



## WELCOMES & UPLANDS ROAD ASSOCIATION

### MINUTES OF THE ANNUAL GENERAL MEETING HELD IN KENLEY MEMORIAL HALL ON TUESDAY JUNE 10th June 2013 at 8:00 pm

#### **Chairman's Opening Remarks**

The Chairman welcomed the residents present and thanked them for attending.

#### **Apologies for Absence**

Apologies were received from Mr and Mrs Fresko, Mr and Mrs Lee, Mr and Mrs Davis, Mr and Mrs Daffin, Mr and Mrs Wells, Mr and Mrs D. Smith, Mr and Mrs Crouch, Mr and Mrs Stillwell, Dr Niaz Karim, Mr and Mrs Phillips, Mr and Mrs D. Jones, Mr and Mrs McCallum, Cllr Steve O'Connell

#### **In attendance**

Committee: Colin Brown (Chairman), Richard Russell (RR) (Secretary), Erik Haar (EH), Hartmut Klein (HK), Michael Lott (ML) (Uplands Road Representative)

Residents: 34 (17 in 2012 and 10 in 2011) attended representing 27 (11 in 2012 and 8 in 2011) households of 223 plus 6 committee households. PCSO Kelly Evans 7309zd ([kelly.j.evans@met.police.uk](mailto:kelly.j.evans@met.police.uk)). Tel 8721 2466

#### **Minutes of the Last Meeting**

The Minutes of the Annual General Meeting held on 7th June 2011 were adopted. Proposed by Michael Lott and seconded by Hartmut Klein.

#### **Matters Arising**

None

#### **Chairman's report**

The Chairman gave a brief history of the events of last year mentioning the attendance at the 2012 AGM of Len Arnold (LA) of Arnold Tarmac Ltd and Frank Gaskin (FG) of FG Blocplan, the latter having done a considerable amount of work on Welcomes Road (WR) stabilising the road before the surface dressing then planned for later in the summer of 2012.

Most of the questions from the floor were answered satisfactorily by LA and FG at the time and the meeting voted unanimously to give the work to Arnold Tarmac Ltd. Work started on 18<sup>th</sup> September 2012 which we now know was past the recommended window for spray and chip treatment (Road Note 39) and moreover the weather was not kind. LA arrived with a new machine from France and 10mm grey basalt stone was delivered to the site over the coming days. The French operator said the machine needed to work up hill which invalidated the programme of road closures advised to residents. The first strip of dressing applied was from Uplands Road (UR) towards the top of WR. The original quote was for 6mm stone which it turns out might have worked better than the 10mm stone recommended by LA. The attempt to complete the work including the resin based antiskid zones planned for the ends of WR was abandoned in early October due the wet conditions and it was agreed that LA would return to the site in May 2013.

The payment arrangements were 50% on arrival on site and the rest on completion. LA was paid £58k inc VAT in 2 tranches £38k and then £20k. A further £10k was paid to him but the cheque was stopped when it was apparent that the work was defective.

At a Committee meeting in February 2013, LA first said he would return to do the remedial work, then added that he would not return without a further payment of £10k. This has been his position since that meeting. He has been phoned, emailed and sent a registered letter (refused) asking him to come back to us with written proposals but since the original quote in February 2012 LA has never put anything in writing bar a pencilled note on a copy of an invoice that he would return to complete the work in May 2013.

**The current situation:** Private Road Services insurance. It was with some difficulty over several weeks of chasing up PRS and the insurers that the latter agreed to allow a solicitor to take up our case under the legal expenses (max £100k) clause. On 13<sup>th</sup> May 2013 a comprehensive file of all communications with LA and ATL including the expert report on the road carried out in March 2013 by Andrew Munro Consulting was delivered to the offices of William Graham Law (WGL) in Cardiff who were appointed by the insurers to act for WURA. An excess of £500 was paid to them per the terms of the policy.

After 2 weeks we were advised that having reviewed the paperwork it was agreed that we had a better than 51% chance of success in any legal action and the case has been adopted by WGL. The draft solicitors letter was received on 10<sup>th</sup> June and is being reviewed over the next few days and will be shared with residents after that.

It was explained that under Civil Procedure Rules it is necessary to give the other party an opportunity to remedy the situation. In this case strict deadlines apply prior to taking the case to Court. We are asked by WGL to obtain 2 quotes for repairing the road and we are working on this. Obviously we would prefer to receive a cash payment from ATL but if ATL did return the work would be subject to a proper plan agreed in writing with evidence of insurance and professional supervision.

The Chairman apologised for the other aspect of the work done by ATL- the contamination to cars, pets, and carpets. Damages for this are so far unquantifiable, but are covered in the solicitor's draft letter of claim. There is obviously uncertainty about whether or not any compensation is likely to be recovered.

