



**SURREY COUNTY COUNCIL'S
LOCAL COMMITTEE (TANDRIDGE)**

PUBLIC QUESTION

1 March 2013

**On the subject of the lay-by area outside Nutfield Cemetery on the A25
Nutfield, Roger Brown asks:**

What timeframe is envisaged regarding Nutfield Parish Council gaining ownership of the Nutfield Cemetery Lay-by area on the A25?

Background provided by Nutfield Parish Council: Nutfield Parish Council submitted a plan last year to take ownership of the lay-by area outside Nutfield Cemetery on the A25. This followed severe damage by HGVs using the area for inappropriate parking and causes considerable inconvenience on burial days and for visitors to the cemetery.

Local Committee response:

In consultation with the Legal Team at County Hall, Surrey Highways officers will need to look into the statutory duty of the highways authority to "assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it" (section 130 Highways Act 1980). The only grounds for removing the public right to pass and repass over highway land is that the land is "unnecessary as highway" (section 116 Highways Act 1980) and that is the basis for any application to the Magistrates Court, who will consider the application and any objections and decide whether the case is made out on the balance of probability.

Therefore Surrey County Council does not normally agree to pursue any stopping-up application unless of the view that the land is not needed for highway purposes and is surplus to requirements

Where a Stopping Up order is made, rights over the land will revert to the landowner, if there is one identifiable. In the absence of a known owner there is a rebuttable presumption that the land reverts to the adjoining landowner '*usque ad medium filum viae*' (up to the middle line of the way). In these instances access to land over which the public have had rights may be restricted by the landowner. That individual may not agree to allow access across his land to the cemetery. This is, of course, one of the main functions of the lay-by, to provide access to and from the cemetery at all times.

Recently officers have been working with third parties to reduce lorry movement within the lay-by, and also to carry out some minor landscaping (which did not last long) and to re-erect damaged signs.

The importance of this lay-by to the local community is recognised and officers are looking at measures to restrict access to lorries into the lay-by from both directions. Unfortunately, there is no additional funding available this financial year, having delivered all of last years and this year's schemes other than a few minor snagging issues, which are forecast to be completed by mid February. Officers will then start the minor design work required for this scheme, to present to the Chairman/Vice-Chairman and divisional Member for their approval and if agreed, to place the design on the rolling Committee programme to be delivered when funds become available.

There is also now a mechanism for the Parishes to ask for funding from the Local Committee for enhancement works in their Communities should they wish to do so. To enable this to work in the Tandridge Area, the Local Committee are being asked to consider setting aside £5000 per Divisional Member for 'Localism Initiatives' which will be available until November 2013, after which time the funding will be added to the relevant Members' Highways Community Enhancement Allocation. Nutfield Parish Council would be eligible to apply for funding to enhance the maintenance of this area, working in Partnership with the Area Maintenance Team. Officers would welcome discussions with the appropriate Parish Members on this funding opportunity.