

Four Oaks Estate – Investigation into the highway status of Bracebridge Road, Hartopp Road, Luttrell Road and Wentworth Road based on documentary evidence

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1. Summary

In 2019 an application was submitted by the Four Oaks Estate Limited for a Lawful Development Certificate (LDC) for the installation of seven controlled access gates across the carriageway of each of the streets connecting with Four Oaks Road, Lichfield Road or Blackroot Road.

The LDC application generated significant attention in the local press and significant numbers of residents living both on the Four Oaks Estate and in the wider locality contacted Birmingham City Council's (BCC) Planning department in relation to the application. A significant number of the comments were objections based on the grounds that the streets were highways.

In consequence of the objections raised by members of the public in response to the LDC application, the Councils' Highways and Infrastructure Department commenced an investigation to discover and evaluate the documentary evidence relating to the original streets on the Four Oaks estate, to determine if there is sufficient evidence that the streets are or are not highways.

Prior to the commencement of the investigation, none of the streets within the estate were recorded on the Council's List of Streets (LoS) maintained under s.36(6) Highways Act 1980 as Highways Maintainable at the Public Expense (HMPE). In addition none of the streets were recorded as having any Public Rights of Way (PROW) recorded on the Definitive Map and Statement (DM&S) maintained under s.53 Wildlife and Countryside Act 1981. Both statutory documents are positive records of the information they contain, therefore the absence of an entry on either document does not mean that highway rights do not exist.

It is important to highlight that the LoS only requires highways which are maintainable at the public expense to be recorded on it. Highways which are not maintainable at the public expense are not to be recorded in the list. If the streets are highways which are not maintainable at the public expense, they will not be able to be recorded on the LoS.

It is also important to highlight that the DM&S is only able to record highways which are public footpaths, bridleways, restricted byways or byways open to all traffic. If the streets are vehicular highways (carriageways), they will not be able to be recorded on the DM&S.

Evidence sources:

The evidence identified as part of the investigation mostly originates from the statutory records of the former Sutton Coldfield Borough Council in the form of Council and Committee minutes, held at Sutton Coldfield library. To date approximately 13,000 pages of Council minutes have been reviewed across several of the Council's committees. However, there are still some committee minutes that have not yet been reviewed. On the insistence of the Four Oaks Estate Limited, the investigation has had to be curtailed at this point. As the Council minutes are a history of the activities and decisions of the Council, it is considered that any minutes affecting the Four Oaks estate would be in relation to any of the statutory

duties and powers that it had at the time and it would be unlikely to contain evidence relating to the absence of the existence of highway rights, unless it had carried out an investigation on the question in the past.

In addition, further relevant evidence has been identified from:

Historical photographs, aerial photography, Ordnance Survey maps, Estate plans, Conveyance documents, Town Planning Scheme files compiled by Ministry of Health, notices in the London Gazette and Local histories of the area.

The Four Oaks Estate Ltd was asked if it had any records relating to management or maintenance of the estate streets, they confirmed that they did not have any information. As the owners of the streets do not have any information, which would assist in the investigation it is considered that this evidence has not survived.

Significant bodies of evidence relates to the exercising of statutory powers by both the Council and other statutory undertakers, many of which have been repealed for many decades, consequently it has been necessary to establish how the powers were exercised at the time. To assist in this process it has been necessary to consult legal views from the time such as Halsbury's Laws of England second edition).

Prior to 1974 Sutton Coldfield was a separate local authority to Birmingham, the Sutton Coldfield library holds the surviving Council and committee minutes for the Council prior reorganisation in 1974. The 2020-2021 Covid-19 pandemic had a significant impact on the duration of the investigation due to restrictions in accessing evidence sources.

2. Relevant legislation and case law

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|---|---|
| i. S.23 Highways Act 1835 | xi. National Parks and Access to the Countryside Act 1949 |
| ii. S28-31 Waterworks Clauses Act 1847 | xii. Robinson v Richmond Borough Council 1955 |
| iii. Public Health Act 1848 | xiii. Margate v Roach 1960 |
| iv. S.3,6,9,12 Telegraph Act 1863 | xiv. Highways Act 1959 |
| v. Public Health Act 1875 | xv. Highways Act 1980 |
| vi. S.13 Electric Lighting Act 1882 | xvi. Burrows v Secretary of State DEFRA 2004 |
| vii. S.60 Birmingham Corporation Act 1883 | xvii. Natural Environment and Rural Communities Act 2006 |
| viii. Private Street Works Act 1892 | xviii. Godmanchester Town Council v Secretary of State for the Environment, Food and Rural Affairs 2007 |
| ix. Town Planning Act 1925 | |
| x. S.14 Road Traffic Act 1930 | |

3. Description of the estate and surrounding area

The Four Oaks Estate, bounded by Four Oaks Road (North), Lichfield Road (East), Blackroot Road (South) and Sutton Park (West) originally comprised of the five streets Bracebridge Road, Hartopp Road, Ladywood Road, Luttrell Road and Wentworth Road.

A number of smaller cul de sacs were constructed during the second half of the 20th century, on land previously left for building plots. The status of these streets have not been the subject of the investigation. They are Cedar Bridge Croft, Kenilworth Close, Knowles Drive, Coombe Park, Whateley Green, Stoneleigh Close, Parklands Drive, Heaton Drive, Clarry Drive, The Moorlands, Cliveden Coppice, Applecross, The Copse, Bluebellwood Close, Greensleeves, Cressington Drive, The Orchards, Heather Court Gardens, Hampton Drive, Ravenswood Close.