There was general discussion about the desirability or otherwise of sweeping the road and cleaning up the compacted stone by speed ramps. In the end it was agreed that nothing would be done to the road without reference to the solicitors in case our action undermined our action against ATL.

**PCSO Kelly Evans:** PCSO Evans kindly came to the meeting to see if she could assist by referring our case to Trading Standards with whom she has connections with a view to having ATL declared a 'rogue' trader. It was felt with the current legal action which also relates to the Supply of Goods and Services Act, nothing should be done at this stage of the proceedings which might jeopardise our case. However Kelly's suggestion will be put to the solicitors in case there is an opportunity to involve Trading Standards later on. Kelly was thanked for her intervention and left the meeting for other duties.

**General discussion ensued about the next course of action but not without some questions about past actions of the Committee.**

37 WR: Asked about the extent of checking Committee had carried out on past works. *Chair. It had been noted that ATL was doing regular work for Kent County Council and a phone call to English Heritage suggested the company was competent.* In the same context 98 WR said that on the web site all pictures covered newly laid surfaces on flat areas. The brand new Secmair machine could not have been properly commissioned before coming to WR. 70 WR mentioned that COLAS (suppliers of Surfrix 80 the binder used by ATL on WR) are one of the biggest road contractors in Europe.

Mentioned opinion of a Balfour Beatty contact who said only way to sort out the problem with WR would be to burn off the Surfex 80 and then resurface the road. Mention was made that the binder thickness was never deep enough to hold 10mm stone.

37 WR described the extent of the compaction of binder and stone next to speed ramps.

120 WR: What did we know of ATL's credit standing. ATL's published accounts show a very weak position although on the face of it landed property and plant and machinery looks extensive and in good condition. The new Secmair spray and chip integrated machine which was used on our road for its first job is thought to cost over £110k. The precise ownership of these assets and any charges against them is unknown.

Offered to further investigate standing of ATL and LA and report back to the Chairman.

128 WR:

- We have learnt a lesson from this experience. In future large contracts should be managed by a suitably qualified and insured engineer including approval of payments to contractors. Chair responded that we had an expert we could use in the form of Andrew Munro who did the report on the road.
- Have we sought umbrella organisations for private roads to share experience and develop best practice.
- *Sec and ML. Points well made. We are aware of some other associations and have shared experiences with them though few of them have a long through road like WR to maintain. Will investigate further. Constitution will be reviewed to ensure that the conduct of large contracts is standardised on best practice.*
- Nothing will happen suddenly or quickly so potholes will need attention in the meantime
- Asked to see draft solicitors letter of claim- *Chair promised to share it with all residents*

1 Maryhill: Strong background in construction industry and suggested that we employ a professional to manage large contracts in future and keep payment process at arms length. Promised to get some names to Committee in next 7 to 10 days. Fees usually 10-15% of contract value or we can take a chance on an hourly rate. Small jobs on road should be left until legal position clear.

11 UR: Endorsed the use of a professional to manage large projects in the future

23 UR: Noted that all this good advice not forthcoming last year when much publicity was given to the importance of the 2012 AGM. On current situation is the solicitor tough enough? *ML/Chair The solicitor was appointed by the insurers.*

27 UR: Why was all that gravel dumped on Royal Lane and spread along the bottom of Zig Zag Road and who paid for it? *Sec/ML all work on Zig Zag lower end was paid for by the residents in the lower part of the road. The surplus chip (much of it contaminated so of no value) would have had to be carted away had it not been wanted locally by the relative residents. It is more than possible that the next sweepings from WR will be used to fill holes along the top of Zig Zag Road saving WURA the usual charge for landfill.*

98 WR: Agreed that all major road projects should be professionally managed by a responsible person carrying appropriate insurance. Took the view that ATL will never return. Suggested we leave WR untreated and let the defective dressing wear off over time. Also leave UR alone mending potholes promptly though. Disposing of loosened stone plus that being washed off Royal Lane is going to cause an ongoing problem. *ML. If ATL respond to the solicitors letter they could return to the site within the deadline set in the letter. The latest date for spray and chip would be end August. Chair. 14 days to respond to solicitor's letter and 30 days to remedy.*

*Re UR it was noted the stress being put on the road from the constant movement of heavy lorries to the Morven House building site. Could be damaging the base of the road and not immediately obvious.*

25 WR: Agreed need for project manager for future large projects. Also mentioned water flow from 27 to 19 WR diverted across road by cobbled channel possibly blocked by a resident when tarmac bottom end of drive. 31 WR mentioned water from St Winifred's as an issue too. This means in heavy rain there is no dry area to walk along as used to be the case. Also water now entering drive at No 25 WR which in past did not happen. *Chair. We are aware of problem and will deal with it when appropriate bearing in mind current action against ATL. Noted much heavier rainfall these days. In this context ML/SEC mentioned approaches to Council to secure funding. However it seems apparent that they are satisfied with current measures to control flood water in Valley Road near the railway station and funding for WR is unlikely to be forthcoming. Also advised that sites for gulleys had been identified along WR but cost of building them is prohibitive. Chair mentioned need for each resident to keep channels/verges in front of their properties free of debris and leaves. Certainly not to blow leaves onto the road.*

54 WR: Will the road dressing applied by ATL eventually wear off completely? It was felt that much of it will come away over time but not all.

