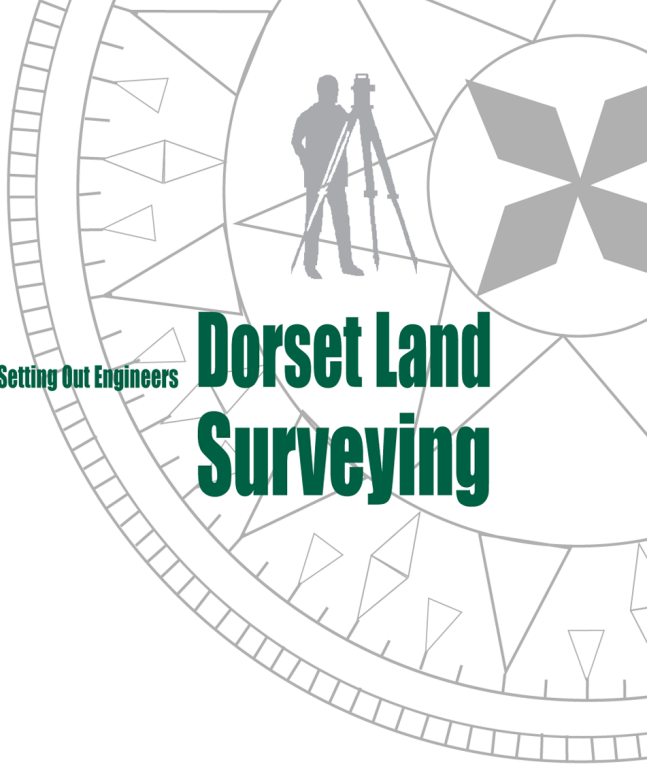


Our Ref: GV/8318

Land Surveyors • Civil Engineering Design • Setting Out Engineers



**Dorset Land
Surveying**

F.A.O. Mike Wilkinson
Heathy Ridge
Copthorne Road
Crawley
RH10 3PD

13th December 2024

Dear Mr Wilkinson

Comparison of technical plans showing extent of the Public Highway known as Copthorne Road and the Property known as Heathy Ridge, Copthorne Road, Crawley, RH10 3PD

Thank you for your instruction to act as an expert adviser and to report on a comparison of plans which purport to show the extent of the Public Highway known as Copthorne Road adjacent to the property known as Heathy Ridge.

This is my condensed advisory report. The following opinion is my impartial and un-biased expert opinion. I would have no problem repeating most of the advice supplied here in a formal Part 35 compliant report but the production of such a report is constrained by very specific rules for expert evidence which would preclude me, for example, from giving a view on the wording of a legal document such as a Conveyance or on the aspects concerning the formation of Public Highways which are very much a matter of law and not of surveying expertise.

For the avoidance of doubt, I have not attended the site in connection with the preparation of this report. In effect this report arises from a desktop exercise and that will limit my ability to opine on certain aspects. You have specifically asked me to make a technical comparison between Figure 3.1, which is to be found within a document produced by the Yes Engineering Group Limited titled 'Acacia Grove, Copthorne Road, Copthorne RH10 3PD', and the West Sussex Highway Map produced by Carol Rigler on 31st July 2024.

I have attached here four drawings, drawing 8318/11, 8318/12, 8315/15 and drawing 8318/16. Each drawing shows a particular step in my procedure of analysis. The final analysis that you have requested is to be found at plan 8318/16.

The first drawing 8318/11, is simply a plot of the current OS mapping data for the site which I have obtained from an accredited supplier on 11th December 2024. It shows the physical features which existed on site at the date of the OS survey. It does not show legal boundaries and it does not show the extent of the public adopted highway. This plan can be plotted on A3 sized paper at a scale of 1:250.

The second drawing, drawing 8318/12, shows the results of a graphical overlay analysis carried out using the Carol Rigler – WSCC Highway Boundary plan. The area shaded pink on that plan is shaded pink on my plan. This plan is discussed in greater detail below. This plan can be plotted on A3 sized paper at a scale of 1:250.

The third drawing, drawing 8318/15, shows the results of a graphical overlay analysis carried out using Figure 3.1 from the Yes Engineering Group Limited report. The extent of the public highway depicted on that plan is depicted on my plan by an area hatched light blue. The line of a particular visibility splay is coloured dark blue, and the extent of the application site is marked by a red line. This plan is discussed in greater detail below. This plan can be plotted on A3 sized paper at a scale of 1:250.