The estate is one of the most exclusive within the city and is approximately 12km North of Birmingham City Centre and 1.5km North West of Royal Sutton Coldfield Town Centre. The estate shares a boundary with Sutton Park, a SSSI and one of the largest urban parks in Europe. There are two public vehicular entrances to Sutton Park in close vicinity of the estate, Four Oaks gate approximately 200m north west of the junction of Hartopp Road and Four Oaks Road and Hartopp Gate, situated on Hartopp Road, near the junction of Hartopp Road and Blackroot Road. An entrance gate has been at the vicinity of Hartopp gate from prior to the laying out of the Four Oaks Estate streets. Within the grounds of Sutton Park is Blackroot Pool, the closest pedestrian and vehicular entrance is Hartopp Gate, alternatively visitors can access Blackroot Pool via Four Oaks gate. A café and large public car park is located near Blackroot Pool accessible via Hartopp gate or Four Oaks gate.

Lichfield Road is classified as A5127 and Four Oaks Road is classified as A454.

Opposite the junction of Wentworth Road and Lichfield Road is Four Oaks Railway Station, opened in 1884 and is situated on the cross city line between Lichfield to the north, Birmingham New Street and Redditch and Bromsgrove to the south. Between Four Oaks and Longbridge the service is 6 trains per hour in both directions.

The five streets are over 40feet wide, formed of two gravelled footways, two grass verges lined with established trees and a carriageway surfaced with asphalt.

Apart from at peak times, the streets experience low levels of vehicular traffic with low levels of on street parking.

4. History of the estate

The land comprising the Four Oaks estate was a substantial country house known as Four Oaks Hall until the 1870s whereby the estate was sold to a race course company, incorporated on 09/12/1879. The race course was constructed within the grounds around Four Oaks Hall, with a grandstand constructed on the western site of the site.

The site of the former race course was auctioned in 1890 and subsequently purchased by the Marquis Clanricarde for residential development.

On 22/05/1891 a building plan was deposited with the Council for a new road (Hartopp Road).

On 17/02/1893 a building plan 220 was deposited with the Council for a section of new road (Wentworth Road) from Bracebridge Road to Blackroot Road.

On 19/11/1897 building plan 584 was deposited with the Council for a new road (Ladywood Road).

On 16/03/1893 the Council's steam roller was hired for rolling Bracebridge Road.

On xxxx a building plan was deposited with the Council for a new road (Luttrell Road).

The typical approach taken to residential development is for a developer/builder to acquire land and commence building of the estate themselves and sell completed dwellings to owner occupiers. However, following the laying out of the streets, Lord Clanricarde decided to sell plots of land fronting onto the streets to individual owners who intended to build houses for their own occupation. In order to ensure minimum standard for the dwellings, Lord Clanricarde included restrictive covenants on the land sold such as minimum plot size and minimum cost required to be paid for the construction of the dwellings. See conveyance for the plot of land which became 4 Wentworth Road, dated 05/07/1892 between Most Honorable Hubert de Burgh Canning Marquis of Clanikarde (vendor) and Thomas Vincent Holbeche (purchaser).

- 5. Private streets – The use of the term ‘private street’ in isolation is not evidence that the streets have not been dedicated as highways as the statutory definition (which is what the Council would have used) is that it is any street which is not HMPE. This leaves two categories of streets 1. A street with no highway rights and 2. A street which has highway rights but is not maintainable at the public expense. In order to determine which category applied to the streets it is needed to consider the definition in relation to other documentary evidence.**

Within the Council minutes, the five streets are sometimes referred to as private streets, which on first impression may seem to mean that the streets are not highways. However, as will be demonstrated by reviewing the governing legislation and case law, supported by documentary evidence, it is clear that this is not the meaning of the term and that the term has a very specific meaning that a street is not maintainable by the highway authority. Not all highways are maintainable by the highway authority and it is important to state that this is something which Local Authorities have been aware of for a considerable period of time. Halsbury's 2nd edition vol 16

Highways, streets and Bridges from 1911¹ details the options for liability for repair of highways [128] and the meaning of the word 'street' within the Private Street Works Act 1892 [12]. The application of the Private Street Works Act 1892² to any street that was not a highway repairable by the inhabitants at large (a term that was replaced by the Highways Act 1959 with highway maintainable at the public expense (HMPE) and so will be used throughout this report) resulted in the Council viewing any street that they were not liable to repair (including highways) as a private street. Consequently, when streets are referred to as private streets, including on any signage, the correct interpretation is that the street is not maintainable by public funds through the highway authority.

The commencement of s.23 Highways Act 1835³ ended the common law practice of automatic maintenance liability by the public for any new highway for vehicles by requiring the builder of a street to inform the highway authority of their intention to lay out a new street and for it to be constructed to the satisfaction of the highway authority before it could become HMPE.

Consequently by the time that the streets on the Four Oaks estate were laid out in the 1890s, it had long been established that for any newly constructed street to become maintainable by the highway authority, the person laying out the street must follow the prescribed process for the street to be adopted. If the process is not followed, even if it is dedicated to the public as a highway, it will still be a private street. Despite several instances where land owners and frontagers approached the Council for the streets to be adopted, there is no record of this process occurring for any of the streets and this resulted in the Council considering them to be private streets.

Streets that are not maintainable by the highways authority can be separated into two distinct groups, although the relevant legislation does not distinguish between the two.

1. A street where no highway rights exist.
2. A street where highway rights exist and the highway is not maintainable by the highway authority.

In 1917⁴, the Council considered the status of Blackroot Road, following a complaint made by the Four Oaks Owners' Association regarding the condition of the carriageway. The view of the Council was that "this road although a highway is a private road repairable by the owners". This decision confirms that the Council did view highways that were not maintainable by them as being private streets. Therefore, the term private, only related to maintenance liability, and not the absence of highway rights.

