COPY TO DRG [redacted] → FILE ALDWICK: HAWTHORN RD

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west sussex county council

19 November 2008

First Class Post
Mr M Tucker
McCarthy & Stone
Emerald House
30-38 High Road
Byfleet Surrey KT14 7QG

20 NOV 2008

Dear Mr Tucker

Our Ref: ENV3/3589/RHD
Your Ref: MWT/TB

Hawthorn Road Bognor Regis

I apologise for overlooking my response to your outstanding query concerning the position relating to the frontage of 238 to 250 Hawthorne Road.

As you know our investigations concentrated upon the situation concerning the land fronting 252 Hawthorne Road. The engineer's conclusions, reported by me in my letter to you of the 30th July 2008, were that your Company would not be required to provide a footway and visibility splay over the frontage, in order to facilitate your development.

I also commented in my letter that there were remaining outstanding issues concerning status and the conclusions were that there are substantial doubts, upon the basis of present available evidence, on the question of highway status of the strip of land. I confirm that this would also likely to be the position concerning the remaining frontages, however, this has not been the subject of the degree of investigation which was applied in respect of the number 252 frontage.

The practical consequences of the results of the investigations into the 252 frontage, with regard to the highway requirements referred to above, relate, of course, to your Company's presently known development proposals. And changes to these, and the consequential effect on highway requirements, would need to be considered at the time of the submission of any new application.

[redacted]

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Mr M Tucker
McCarthy & Stone
Emerald House
30 – 38 High Road
Byfleet
Surrey KT14 7QG

30 July 2008

Dear Mr Tucker

Our Ref: ENV3/3589/RHD
Your Ref: MT/PC

Dear Mr Tucker

Hawthorn Road Bognor Regis

Further to my letter of the 23rd July 2008, I met the engineer this morning.

With regard to the question of the status of the strip of land adjacent to number 252, the neighbouring property, there remains an issue concerning this which is presently unresolved. Whilst what you have said in your letter of the 9th July, concerning what had previously been said by the engineer, is noted, I, of course, clarified the position concerning the investigations that have occurred, in my letter to you of the 4th June. But these issues are still not yet concluded.

However, in today's discussions with the engineer, he confirmed that, with regard to the negotiations on engineering requirements that he is presently conducting with you, in relation to your development, there will not be a need for use of the strip of land, in front of 252 Hawthorn Road, either in respect of the provision of a footway or in respect of providing a visibility splay for your development.

I hope that this has now clarified the position but could I suggest that you telephone me if you have any remaining questions.

Yours sincerely

[redacted]

Senior Legal Officer

ARUN DISTRICT COUNCIL BR/153/09/

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First Class Post
Mr M Tucker
McCarthy & Stone
Emerald House
30-38 High Road
Byfleet
Surrey KT14 7QG

23 July 2008

Dear Mr Tucker

Our Ref: ENV3/3589/RHD
Your Ref: MT/PC

Hawthorn Road Bognor Regis

Further to my letter of the 15th July 2008, the engineer is arranging a meeting next week and I will be in further contact once this has occurred.

Kind regards

[redacted]

ARUN DISTRICT COUNCIL BR/153/09/

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Mr M Tucker
Land Director
Mc Carthy & Stone Limited
Emerald House
30-38 High Road
Byfleet
Surrey KT14 7QG

04 June 2008

Dear Mr Tucker

Our Ref: ENV3/3589/RHD

252 Hawthorne Road Bognor Regis

I refer to the letter I sent to you on the 1st May of last year and to the telephone conversation with Mr. White, on the 3rd April of this year and I wanted to bring you up to date with this.

As you know I and colleagues, have been looking at the status of the strip of land running adjacent to numbers 252 to 246 Hawthorn Road.

The information available in May of last year appeared to support the view that the area is public highway.

As confirmed in my previous letter, our assumptions are that the "set back" of the properties occurred as a consequence of the New Street Order made on the 22nd January 1935. However the question to be addressed is whether public highway rights have been achieved over the land. We were unable to locate a Deed of Highway Dedication so the question of highway rights came down to whether or not these had been achieved through use.

We have been exploring this further and the indications now are that there is some doubt upon the question of whether public highway status has been achieved; because of the absence of evidence of use.

I am conscious of the implications, with regard to your interest in the adjacent land, should the ultimate determination conclude that highway rights do not exist over the strip. There are some outstanding planning related issue that the engineer is presently looking at and once he has concluded his investigations I will write to you further.