8a WR: Carpet damaged from emulsion deposited by visitors/guests. Advised to try white spirit or WD40 (good on cars) to remove it using a paper kitchen towel on the carpet to absorb the solvent and emulsion

32 UR: Did the committee get any offers of expertise (as sought at the last AGM) for managing the ATL contract before it started? *Chair. No*

2 Welcomes Cottages: Many residents who were not here last year seem to have turned up today. Will we do another test strip this time? The last one seemed to be rubbish. *Chair. It was finished in pea gravel but at least that penetrated the binder and embedded in it.*

126 WR: Made a wry point that the last really big turn out to an AGM occurred when the Council wanted to adopt our roads.

54 WR: What is the effect of a vote at AGM. *Sec/EH It is binding on all households according to Constitution but a levy increase needs to be included in the budget and the Agenda so that all residents are aware that there will be a vote on an increase.*

72 WR: ATL brought a new machine. Does any other contractor have a similar machine? *Chair. No information.*

65 WR: Asked about levy increase which led to general discussion about the way forward.

**128 WR: Tinkering with Welcomes Road any longer is a waste of time. Proposed that meeting made a brave decision to fund a project embracing the proper rehabilitation of WR including installing adequate drainage. We shall then have a road to be proud of and one that enhances property values. Also in the long run there will be far less maintenance with adequate control of flood water.**

**To carry out the project a full review of levy rates will be needed. Current levy rates go back as far as 1984 and clearly inflation has left them at totally unrealistic levels. The road would then be upgraded in step with cash flow over a 3-5 year period.**

**There was vociferous support for this approach. Accordingly the proposal was put to the vote and carried unanimously.**

**Proposer: Adrian Harrington**

**Secunder: Chairman/ML?**

*(Subsequent suggestion by Chair/Sec- to accelerate the project consider issuing bonds to residents at an interest rate linked to current deposit rates to raise the requisite funding repayable from future road levies over say 10 years. This would presumably entail a change to the constitution and agreement of the residents in general meeting)*

General comment: It was observed that some properties along WR are in a disgraceful state with very untidy frontages and this is holding down values in the area.

There was further discussion concerning unitary rates versus keeping the present scale based on house tax bands. There are also users of our roads making only nominal or no contribution to maintaining our roads although access to their properties can only be made via WR or UR. They need to be approached afresh for a realistic annual contribution.

### **Secretary's Report**

The usual 2 newsletters were produced in the year earning a modest sum from advertising. To save money Sec will trial a digital version with only a few copies printed on his home printer for those without internet.

There was a vote of thanks to Andy Spencer Jones for his prompt updating of the web site and arranging the hosting and maintenance, all at a modest cost to WURA.

### **Treasurer's Report**

There were 8 residences overdue at the time of the AGM totalling £519. A sum of £63,480 (budget £75,000) was expended during the year on road maintenance of which £58,000 related to the work 'performed' by Arnold Tarmac Ltd. All other expenditure was below budget but there was an exceptional £931 spent on the expert report on the road by Munro Consulting. Income was mainly from levies and came in at £11,830. The 2013/4 budget assumes further expenditure, mainly on Welcomes Road, of £40,000 but in view of the proposal adopted at this meeting it is very unlikely this money will be spent in the coming 12 months. Moreover there is a claim being made by our solicitors on ATL which could also impact on our financial position.

The accounts were audited at no cost by Gary Lowe and permission was sought by the Chairman from the floor to buy Mr Lowe 6 bottles of wine as in previous years in recognition of his help. This was carried unanimously. Also something for Sue Fidler for opening and closing (late) the Hall.

### **Election of Committee & Appointment of Auditor**

The following offered themselves for election/re- election. Colin Brown, Chairman, Peter Davis, Treasurer, Richard Russell, Secretary, Erik Haar, Harmut Klein, Michael Lott (Uplands Representative), Robin McCallum. Unanimously approved.

Mr Gary Lowe was re-appointed Auditor.

Proposer; Adrian Harrington

Secunder: Derek Jenkins

### **Any Other Business**

None

### **Closure of Meeting**

There being no other business the meeting closed at approximately 10.30 pm.