In 1921⁵ the Council resolved to install 'unadopted' boards on 18 of the 31 streets within the Borough which had not been declared HMPE. As the streets on the Four Oaks Estate were not

¹ [1911](#)

² [1892](#)

³ [1835](#)

⁴ [14/09/1917](#)

⁵ [16/12/1921](#)

considered to be HMPE by the Council, it is likely that the streets were on the list. It appears that from the view of the Council, the term private street and unadopted could have the same meaning. Unfortunately, the list was not included in the copy of the minutes so it cannot be determined if the streets on the Four Oaks Estate were either on the list or marked as to have unadopted signs erected.

In November 1935⁶, making up private streets – “during the recent municipal elections it became clear that there was some misunderstanding as to the corporation's liability with regard to unadopted streets. The position has apparently never been quite clear to purchasers of houses and recently the Minister of Health's attention has been drawn to the large number of appeals in connection with private street works and also to a warning notice issues in the local press by a local authority. The Minister suggested that it might be advantageous for the Minister to issue a similar warning and he suggested the following form as suitable:- "Making up private streets - Every owners of premises fronting or adjoining a highway not repairable by the inhabitants at large is liable to pay part of the cost of making up the street if and when the local authority call upon him to do so, neither an agreement with the builder or with any other party, nor ignorance of the liability at the time of purchase, will avail to relieve an owner of this obligation. The owner has however, the right of appeal if he considers either that the cost is excessive or that the street is being made up to too high a standard or that the charge is one for which the frontagers are not liable or on certain other grounds. Enquiry may be made of the local authority as to the rights of appeal and as to the procedure. Before buying property any person who is doubt whether or not the street has been taken over by the local authority (i.e. is a highway repairable by the inhabitants at large) would do well to ask the local authority for this information and also what street charges there are likely to be and when they may be expected likely to occur”.

In November 1936⁷, the Council was again taking proceedings under PSWA 1892 to carry out works on Blackroot Road, however objections were lodged by the owners of Four Winds and Deerwood Grange on the grounds Blackroot Road was in whole or in part HMPE. In the Town Clerk's report to the Committee, he stated that “the objection which is likely to cause most difficulty is that which alleges that Blackroot Road is an ancient highway. If the committee decide on the modified scheme it will necessitate starting do novo and thus it will be open to any frontager to raise the “ancient highway” objection which possibly was omitted from the majority of the objections owing to an oversight”. The town Clerk informed the Committee that if they decided “to continue with the full scheme and take to original objections to the justice for settlement, it will be necessary to procure evidence to rebut the objection that blackroot road is an old highway”. On 13th November 1936, the Highways Committee in minute 977 resolved that “the report be received and entered on the minutes. The Town Clerk reported further that he discovered certain old maps which appeared to show the possibility of existence of a highway prior to 1835”. It was then recommended that “council resolution no. 1218 passed on the 24th July 1935, be rescinded and no further action taken thereon. This was followed by resolution 979 “that temporary repairs be carried out in Blackroot Road immediately” and resolution 980 “that the Surveyor prepare estimates for making up the road, and a specification similar to the roads on the Four Oaks Estate”.

⁶ [15/11/1935](#)

⁷ [13/11/1936](#)

- 6. Evidence of highway status – There a numerous occasions when the streets on the Four Oaks estate came to the attention of the Council, for several reasons, which are grouped below. However, in order to accurately interpret the significance of these events, it is also necessary to understand the Council’s approach to the issues more widely on other locations within the Borough.**

a. Reasons for use by public

It is important to consider possible reasons why the public may have decided to use the streets on the four oaks Estate over the past 130 years. Prior to the development of the Four Oaks Estate as a residential estate, a road leading to Sutton Park is depicted on the 1776 Sutton Park map created by Snape⁸, although it was not labelled as being a ‘gate’ into the park. This road featured in the 1824 Sutton Coldfield Enclosure map⁹ and both end at the position of the entrance to Sutton Park as depicted on the Ordnance Survey map surveyed in 1886¹⁰ prior to its repositioning in 1891¹¹ to what is now called Hartopp Gate, near the junction of Hartopp Road and Blackroot Road. In 1936¹² the Council had to consider the status of Blackroot Road, following the exercising of Private Street Works powers, it concluded that it was an ancient highway in existence prior to 1835 and that it was therefore HMPE. Whilst there is limited surviving information relating to the nature of the investigation in 1936, the Council’s conclusion that it was a highway prior to 1835 means that prior to 1835 there must have been sufficient use by the public to accept the dedication of the road. Consequently, for approximately 60 prior to the laying out of the streets on the Four Oaks estate, there had been significant demand by the public to access Sutton Park at the gate which is now named Hartopp Gate.

Four Oaks Station opened in 1885, whose entrance onto Lichfield Road would be directly opposite the junction of Wentworth Road and Lichfield Road. The most direct route from the station to Hartopp Gate would be along the whole length of Wentworth Road to Blackroot Road.

By 1886, the number of visitors to Blackroot Pool had reached such a level that it was decided to arrange for a keeper to be in attendance during bathing hours¹³. In addition, the pool was also in use by the local swimming club¹⁴. The pool then continued to expand its attractions which reflected the increase in numbers of people visiting this area of the park. In 1887, the Council installed 4 swings at Blackroot Pool¹⁵. A shelter was erected in 1888 at Blackroot Pool¹⁶.