[redacted]

Senior Legal Officer

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First Class Post
Mr M Tucker
Land Director
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Emerald House
30 – 38 High Road
Byfleet KT14 7QG

31st May 2007

01 JUN 2007

Dear Mr. Tucker,

Our Ref: ENV3/3589/RHD
Your Ref: MWT/KO/A

252 Hawthorn Road Bognor Regis

Your letter, of the 23rd May 2007, to the Highways and Transport Department, has been passed to me in view of the reference to legal issues.

I am unaware of the existence of any legal Agreements, concerning the extent of the highway in front of Number 252 Hawthorn Road.

It is likely that the "set back" of the property boundary, at the front of the premises, would have occurred as a result of the New Street Order which was made on the 22nd January 1935 (subsequently revoked on 10th April 1989).

On the evidence presently available, it is likely that public highway rights were established, through use, subsequent to the "set back".

Yours sincerely,

[redacted]

Hugh Davies
Senior Legal Officer

ARUN DISTRICT COUNCIL BR/153/09/

MWT/ko/a

Your Ref: JS/CBR/12589

23 May 2007

McCARTHY & STONE
(Developments) Limited

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www.mccarthyandstone.co.uk

Ms J Sweetland
Assistant Engineer
Highways & Transport
West Sussex County Council
The Grange
Tower Street
Chichester
West Sussex
PO19 1RH

Dear Ms Sweetland

252 Hawthorne Road, Bognor Regis

I refer to correspondence last year between yourself and my colleague, Mr D Perfect, relating to the above property (copy attached for ease of reference).

You kindly provided us with a 1:1250 scale GIS plan showing the extent of the publicly maintainable highway coloured pink. In your letter you drew our attention to the caveat printed on your headed paper within which it states that unless taken from a legal agreement, the information should be regarded as guidance only. It goes on to mention that if we would like further details please write to yourself.

In order to be absolutely clear about the extent of the highway in front of No. 252, which may be in dispute, I would be grateful if you can provide us with further details of any legal agreement that was completed in conjunction with any previous owners of No. 252 to confirm the extent of the adoption of the land within the Title of this property. I attach, for ease of reference, a further copy of your plan provided to us with the particular area involved encircled in red.

I take this opportunity to thank you for your assistance in this matter and look forward to hearing back from you with the details of any such legal agreement.

Kind regards

Yours sincerely

[redacted]

Land Director

INVESTOR IN PEOPLE

ARUN DISTRICT COUNCIL BR/153/09/

Judy Sweetland
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Mr D Perfect
Mc Carthy & Stone
Emerald House
30-38 High Road
Byfleet
Surrey
KT14 7QG

21/02/2006

23 FEB 2006

Our reference: JS/CBR/12589
Your reference:

Dear Mr Perfect

BOGNOR REGIS - 262 Hawthorn Road

I refer to your facsimile dated 30 January 2006 and your subsequent telephone conversations with Elwyn Morgan.

Please find attached a 1:1250 scale GIS plan showing the extent of the publicly maintainable highway coloured pink which on this faxed copy will appear as grey shading. Given the circumstances relating to this particular section of Hawthorn Road I would draw your attention to the caveat printed below.