The final drawing, drawing 8318/16, shows the results of the analysis that you have requested, a direct comparison between the extent of the public highway as depicted on the Carol Rigler drawing compared with the extent of the public highway depicted on the Yes Engineering Group Limited Figure 3.1. This drawing plots on A3 sized paper at a scale of 1:250. This plan is discussed in greater detail below.

I have numbered the following paragraphs to ease future discussion.

1. I currently take the view that I have been asked to provide opinion strictly on the basis of two technical plans. However, I also take the view that both of those plans are erroneous when it comes to the matter of the true and concise extent of the public highway.
2. With regards the extent of the highway, I hold the view that a highway is not only made up of the gravel, tarmac or concrete 'strip' over which pedestrians or animals or vehicles may pass, but that a highway also includes the margins to either side of the way that are bounded by fences, hedges and walls which enclose private land and over which no highway rights exist. I believe that a legal presumption exists to that extent, and that the presumption is sometimes referred to as the 'hedge to hedge' presumption.
3. Where the 'hedge to hedge' presumption cannot be implied, the concise extent of the highway may have to be presumed using different criteria. The technical plans that you have provided to me are simply two examples of documents which should be taken into account when seeking to establish the concise extent of the public highway.
4. Where a highway is constructed from road building materials such as tarmac, concrete and stone, there may be a reasonable presumption that the highway rights extend over the full width of the constructed road.
5. Where a highway includes margins of grass or vegetation there may be a reasonable presumption that the highway rights extend over the full width of the margins which can be shown from the records to have been either created or maintained at the expense of the Highway Authority (HA).
6. Where the extent of the highway is not clear it is necessary in my view to establish the true extent from all available evidence.

7. I have given evidence to various courts and tribunals as to the extent of certain Public Highways and I have been asked on occasions if a plan exists which the court or tribunal can rely upon to determine the concise extent of the Public Highway. My evidence in this respect is that it is normal practice for a HA to keep record plans which record the existence of a Public Highway but that inevitably such records are depicted on OS mapping and that they do so in 'General' terms. In effect if one is familiar with the Land Registry 'General Boundaries Rule', one can liken the HA records plans with that rule. In broad terms the extent of the highway will be shown on such plans with a minimal degree of reliability. Such is the case in this matter.

8. You have specifically asked me to limit my investigation at this time to a technical evaluation of two particular plans. Figure 3.1, which is to be found within a document produced by the Yes Engineering Group Limited titled 'Acacia Grove, Copthorne Road, Copthorne RH10 3PD', and the West Sussex Highway Map produced by Carol Rigler on 31st July 2024. This I will do using a process which I refer to as 'Graphical Overlay Analysis'. This involves comparing the shape of areas on one plan with the shape of areas on another plan in effect by putting one plan over the other and metaphorically shining a light through the two plans so as to see both images at the same time.

9. In this matter at this time, I take the view that the margin in dispute is quite small, no more than a metre. Graphical overlay analysis of a deed plans or of an OS map is unlikely to provide an indication as to where the true extent of the Public Highway should be.

10. My first graphical analysis at this time is of the Carol Rigler – WSCC Highway Boundary plan. In my expert opinion, that plan shows the position of the public highway in general terms only and should not be relied upon for a concise extent of the public highway. This plan is typical of the plans produced by Highway Authorities up and down the country. The results of my analysis are depicted on drawing 8318/12. On that plan I have mimicked the pink shading used by Carol Rigler with pink shading of my own.

11. What I take from drawing 8318/12 are the following observations:

- i) The extent of pink shading is limited by certain OS features. OS mapping has a tolerance and in rural areas that tolerance is +/- 2.3m.
- ii) OS map physical features. Where a feature has width such as a hedge or an earth bank, the OS map the centreline of that feature. If a hedge was say 1.5m wide, it would follow that the edge of highway would be 0.75m from the centre root line of the hedge. The highway does not extend to the centre of the hedge and is limited to the land alongside the foliage of the hedge where the public can make way.
- iii) It is often the case that where there is an entrance onto the highway for a private property there will be a gap or a break in the hedge, wall or fence. It does not follow however that the extent of the public highway extends up the private driveway of that property. Surfaced areas created for the benefit of the private property are not a part of the public highway.
- iv) The solid line mapped feature in front of Heathy Ridge follows the line of the vehicular access to Heathy Ridge. It does not follow in my view that a part of the private driveway necessarily has highway rights over it.