⁸ 1776

⁹ 1851

¹⁰ [1886](#)

¹¹ [28/01/1891](#)

¹² [13/11/1936](#)

¹³ [16/07/1886](#)

¹⁴ [17/08/1886](#)

¹⁵ [25/05/1887](#)

In 1891, the Council and Marquis of Clanrikarde entered into an Agreement¹⁷ for changing the positions of the existing entrances from the Four Oaks Park Estate into Sutton Park, ahead of the building of houses on the estate. The accompanying plan detailed the proposed layout of the streets on the estate and the position of the new entrances to Sutton Park. The most significant of which was the altering of the position of the gate at the end of Blackroot Road (also known as Bakewells Lane or Park Lane), now known as Hartopp Gate. In order for the public to get to the new gate, it would be necessary to enter onto the land in the ownership of Marquis of Clanrikarde as evident on the plan¹⁸ approved at the meeting of the Sutton Coldfield Parks Committee on 25th November 1891¹⁹. The Agreement did not contain any express granting of private or public rights for accessing the gate from Blackroot Road, therefore it is inferred that he was encouraging the public to use the street laid out on his land or at the least, did not have any objection to the use of the land by the public. The Agreement did restrict the use of the gate without payment to owners and occupiers of the estate and other inhabitants of Sutton Coldfield, it is considered that this restriction was in relation to persons not inhabitants of Sutton Coldfield having to pay an entrance fee to enter Sutton Park, in accordance with the Park's bye laws. The draft bye laws from 1886²⁰ stated that inhabitants "shall at all times have free admission to the Park" Therefore persons not living in the Borough could use the gate but would have to pay the entrance fee. It is necessary to read this condition in relation to the conditions for entry at entrances C D & E that they could only be used by persons immediately abutting the gateways. This was used to protect the revenues of the Council for the funding of Sutton Park.

The 1893²¹ visitor guide authored by G Sidwell and W J Durant and sanctioned by the Council included a map of Sutton Park and depicted boats, a shelter and refreshments at Blackroot Pool. The map also depicted the road leading from Hartopp Gate as a carriageway, therefore in 1893, vehicles were using the Hartopp Gate entrance. A private business operated from Blackroot Pool by James H Nevill, offering boat and canoe hire as well as the refreshments. Businesses continue to operate at Blackroot Pool to this day, therefore there must have been sufficient numbers of visitors to keep the businesses economically viable.

"From the town the visitor can enter the park by way of Park Road (main entrance) or by way of Lichfield Road, taking the Lane at Doe Bank [...]"

"There are four carriage roads from the main entrance. [...] The road to the right runs by way of Blackroot, crosses the Midland Railway, skirts the boundary wall of Four Oaks Park Building Estate till it reaches the rising suburb of Four Oaks".

¹⁶ [25/09/1888](#)

¹⁷ [07/10/1891](#)

¹⁸ [11/1891](#)

¹⁹ [25/11/1891](#)

²⁰ [1886](#)

²¹ [1893](#)

Blackroot Pool had become one of the main visitor attractions within Sutton Park and attracted significant numbers of visitors, this is reflected in the infrastructure that was installed over the years. The pool was frequently used for swimming events and recreational swimming, provision of shelters, swings, refreshment buildings, floating bandstand.

In 1905²² the Council decided to construct a new ticket box at the Hartopp gate entrance to Sutton Park. On the 1901 Ordnance Survey map, there is no depiction of a structure at Hartopp gate, it is therefore possible that the Council decided to construct a ticket box to provide a permanent position for the collection of payment in consequence of an increase in numbers of non-residents entering at Hartopp gate.

By 1920 omnibus stops had been established at Four Oaks island²³ and by 1932 there was an omnibus stop by the letter pillar box at the junction of Wentworth Road and Lichfield Road²⁴.

In 1921²⁵, the Council issued a notice in the London Gazette that following a public consultation, it proposed to reduce the speed limit along the Lichfield Road to 10mph. It has not been determined if this Order was made, which will be the subject of further investigation, however if it was made, it is likely that the route from Four Oaks through the estate through Sutton Park may have been a quicker route to either get into the town or around the town centre, avoiding the reduced speed route.

By 1945²⁶, the Council had decided to regulate horse riding activity within Sutton Park and restricted entry into the park by horse riders to seven entrances, one of which being Hartopp Gate. As one of the few gates where horse riders, it is likely that the number of horse riders entering Sutton Park at Hartopp gate would have increased, increasing the likelihood that they may have used the streets on the Four Oaks estate.

By 1959²⁷, motor vehicular use of the routes within the park had reached such a level that the Council was reviewing ways to control vehicular usage and continued the one way traffic system to Blackroot Pool. It was decided in 1960²⁸ that this one way system would be continued during the summer months. The two nearest entrances to Blackroot Pool are Hartopp gate and Town gate, it is likely that vehicular use may have increased may to access Blackroot pool.

In 1963²⁹, as part of the discussion on the proposal for a new racecourse within Sutton Park, annotations were made to an existing map published by the Council to depict the area proposed to

²² 05/07/1905

²³ [17/12/1920](#)

²⁴ [19/02/1932](#)

²⁵ [22/04/1921](#)

²⁶ [05/02/1945](#)

²⁷ [07/09/1959](#)

²⁸ [07/03/1960](#)

²⁹ [1963](#)

be used. The map used identified the “main vehicular roads - coloured brown”. Along with a number of other roads within Sutton Park, both of the roads leading from Hartopp Gate to Blackroot Pool and towards Town Gate were coloured brown. This map, published by the Council details the routes that it was permitted for motor vehicles and that motor vehicles could travel from Hartopp Gate, through Sutton Park and out of all of the other main entrances to Sutton Park. These routes could have been used as convenient short cuts, by passing the Town centre. The map also depicts a number of services for the use of visitors to Sutton Park at Blackroot Pool, including boating facilities, drinking fountains, a shelter, conveniences and refreshments. The number and type of facilities at Blackroot pool confirms that there were sizeable numbers of people visiting that part of Sutton Park, with the closest entrance being Hartopp gate.

