



## 12 Hawkley Way Highway Statement

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### 1. Introduction

12 Hawkley Way is located on freehold land the plot of which was first designated in 1993 as part of the Elvetham Heath development in Fleet. It was formerly known as Plot 27, Badgers Hollow on a site developed by Beazer Homes Ltd and first purchased in 2003.

The house changed hands in 2010 and the current owners are now planning to undertake development work on their house including considering revisions to the garage and parking layout of the site.

A site visit was undertaken on 8 October 2020 and a set of photographs obtained. The description below is based on these.

The property is located on a shared private driveway that also leads to numbers 14 and 16 Hawkley Way beyond the present property. Beyond No.12 the driveway opens out into a parking area that contains a parking space for each of the other two houses and one visitor space between those two. The courtyard also gives access to a pair of double garages owned by the two other properties.

12 Hawkley Way has its own double garage with parking spaces between it and the access route through to the other two properties. In common with the other two houses, the parking area immediately outside the garages is brick-paved, with the tarmac covering the area up to this.

The current deeds show that the property red line covers the highway between the back of the main footpath on Hawkley Way itself and the end of the frontage of No.12. Further, the land to the left of the kerb of the paved / tarmacked area is actually in the ownership of No. 18, whilst to the right of the kerb on the brick paved part is outside the ownership of No.12, but it is not clear in whose ownership this strip of land is given that the first garage along to the right is owned by No. 8, whereas the garages are between No.s 8 and 18.

It is understood that the remaining part of the Courtyard highway is shared equally between No.s 14 and 16, including some tarmac and some bricked area. There is no separate footpath on any part of the access and this is effectively a shared surface, although there is plenty of space for pedestrians to be passed by vehicles entering or leaving, but no real space for vehicles to pass on the main tarmac section easily.

The initial section of the courtyard between back of footpath and a metal fence is brick paved and has a slight slope down towards the properties. This section ends with the line of metal fence either side of the access.

From beyond the metal fence, the full area is tarmacked with maroon coloured finish.

The surfaced area drops away gently from the entry towards the garages at the far end that belong to No.s 14 and 16. At the fence line the tarmacked area is circa 3.6m wide. (width of highway). To the right looking from Hawkley Way, the distance to the other neighbour garage wall is circa 3.5m. At the far end of the ownership of No.12, it is circa 3.88m as it starts to widen out in front of the other two properties. At the line between the two other properties, the courtyard opens out and is then brick paved in front of the parking spaces (to the left) and garages (straight ahead). The grass strip between the tarmacked area and the fence of no. 18 is not in the ownership of 12, and is not a footway but appears to be owned by no. 18,

The section in front of the garage widens from 5.050m (approx.) at the end of the entry curves and widens to 6.1m (approx.) which is the width of the double garage. The length from the end of the entry curves to the garage doors is 7.1m. The distance between the end of the entry curves and effectively the main through route is circa 5m.

Between the inside, southern entry curve and the angle rear of the garage of No. 10 is a grassed area. The neighbouring garage is about 0.5m higher than the tarmac at the front edge towards the main road and includes a small tree planted about two thirds back towards No. 12 from the neighbouring garage and about 3' away from that structure, and effectively central between the garage wall and the tarmac. The grassed area drops away quickly to provide a level surface between the tarmac and the rear of the garage.

The double garage of No.12 is separate from the house and effectively set back from the house itself by some way, with the front of the garage.

Between the garage and the house there is an exit route from the garden about 1m wide with a 6' fence along the outer edge and bordering the parking area.

The areas in front of the metal fence appear to be owned by each of the neighbours on either side of the entry.

To the right-hand side of the brick paved area looking from Hawkley Way is a rough area which on the initial estate plans is designated as a bin storage space. This includes two larger trees and is covered with grass that does not appear to be regularly mown.

The area to the left is the garden of the house to the left. At its frontage, that house has a high hedge which does appear to restrict any drivers' view leaving No.s 12, 14 or 16 and entering Hawkley Way. However, no drawings found show any visibility splay required here although there should have been one.

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## 2. Legislative Background

### 2.1 Manual for Streets Guidance

The Manual for Streets, 2007 and its companion document Manual for Streets 2 of 2010 provide guidance for developers and highway authorities in England. In April 2010, Hampshire County Council adopted its Companion Document providing designers and planners with the approach and information needed to create places which are locally distinctive and have a clear sense of place. All three documents focus on street design with greater emphasis on people and place than traffic movement.

The document explains that street types should be determined by the relative importance of their place and movement functions. The key is to have a street character type well defined. Residential streets provide access to properties. In essence the driveway servicing 12, 14 and 16 Hawkley Way is a courtyard, a small-scale space effectively created by the surrounding buildings.

### 2.2 Highway Adoption

The House Of Commons Library Briefing Paper CBP 402 of 10 April 2018 draws together details about “Private or unadopted roads in England and Wales”.