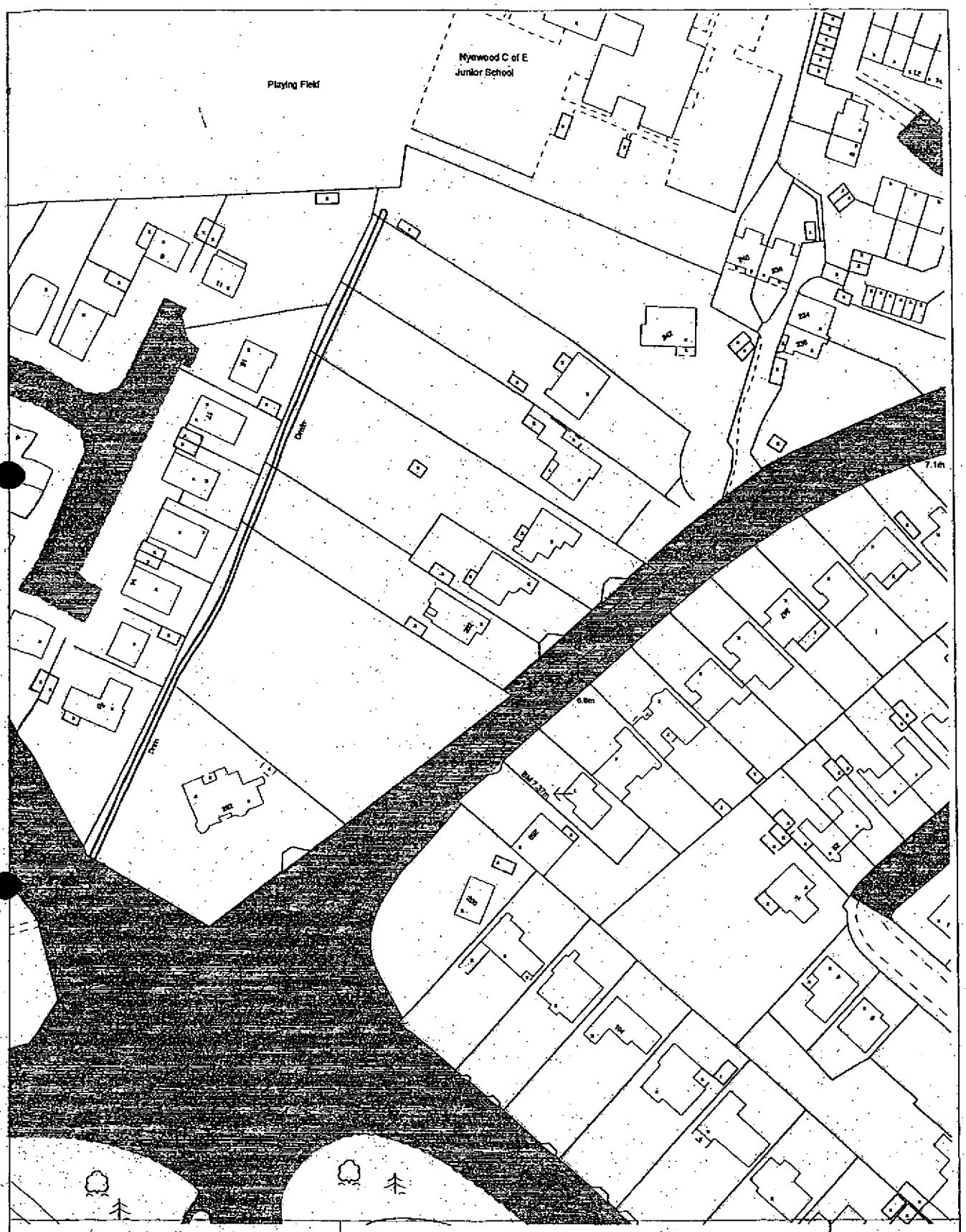
Yours sincerely

Judy Sweetland

Judy Sweetland
Assistant Engineer
Highway Boundaries

This reply is specific to the above mentioned property/area and cannot be relied upon for use on any other property/area. Information about the status of a highway, and in some circumstances the extent of the highway, may be taken from a number of sources held by the County Council. Unless taken from a legal agreement the information should be regarded as guidance only. This is particularly important when there are legal consequences arising from information shown on any plan attached to this letter. If you would like further details or have any information which you feel the County Council should consider please write to the contact above.

ARUN DISTRICT COUNCIL BR/153/09/



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Highways & Transport

1:1250

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REPORT UPDATE

Application No :	BR/60/08
Agenda Page No :	83 - 96

Reason for the Update/Changes

- Representations

One further letter of objection has been received raising no new points to those indicated in the officers report.

County Highways have made further comments on representations made with regards to the formation of a new footway. He states:

"There it would seem is still on going legal dispute over where the highway boundary actually is. This does place an element of doubt in respects of whether the footway can be provided. I do note that the Applicant of the proposed development at No. 262 does indicate that this footway can be provided. I would though recommend that the previously recommended condition for the footway is altered to ensure that the footway is provided prior to any development occurring. In this way, any disputes over the extent of the highway would have to be first resolved.

I should also add that there are adequate pedestrian facilities on the opposite side of Hawthorn Road along with a suitable crossing point in the vicinity of the proposed development. Residents of the proposed care home would therefore be able to cross Hawthorn Road safely and conveniently. Therefore if due to the doubts over the actual ability of the Applicant to provide the new footway and that subsequently the Planning Authority is minded to remove the requirement for the new footway, then no objection would be raised to this.

In the first instance though I would recommend the condition is altered to ensure the footway is provided prior to any other development occurring."

Officer Comment :

Condition 23 should now read:

"A new 2 metre wide footpath shall be provided on the north side of Hawthorn Road linking to the existing path before any other development is commenced."

Notes: Changes to recommendations, conditions and/or reasons for refusal will always be accompanied by a new replacement recommendation sheet.