There was significant motor vehicular use at Four Oaks entrance to Sutton Park which resulted in a request from a resident “for a footpath to be provided alongside the roadway in the park from the four oaks entrance to the road leading to Bracebridge, to assist pedestrians, in view of the increase in numbers and speed of vehicular traffic on the above roadway”³⁰. This entrance may have been unsuitable for pedestrians as a result of the increased motor vehicular traffic. The wide, street of Hartopp Road, with footways may have provided a safer alternative route into Sutton Park for non motor vehicular visitors to the park from Four Oaks.

By 1972³¹, the Council had decided to close certain sections of roads with gates to prevent traffic density, speed and through commuter traffic. It appears that prior to 1972, the Council did not restrict vehicular traffic during the hours that Sutton Park was open to vehicular traffic.

Early 20th century traffic census records for the main road (A5127) from Mere Green to Sutton Town centre, which would travel along Lichfield Road show a significant increase in the number of vehicles using the street at the time and also the change in the type of vehicle used. In 1928³² the highest number of motor vehicles in a day was 3285, with an average of 2788. The highest number of horse drawn vehicles was 163 with an average of 139. The highest number of bicycles in a day was 1994 with an average of 1790 a day. The highest total of all vehicles was 5389 with an average of 4782. In comparison, the highest daily traffic in the 1925 census was 3867 with an average of 3093. This is an approximate increase in the average volume of traffic by 55% over the course of 13 years. The increase in volume of traffic would likely have reduced the average speed along Lichfield Road and may have made the route through the Four Oaks estate and Sutton Park as a time saving option.

A Department for Transport (DfT) manual traffic count in 2017³³ counted 19,996 motor vehicles on 27/03/2017 from 7am to 7pm near the junction of Wyvern Road and Lichfield Road, 500m south east of the junction of Bracebridge Road and Lichfield Road.

³⁰ [04/01/1965](#)

³¹ [04/09/1972](#)

³² 20/03/1928

³³ <https://roadtraffic.dft.gov.uk/manualcountpoints/27203>

b. Construction of streets c1891 when the streets were first laid out

The question of to what extent the streets were constructed in the 1890s is relevant for the investigation as it aids in understanding the context for two issues. First, why the streets were not adopted shortly after they were constructed and second why there are so many instances of works being requested of the Council and being carried out in the following decades. Work commenced on laying out the first street on the Four Oaks Estate in 1891, all five streets were in existence by xxxx. The carriageway of the section of Wentworth Road authorised to be constructed under building plan no. 220³⁴ was proposed to be constructed 6 inch gravel, 4inch broken pebbles, 2 inch broken gravel. The footpaths (footways) were proposed to be constructed 3 inch coarse gravel and 3" fine gravel. It is likely that this was the proposed specification used for the other streets on the Four Oaks estate when they were first laid out. However, as there was a period of several decades before houses were constructed on significant parts of the estate, there is also a high likelihood that the streets were only laid out to the required specification as and when the frontages were built up. The use of water bound broken stone was the usual road construction material of the time and as the first recorded use of tarmacadam by the Council wasn't until 1906³⁵ and was still experimenting with the new material in 1907³⁶ it is highly unlikely any modern techniques or materials were used in the construction of the other streets on the estate. From the comments of the Borough Surveyor, it would appear that prior to 1907, no streets in Sutton Coldfield had been formed using Tarmac (otherwise there would not have been a need to visit Nottingham). It is therefore highly unlikely that any of the streets on the Four Oaks Estate had been surfaced with Tarmacadam. It was not until 1920³⁷ that the section of Lichfield Road from Bracebridge Road and Blackroot Road was coated with tarmacadam and the section of Four Oaks Road from Luttrell Road to Ladywood Road was not coated with tarmacadam until 1922³⁸. The Lichfield Road was the main road between Sutton Coldfield and Lichfield. Even on the busy Lichfield Road, a surface of tarmac in 1923 was expected to have a life of 10 years³⁹

Streets which were formed with water bound stone suffered damage as a result of both weather conditions (heavy rain⁴⁰ and dry conditions^{41,42,43}) and use by vehicles⁴⁴, in order for them to be kept

³⁴ [17/02/1893](#)

³⁵ 20/07/1906

³⁶ 19/07/1907

³⁷ 17/12/1920

³⁸ 21/03/1922

³⁹ 26/10/1923

⁴⁰ Unsealed roads were especially vulnerable to the effects of heavy rain, in August 1897, the Borough Surveyor describes the effect heavy rain had on such streets "an exceptionally heavy storm which has done a considerable amount of damage to the roads in all the districts by the swirling of the channels and the flooding of the low lying portions. The roads have no sooner been restored after one storm than another has occurred. The greatest among of damage to the roads appears to have been done in Little Sutton Road, Tamworth Road, and Four Oaks Road; the inclines in these cases are steep and the water has to travel long distances".

in a satisfactory state, they required regular maintenance. There were several occasions where the owners of the streets requested the Council to either adopt the streets⁴⁵ or to carry out maintenance on their behalf⁴⁶.

By June 1911⁴⁷, the Council was experimenting with the process of tar spraying some of the streets. Following a trial, the Borough Surveyor concluded in September 1911⁴⁸ that “it is a success in keeping down the dust and maintaining a smooth surface on the road”. As the use of tar spraying streets was at an experimental phase in 1911, it is very unlikely that prior to then, streets including those on the Four Oaks Estate were tar sprayed and at most were formed using waterbound macadam or some other form of crushed, compacted broken stone.

c. Maintenance and condition of streets after being laid out

Increasing levels of traffic had a major impact on the need for increased maintenance, in June 1898⁴⁹, “the scavenging and watering of the roads has had constant attention, particularly during the Royal Agricultural Show this week. Two extra water vans have been hired from Messrs Glover & Sons, the cleansing and watering of the roads between the Town and the Show ground has been done chiefly in the early mornings and during the day men have been held off to attend to certain sections”. The Royal Agricultural Show was held on the vacant land in the Four Oaks Estate.

