costs borne by them, in the process of carrying through the operations which have such a cost implication, and which advantage the person applying for the ‘stopping up’, while conferring no corresponding advantage on the Authority.