It explains that statutory provision exists for unadopted roads to be adopted and becoming highways maintainable at public expense. There is also similar provision enabling the relevant street works authority to require frontagers to undertake repairs if there is a danger to traffic in any private street. If a frontage fails to act the authority retains the right to execute the repairs themselves and recover the costs from the frontagers.

The Highways Act 1959 divides highways into three classes:

- Those repairable at public expense
- Those repairable by private individuals or corporate bodies and
- Highways no-one is liable to repair.

The Highways Act 1980 is the current law. The ownership of highways maintainable at the public expense rests with the local highway authority, usually the County or unitary council.

Private or unadopted roads can become public highway by adoption or through common law dedication and acceptance. The owner of a private road can take action to prevent a road becoming a highway in this latter manner. Normally, after 20 years use as of right the land is deemed to be dedicated.

Normally a new housing estate becomes the subject of a Section 38 agreement whereby the highway authority and landowner agree an adoption.

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If unadopted, parking in the road without permission is trespassing. Further, the briefing note suggests that in some particular circumstances under Section 34 of the Road Traffic Act 1988, it is an offence to drive a motor vehicle without authority on land not adopted, save where a person goes no further than 15 yards from a public road and does so in order to park.

### 2.3 The house deeds.

The original deeds make several references to highway points.

In 13.1 Definitions, the following are defined:

“Bin Collection Point” – means the small area of land provided for household refuse to be collected for disposal by the Local Authority and which is identified on Plan 2 by the letters BCP (this area is on the Hawkley Way side of the entry and the metal fence)

“Common Facilities” means private driveway private footpath visitor parking space an BCP collectively or (as the case may be) any of them as show and identified on Plan 2.

“Estate Roads” means the roads footpaths and verges now or to be constructed within the Perpetuity Period (80 years from 1/1/2002) within the Estate shown or partly shown and identified on Plan 2 and intended to be maintained at public expense.

“Open Area” means any part of the Property which lies between the front elevation and / or the flank wall of the Dwelling and the back edge of any adjoining public highway Estate Roads footpath or driveway or between any wall fence hedge or similar feature within the Property and the boundary of the Property.

“Private Driveway” means the private driveway (if any) as shown cross hatched black on Plan 2 (this covers the through area also leading to 14 and 16)

“Private Footpath” means the private footpath (if any) as shown hatched black on Plan 2.

“Protected Area” means the area of land (if any) within the property designated by the Relevant Authority as requiring protection and as shown and identified on Plan 2

“Sight Line Area” means the area of land (if any) within the property and lying between the Estate Roads and the sight line as shown and identified on Plan 2 being an area which the Relevant Authority required to be kept free from obstruction.

“Visitor Parking Space” means the space or spaces (if any) allocated for casual visitor or guest parking only as shown and identified on Plan 2. (one marked in the area between 14 and 16 parking spaces).

In 13.4 it states the transferor will use all reasonable endeavours to enter into an agreement or agreements pursuant to Section 38 in respect of the Estate Roads. 13.5 seeks the transferee to use all reasonable endeavours to maintain the Estate Roads to allow the Section 38 to be agreed.

13.6 3.2 ‘to join in an agreement or agreements pursuant to Section 38...to enable adoption of any part of an Estate Road or Sight Line Area...’

Para 13.7 has restrictive covenants not within the period of five years from the date hereof (and effectively therefore now past).

This includes not allowing any vehicles having an unladen weight in excess of 1.75 tonnes to be parked on the property (6), not to plant trees or deep rooting plants or erect building, fences or walls within the Protected Area (7) and not to erect any building fence wall or other structure whatsoever within the Sight Line Area (SLA) nor to plan anything within the SLA except for grass. (8, not to use or permit to be used any Visitor Parking Space other than for the purposes of visitor parking on a first come first served and short term basis only (9), and not to do or permit to be done anything whereby the Estate Roads shall be damaged or made unfit for use by any person having a right to use the same and not to obstruct the Estate Roads and to indemnify the Transferor and he Sub-Seller in respect of any damage so caused in breach of this covenant.

13.8 7 “The use of any Common Facilities or conduits (other than those maintained by the Relevant Authorities) intended to be for the shared use by the Transferee and any of the Other Owners is subject to the Transferee paying a fair and proportionate part of the costs incurred in their inspection maintenance and renewal.

Plan 2 confirms the boundary of 12 is defined by both kerbs of the paved area, then the metal fence on the right-hand side, and the side wall of the garage and garden related to nos. 8 and 10. The vehicular and pedestrian accessway owned by 12 ends just after the curve of the parking space ends, whilst the private parking is shown as starting half way along the widening of this area.

The Bin Collection Point is located in the rear half of the strip of land to the right of the access that is brick paved whilst the front part (but furthest away from the road) contains a manhole cover. Plan 2 does not show any visibility splays at any point, and the only visitor parking space is that between the two other spaces provided for 14 and 16 in the far courtyard.