Without regular maintenance, unsealed streets quickly suffered from erosion, by the weather⁵⁰ and also by the impact of traffic on the carriageways⁵¹.

In September 1917⁵², in relation to a complaint made by the Four Oaks Owners' Association regarding the condition of Blackroot Road, the Borough Surveyor stated that “Messrs James & Lister

⁴¹ In 1897, the Borough Surveyor described the effects of dry weather conditions “the surface of the roads broke up very badly during the dry weather where ever the water cart was not regularly used and most of them had marl or binding spread upon them. Four horses were employed almost entirely watering the principal roads”.

⁴² Unsealed streets suffered from the effects of dry weather, in May 1895, the Borough Surveyor informed the Committee that he had received a “request for more watering of roads in outlying districts. The long spell of dry weather had caused the surfaces of the roads especially when newly repaired to break up and become loose”.

⁴³ [14/07/1911](#)

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⁴⁷ 06/1911

⁴⁸ 09/1911

⁴⁹ 06/1898

⁵⁰

⁵¹

⁵² [14/09/1917](#)

Lea & Sons who repair the roads on the Four Oaks Estate, but they inform me that Blackroot Road is not included in their contract for maintenance”.

In 1921⁵³ the Four Oaks Estate Owners’ Association requested for the Council to resurface the streets on the estate, the request was declined by the Borough Surveyor for the reasons that there was a lot of work on the public roads. Whilst the minutes do not details the exact works requested, it is clear that the works required were substantial as the request referred to the resurfacing of the streets, as opposed to filling in some isolated potholes. The extent of state of some of the streets on the Four Oaks Estate was evident later in 1921⁵⁴ when Four Oaks Road was being resurfaced, some works were undertaken at its junction with Hartopp Road where “the wear on the road at this bend is so great that it is continually loose and worn into ruts”. In addition, the Four Oaks Owners Association agreed to pay for the portion of the work on the Estate including repairs down Hartopp and Bracebridge Roads.

By the 1920s, the condition of the streets on the estate had got to a position whereby a deputation of the Four Oaks Lands Limited in March 1923⁵⁵ attended a meeting of the Highways Committee and requested for the Council to make up and take the streets over (adopt). Officers from the Council must have surveyed the streets as the Borough Surveyor provided a list of possible works to the roads on the estate. He identified in particular that Bracebridge Road (whole length), Hartopp Road (between Four Oaks Road and Bracebridge Road), Wentworth Road (Bracebridge Road to Four Oaks Road) were particularly bad. He recommended two options:

1. Carriageway coated with tarmacadam 3 inches thick
2. Carriageway scarified, rerolled, lightly repaired with granite and tarsprayed.

This indicates that by 1923, the streets had not been tarmaced and were still surfaced with broken stone. In addition, it is likely that the streets had not received regular maintenance due to the bad state of repair they had fallen into. As the request was for the Council to ‘take over’ the streets, it is relevant that there was no mention of any gates being in existence, which would be required to be removed, if they existed, prior to the streets being taken over by the Council. It is therefore likely that no gates existed across the streets at this time.

It does not appear that the Council carried out any works on the streets by that point as by February 1925, the Borough Surveyor provided an update on the progress⁵⁶, the works to be carried out under the Private Street Works Act 1892⁵⁷.

⁵³ [15/07/1921](#)

⁵⁴

⁵⁵ 03/1923

⁵⁶ On 20th February 1925, the Borough Surveyor provided an update on the proposed resurfacing and taking over of the streets on the Four Oaks Estate “by request of one of your sub committees I state briefly the correspondence which has taken place and the position in which the making up of the roads on the Four Oaks Estate is in at the present time. A deputation of the landowners association attended your meeting on the 26th January 1923, after which Mr E R Bickley wrote on the 9th April 1923 which was replied to by the Town Clerk on 17th May 1923, giving an estimate of £10977 for coating the roads on the estate with tarmacadam with the committee's decision to take them over. The sum excluding

By 19th April 1929, the issue of the maintenance of the streets had still not been resolved as the question of resurfacing the streets came before the Highways Committee again. It appears that the owners of the properties on the estate were not clear as to the responsibility for the streets and the means that the works were to be carried out as an owner complained to both the Council and the Ministry of Transport of the condition of the streets⁵⁸. By 22nd November 1929, the Four Oak Estate Company Limited had considered the option of contracting Tarmac Limited to provide a water-bound carriageway surface and two years maintenance⁵⁹. The works were then commenced in February 1930⁶⁰.

kerbing, channelling and footway. Mr Frank Burnett, an owner on the estate wrote on the 15th October 1924 stating the association had appointed a sub committee with himself as secretary asking for a reply to five questions which was referred by you to a sub committee to consider and draft the replies, but they have not yet met."

⁵⁷ On 20th March 1925 at a meeting of the highways sub committee re Four Oaks Estate "Borough Surveyor presented estimate for making up of the Four Oaks Estate roads, including the Blackroot Road and the sub committee decided that the footpath should be added and dealt with for gravelling. This the Borough Surveyor reported would mean an addition of 2/6 per yard. It was decided that the grass verges could be left as at present so long as the respective frontagers kept the same in tidy and presentable condition. It was also decided that the owners be informed that the work would be done under PSWA. That a loan for same should be obtained for 10 years and that the respective amounts due from each of the frontagers could be payable by instalments spread over the same period. That the roads must be made up with tarmac. That the above be recommended to the highways committee."

