

FACT SHEET

Prepared by WSCC for FPC

PRIVATE STREETS & ROADS EXPLAINED

PUBLIC HIGHWAYS

The term highway, includes the pavement, verge and the road. Public highways are roads, pavements and verges where public have right of access. The title freehold of the land is not relevant in the case of public highways, indeed the Highway Authority owns less than 1% of the County's road network. Freehold rights, however, are superseded by Highway users rights which means that even though the title of the land underneath the road may be owned by a third party, it has practical value. Some title deeds of older properties will show that the boundary extends to the centre of the carriageway and when a property is sold, the land registry will alter the title plan indicating the boundary to be coexistent with the highway boundary for future clarity.

Public highways do not have to be 'adopted' roads maintained at public expense; they can also be maintained at private expense. The status of public highway is gained either by formal adoption (by agreement between a housing developer and the highways authority) or by evolution.

PRIVATE STREETS

If the public have had unimpeded access to a street for a long period (around 20 years) it gains the status of a public highway regardless of who is responsible for its upkeep. These streets are known as 'private streets' meaning that they are maintained at private expense but the public have the right of access over them.

PRIVATE ROADS

If a road has been gated since its original creation, and the gate has been used to close off the area for at least one day each year, the road is known as a 'private road'. The public do not have the right of access onto a private road. There are many examples of private street incorrectly signed as a 'private road'. This, however, does not alter the legal status of the street.

THE LAW AND PUBLIC HIGHWAYS

There is very little difference between a public highway maintained at a public expense (most of the roads network) and a private street. The same laws apply to the vast majority of roads and traffic situations, whether it is a private street, or on maintained by the highway authority. The highway authority do not usually become involved in the day to day running of private streets nor with any resident or highway user disputes. However, if the legal right of access has been obstructed, the highway authority will step in. The highway authority also has a duty to license various obstructions in private streets such as highway skips, scaffolds etc to help ensure public safety. Traffic signs can be erected on private streets, subject to national regulations and funding by the street owner/management association.

ROADS IN FERRING

When WSCC became highway authority for main and rural roads during the latter part of the 19th century, only a few roads in Ferring existed. These roads had previously been maintained by Ferring Parish Council and were already established as public highways maintained at public expense. As and when housing developers-built roads in Ferring during the 20th century, they could decide upon whether or not to have the roads adopted (as is the situation with present developers). History tells us that many roads were not adopted in Ferring. All residents in private streets would have been made aware of the status and any liability for the street by their solicitor when they purchased their house in principle, all estate road building is funded by housing developer (and always has been) and this means if a road is retrospectively adopted, it has to be brought up to standard at the fromagers' expense and not the highways authority's

expense. It is rare for roads to be retrospectively adopted these days. But there was a large programme during the 1950's & 1960's for this type of work. Council tax banding does not directly relate to the status of the street. It is a general local tax based on property value. It is also not based on service usage so properties in the streets maintained at private expense do not have a discounted tax band, just as people not using schools, libraries, fire service etc. do not benefit from council tax reductions.

The contact for WSCC general enquires can be found on the Ferring Parish Council or WSCC website