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18th March 2018

Timothy Crow.
Duchy of Lancaster,
1, Lancaster Place,
Strand,
London WC2E 7ED

Dear Mr Crow,

The Harrogate Stray

In February last year you were kind enough to answer some questions that we had, regarding the above. If you would prefer our current enquiry to be answered by a colleague, do please pass this letter on.

We have been concerned for some years about a strip of land outside the Old Swan Hotel on Swan Road that has been surfaced with tarmac and used for car parking, which we considered to be Stray land. Recently I wrote to Harrogate Borough Council, who are the guardians of the Stray, to question this use and to ask if there was any prospect that the land would be returned to open grassland.

The reply from the Council was more encouraging than I had dared to hope. It was confirmed that this narrow strip of land on Swan Road is Stray land and that it should not have been allocated for Disc Parking by the Council. It is believed that the area was tarmacked in 1995 but there are no officers currently employed who can explain why this occurred. We also received some good news that part of the area would be returned to grass but with the retention of 7 car parking spaces. Why not return the whole strip to grass as it is undoubtedly Stray land? The answer came that a small area of Stray land had become free at Devonshire Place where a toilet block had been demolished. The area of land at Swan Road to be returned to grass is said to equate to that vacated by the toilets, but this was not large enough to be "exchange land" for the whole Swan Road strip.

We regard it as unnecessary to have exchange land because both areas are clearly Stray. The toilets area obviously remained Stray, even though a building had been constructed on it. We believe that this building was constructed in error in about 1954 when it replaced toilets that had previously been accommodated underground. The underground toilets

were constructed in 1898 in accordance with the 1893 Act which stipulated that if a public lavatory was constructed on Stray land and within seventy five yards of an existing building, it must be constructed underground. Therefore the 1950's toilets building was not according to the 1893 Act. The current 1985 Stray Act specifically requires that the Stray remain free of all encroachments except for those that are lawful at the time of the 1985 Act. If the building was not lawful under the 1893 Act, it could not be lawful after the 1985 Act – see 6.- (1) (b) regarding encroachments.

As we read the situation, it is pleasing that use of the Devonshire Place land has been regularised due to demolition of the toilets building (Although perhaps not from the convenience point of view!). It is difficult for us to understand though that the land at Swan Road is said to require exchange land in order to be fully returned to the Stray, when it is Stray already.

Your thoughts on this situation would be much appreciated.

Yours sincerely,

Henry Pankhurst
Chairman
Harrogate Civic Society

Cc Paul Campbell, Director of Community Harrogate Borough Council