⁵⁸ Four Oaks Estate – "Mr J Squaires, the owner of Hartopp Grange, Hartopp Road has written complaining of the condition of the roads on the Four Oaks Estate and I have promised to bring his letter before you. The engineer to the ministry of transport has also received a communication on the subject and I have explained the position to him. It is my opinion that no definite agreement will be arrived at either with the Four Oaks Land Owners Association or the owners individually and if the committee decide to take any steps to make up the roads it must be done under the Private Street Works Act 1892. Four years ago I prepared estimates of cost to include for tarmacadam coating to carriageway, kerbing and two rows of setts channelling and this worked out in the five roads between 32/- and 34/8d per yard and does not include paving to the footways. I have examined these estimates again and consider that it will be difficult to carry out the work for the sums in these estimates." IT was subsequently resolved [2422] that "fresh estimate to be prepared for putting the roads on the Four Oaks Estate in order".

⁵⁹ On 22nd November 1929 Private Street Works – "a further meeting has been held by the Four Oaks Estate Company Limited and their Secretary - Mr E R Bickley has sent a copy of a tender they have received and approved for repairing the roads from Messrs Tarmac Limited subject to the approval of the frontagers. I give below a copy of the tender referred to:- "Roads by so acting the Corporation shall not directly or indirectly be deemed to have adopted any road, or part of a road, on the Estate. The Town Clerk to prepare an appropriate Agreement".

⁵⁹ On 22nd September 1911, the "an application has been sent to me by Mr EJ Eldridge, Superintending Engineer to the Post Office telegraphs asking the council to give the Department permission to "[...] for poles commencing at this Post office along the Lichfield Road to Bracebridge Road, the whole length of Bracebridge Road, parts of Hartopp Road, Luttrell Road, Ladywood Road, Wentworth Road, Blackroot Road, Beaconsfield Road & Barker Road for the purpose of connecting subscribers with the Telephones. [...] I have been in communication with the Secretary of the Four Oaks Landowners' Association who has sent me a letter expressing the views of his committee which I submit to you. It appears to me that the better way will be to follow the course of other applications and take a canvas of the residents on the route and in the meantime endeavour to obtain the same terms as the present Sutton subscribers have. A sketch of the poles proposed to be erected has been sent to me, and I have enquired into the question of laying the wires underground, the two principal objections the Post Office have being the cost and the unsatisfactory nature of the communication obtained on wires laid below ground in a distributing area".

⁵⁹ Telephone lines were proposed to be installed along the streets in 1912 by means of telegraph poles.

By 1947⁶¹, the works carried out in 1930 and any subsequent repairs had again failed to keep the surfaces of the streets to the necessary standard as the residents of the estate approached the Council the carry out road repairs⁶². It appears that on this occasion, the residents on the estate were not attempting to get the streets adopted following the repairs, it is likely that the repairs were of sufficient scale to bring the streets up to the necessary standard for 1947. It is however relevant that the Council made the decision that it in carrying out the repairs there was a real risk that the works could be deemed that the Council had adopted the streets on the estate. In order to prevent this from occurring, they insisted on a Legal Agreement being entered into. The Council could only get into that position if the streets were already considered to be highways which were not maintainable by the highway authority. If it was considered that the public did not have any highway rights over the streets, then the Council could not be in the position of being deemed to have adopted them.

Photographs appear to show a tarmacadam surface on Hartopp Road⁶³ in 1981, Bracebridge Road⁶⁴, Luttrell Road⁶⁵, Wentworth Road⁶⁶ in 1985 and Ladywood Road⁶⁷ dated October 1988.

d. Sutton Coldfield Town Planning Scheme

To clearing roads of all leaves etc carting away and disposing of same, scarifying existing surface, reshaping to proper levels and contour and thoroughly slurring in surface with suitable binding material leaving a waterbound surface; to providing suitable material for strengthening sides where necessary. For the lump sum price of £2000.0.0. We are prepared to maintain the above for two years. This guarantee is subject to the roads being used for their present normal purposes but not to include for any bus routes or any extraordinary traffic beyond that of the District. **Footpaths.** To trimming up grass verges, reshaping existing paths and providing and laying a coat of gravel hoggin consolidated with mechanical roller of suitable weight. For the lump sum of £1000.0.0." Mr Bickley is calling a meeting shortly and if approved the repairs will be put in hand as soon as possible and wishes to know if the Committee would light and maintain 25 ornamental lamps or if the roads are lighted by ordinary lamps whether the Council would undertake the work and maintain them.

⁶⁰ On 21st February 1930 "four oaks estate - work on remaking the roads on the Four Oaks Estate were commenced on the 5th of February by messers Tarmac Limited, who are scarifying the surface, reforming and rolling, a small quantity of slag being used to fill in low places. The footways are also being coated with fine gravel."

⁶¹ 09/1947

⁶² 2555 Four Oaks Estate – "Alderman Perry acting on behalf of the residents of the above estate has asked if the corporation would be prepared to carry out road repairs on the above estate. Resolved: That the Corporation undertake such work subject to the necessary labour being available and to it being clearly understood that the Corporation act only as contractors to the residents who will meet the expense and that by so acting the Corporation shall not directly or indirectly be deemed to have adopted any road, or part of a road, on the Estate. The Town Clerk to prepare an appropriate Agreement".