12. My second graphical analysis at this time is of the Yes Engineering Group Limited report drawing at Figure 3.1. This is a difficult analysis in that the drawing is supplied to me only in PDF format and not in CAD format. The plan is also based on a local topographical survey and does not show OS mapped data. Neither does it show a grid which is unusual for such drawings. For reasons of analysis, I have shown the area shaded pink on Figure 3.1 by light blue hatching on my drawing 83158/15. This is so that a comparison can eventually be made with the land shaded pink on the Carol Rigler plan.

13. What I take from drawing 8318/15 are the following observations:

- i) I have achieved scale control and translational fit by reference to certain physical features but also by reference to control stations identified on Figure 3.1 which are assigned what appears to be OSGB36 National Grid co-ordinates.
- ii) When overlaid there is an apparent shift of the shaded highway area northwards such that it does not fit the OS mapped feature.
- iii) What I believe to have occurred here is that the draughtsperson of Figure 3.1 has undertaken an overlay of the Carol Rigler plan but that he or she has slightly misaligned the plan and introduced a small error.
- iv) This error is apparent as a small encroachment of the area hatched light blue beyond the OS mapped feature depicted at the front of Heathy Ridge.

14. My final plan at this time is a merge of the data seen on plan 8318/12 with the data seen on drawing 8318/15. The colouring used on each of these plans remains the same on drawing 8318/16.

15. What I take from drawing 8318/16 are the following observations:

- i) The depiction of the highway on Figure 3.1 is slightly adrift. I make the maximum displacement to be in the order of 800mm.
- ii) This is an un-necessary error. The topo survey upon which the Figure 3.1 plan is based appears to be mapped to OSGB36. It should have been an easy matter for the draughtsperson to introduce OS digital mapping as a layer to that plan and fix the Carol Rigler Highway Boundary exactly.
- iii) I have noted that the proposed visibility splay passes through the strip created by the error. That error may have arisen for a number of reasons.

16. If the error is corrected, then a technical visibility splay based on the Carol Rigler Highway Boundary plan is only 2.4m by 38m which is a long way short of the splay constructed on Figure 3.1. which purports to be 130m long.

17. As I have attempted to make clear, the extent of the highway depicted on the Carol Rigler plan cannot be assumed to mark a concise extent for the public highway. In particular, the depiction of the highway extending into the driveway of Heathy Ridge is erroneous in my view and suggests that Carol Rigler has taken a rather simplistic approach to the job of establishing the extent of the highway.

18. This is not intended to be a criticism of Carol Rigler as HA's up and down the country follow the same approach, and I am often instructed to determine and agree the concise position on the ground with the relevant HA officers. I believe that such an approach would be prudent in this matter. That would fix the true extent of the public highway concisely.

19. The question is whether the HA have executed works in the pursuit of their duties on any land beyond the tarmacked carriageway – there being no footway at this location.

This my condensed advisory report. There are four plans attached here for your consideration. Please take your time to examine each one carefully. The legal significance of the lines established upon my plans are subject to law.

Ultimately it will be a matter of law as to whether a visibility splay crosses land belonging to Heathy Ridge. In the interim, I am able to certify that Figure 3.1 within the Yes Engineering Group Limited publication titled 'Acacia Grove, Copthorne Road, Copthorne RH10 3PD', contains an error which does not correctly represent the true position of the public highway as represented on the WSCC Highway Boundary plan prepared by Carol Rigler. In my view the result of that error is to reduce the visibility splay from a distance of 130m to one of 38m.

I also take the view that this is an unnecessary error. The extent of the highway depicted on the Carol Rigler Plan can be directly referenced to the current OS digital data which in turn can be mathematically referenced to OSGB36 National Grid. It would be a simple matter to call up the OSGB36 Co-ordinates for the visibility splay from a CAD version of Figure 3.1 and directly compare them with Co-ordinates for the highway boundary depicted on the Carol Rigler Highway Boundary plan.

Yours sincerely

Gary Vaughan

Gary Vaughan MRICS, MCInstCES, Member of Academy of Experts
Encs.

VAT Reg. No. 423 8244 62
Registered in England & Wales No. 4859876
Registered Office: Ebenezer House, 5a Poole Road Bournemouth BH2 5QJ
Directors: G.Vaughan M.Hobson M. Tutt J Petty

Dorset Land Surveying
Rosemary Cottage
419 Wimborne Road East
Ferndown . Dorset BH22 9LZ
Tel: 01202 896481
Fax: 01202 896343
e-mail:office@dorsetland.co.uk