## 2.4 Adoption of Road Indemnity

The client provided us details of the “Adoption of Road Indemnity” that began on 29<sup>th</sup> September 2017. It runs for ten years and covers “the property is served by an unadopted road (“The Road”) for which a Section 38 Agreement with the Local Authority has yet to be completed.

It provides cover against potential liability for future costs demanded by the local authority to bring the road leading to the property up to an adoptable standard. The policy holder is advised to ‘take or fail to take action which results in a claim as this may prejudice your position and void the policy’.

Although not confirmed by the insurance company, it appears that this policy applies to Hawkley Way adjacent to their access, though the insurance company could not confirm the exact area covered. On this basis we do not believe that the section of road immediately outside 12 Hawkley Way up to Hawkley Way itself is public highway but are aware that the owners also have duty of care in regard to the access to the other two properties which need access over their frontage.

## 2.5 Section 38

It is clear that adoption of the highways has not yet occurred, with the local Parish council advising us this was the case, but that there was no known timetable for the adoption to occur. Hampshire County Council have confirmed that Taylor Wimpey is currently fully engaged seeking to offer the estate for adoption as soon as outstanding issues are resolved. These are in the hands of Taylor Wimpey and outside the control of the County.

A copy of the Elvetham Heath Contract no 2 proposed Section 38 was identified dated 19<sup>th</sup> July 2000. The plan attached was not clear.

It is however now clear that the private driveway and parking areas for 12, 14 and 16 are owned by each property and not proposed for adoption at all. Although this implies that formal highway standards do not apply for the sake of good practice and security of tenure and access they should be assumed to apply.

## 2.6 Hampshire Guidance on Surfacing Footways and Block Paving

2.7 The Document “Guidance on Surfacing Options for Footways and Block Paving” dated 2016 was identified, although it included a note it was to be reviewed within the next 12 months (but we have no evidence it has been).

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It confirms that block paving is now accepted surface for highway and is the preferred solution for shared surface applications. Concrete pavers are preferred. Design and installation must be in accordance with BS 7533 and be designed for traffic flows of greater than 0.5 msa or any such higher value as may be appropriate. This includes the specification of bedding sand of at least Category 1B. Blocks must be a minimum of 80mm thick and a course a minimum of 110mm including sand bedding. For shared areas, design specification and construction must follow section 11.2 Vehicular Areas.

## 2.8 Hart District Council Parking Provision Interim Guidance

This document was approved by Hart cabinet in August 2008 as a material consideration when determining planning applications.

Para 3.1 suggests parking levels provided should be practical but ensuring alternatives to the car are considered. However, the number of rail and bus services available is limited. This led to three zones of accessibility with the highest based around the rail stations. Only in zone 1 can lower parking levels be justified.

Para 5.4 requires visitor spaces within the standards. Para 6.2 states 4.8m by 2.4m spaces are adequate but that spaces in front of garages must be 5.5m long to allow the garage door to be opened without vehicles overhanging live highway.

Para 6.5 requires 6m by 3m garage sizes.

Table 1 provides parking spaces required. The highest category is for four or more bedroom units. Spaces needed range from 3.25 to 4 with two cycle spaces, the former dependent on zone. Hawkley Way is in zone 2, therefore requiring 3.5 spaces.

The pre-application response of 11 Feb 2021 suggests if additional bedrooms are created, a parking plan would be required to demonstrate compliance with the parking standards in this Guidance.

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### 3. Summary of Proposed Development and Impact

The vehicular and pedestrian access to 12 Hawkley Way is a private, unadopted road with shared access provided to 14 and 16, who each share the area of similar access between their respective plots. Full maintenance costs therefore apply to each house for the area within its deeds.

Whilst in theory, Hampshire formal highway requirements do not therefore apply and there are no proposals for the road to be adopted, powers do exist in the case of any unsafe vehicular surface for the County to take action and charge the owner for that remedial action even though it is their land. This is more important given the need for 14 and 16 to take access across the frontage owned by 12.

We would therefore counsel caution on any work undertaken that impacts on the access in any way and would certainly recommend that local highway standards be used in any revision made. Specifically, there must be 5.5m between the garage door and the through access route to the other two houses.

Any revision should retain at least two parking spaces other than within any garage.

Care should be taken to ensure any changed access remained safe for the users from the other two houses as well as for the owners of 12.

It must be borne in mind that the difference between 12 and 14/16 is that the private driveway owned by 12 is also an access to 14/16 and therefore 12 effectively has responsibility to ensure passage remains safe for the other two properties. This adds complexity to the issues.

Whilst there is an increase in bedroom numbers, the property is currently in the top 4-bed category so there will be no increase in the number of spaces required. The current Guidance suggests the required level is 3.5 per unit, or rounded to 4 (but therefore including provision for visitors at 0.2 per unit). Two spaces are provided in the double garage with two in front of this, providing the required 4 spaces. Space has been allowed in front of the garage doors commensurate with the 5.5m requirement between garage doors and live carriageway (the through route to the other two houses).

We would therefore conclude that the application meets current requirements and that there is no highway or transport reason that the application should be refused.

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