⁶³ [1981](#)

⁶⁴ [1985](#)

⁶⁵ [1985](#)

⁶⁶ [1985](#)

⁶⁷ [1988](#)

Like many Local authorities, Sutton Coldfield Council had been in the process of preparing Town Planning Schemes to assist in ensuring suitable development throughout the Borough. In 1932⁶⁸, the Minister of Health approved the Preliminary Statement in relation to Sutton Coldfield Town Planning Scheme, including Map 2A referred to in the Order in the form of “The Sutton Coldfield Town Planning Scheme (Interim Development) Order 1932”. The map contained a reference key, which clearly depicts the five streets on the Four Oaks Estate as “Existing Highways”. The map and key was created by Sutton Coldfield Council and signed by both the Town Clerk and the Assistant Secretary Ministry of Health. The Order was made under s4 of the Town Planning Act 1925 and approved in pursuance of Article 7 of the Ministry of Health (Town Planning) Regulations 1921.

It has not been possible to locate a copy of either the 1925 Act or the 1921 Regulations

A letter dated 22nd February 1932⁶⁹ from the Council’s Town Clerk to the Ministry of Health states that both the Map and the Preliminary Statement were made available for public inspection public and that notice was of it was advertised in the Local Press. The Town Clerk also stated that “a large number of persons interested called to inspect and expressed themselves as satisfied”. This evidence therefore confirms that in 1932 the Council consider the streets to be highways, the Map and statement was made available for public inspection, notice of the map was advertised publicly and that those who were interested did view the documents, prior to the Ministry of Health making the Statutory Order.

It is important to highlight that the map detailed the streets on the estate a highways as opposed to highways maintainable by the local authority. This document therefore supports the view that the streets on the estate were considered to be highways but not maintainable by the Council and therefore were considered as private streets as defined by the Private Street Works Act 1892.

e. Telegraph and telephone lines – When the GPO wanted to install telegraph lines in public roads or streets, they needed the permission of the Council.

On numerous occasions, various statutory undertakers made application to the Council to install their apparatus in the streets on the Four Oaks Estate. Statutory undertakers were given the legal right to install their apparatus through Acts of Parliament. The Acts specified what land they could install their apparatus and also what conditions were attached to their right.

The General Postmaster had the power under s6(1) & (2) Telegraph Act 1863⁷⁰ to place and maintain a telegraph under or over any street or public road. The definition⁷¹ of street or public road in s.3

⁶⁸ [23/03/1932](#)

⁶⁹ [22/02/1932](#)

⁷⁰ [1863](#)

⁷¹ “street” was defined in s.3 as ‘a public way situate in a city, Town or Village or between lands continuously built upon on either side and repaired at the public expense or at the expense of any turnpike or other public trust or **ratione tenure**, including the footpaths of such way and any bridge forming part thereof’.

“public road” was defined in s.3 as ‘a public highway for carriages being repaired at the public expense or at the expense of any turnpike or other public trust **or ratione tenure**, and not being a street, including the footpaths of such way and any

limited the use of the power to only public ways which were either maintainable either by the Council or somebody else. This definition was amended by s3 Telegraph Act 1892⁷² extended the areas of the country which were affected by the powers to include urban sanitary districts. The definitions of public road and street were also expanded to include highways which were not maintainable by anybody and also bridleways and streets which were built for vehicles but where only a public footpath were known to exist.

The Company's rights to install equipment under any street was restricted by s9 Telegraph Act 1863 by only allowing them to do so "with the consent of the bodies having control of the streets". Consequently, if the Company wanted to install telegraphs, they had to obtain approval from the Council where the Council was considered to have control over the street. It is viewed as being important that the provision did not require the consent of the body responsible for the repair of the street, but the body who had control of it. Even when a street is a highway but not maintainable at the public expense, the Council as Highways Authority have a vast number of powers and duties relating to the control and regulation of use of the street. The earliest identified record of a request for permission to the installation of telegraph equipment contained the Council minutes was on 20th March 1890. From this point, such requests became a regular occurrence and were considered at most committee meetings. There were numerous⁷³⁷⁴⁷⁵⁷⁶⁷⁷⁷⁸⁷⁹ occasions when the General Post Office (GPO) submitted applications to the Council for permission to install telegraph lines specifically on the streets within the Four Oaks Estate. The earliest known instance was in 1911⁸⁰, when the Post

bridge forming part thereof, and also any land by the side and forming part of such a public highway, but not including a railway or canal'.

⁷² [1892](#) "the terms public road and street shall respectively include a public highway for carriages and a public way, although not repairable in the manner in the Telegraph Act, 1863, mentioned, and the term "public road" shall include a public highway for horses and a private road which is also a public footpath. If such highway or road is enclosed between hedges, walls or other fences".

⁷³ [17/05/1912](#)

⁷⁴ [25/05/1923](#)

⁷⁵ [12/12/1924](#)

⁷⁶ [20/03/1925](#)

⁷⁷ [24/04/1925](#)

⁷⁸ [26/05/1925](#)

⁷⁹ [05/05/1939](#)

⁸⁰ [22/09/1911](#) the "an application has been sent to me by Mr EJ Eldridge, Superintending Engineer to the Post Office telegraphs asking the council to give the Department permission to "[...] for poles commencing at this Post office along the Lichfield Road to Bracebridge Road, the whole length of Bracebridge Road, parts of Hartopp Road, Luttrell Road, Ladywood Road, Wentworth Road, Blackroot Road, Beaconsfield Road & Barker Road for the purpose of connecting subscribers with the Telephones. [...] I have been in communication with the Secretary of the Four Oaks Landowners' Association who has sent me a letter expressing the views of his committee which I submit to you. It appears to me that the better way will be to follow the course of other applications and take a canvas of the residents on the route and in the meantime endeavour to obtain the same terms as the present Sutton subscribers have. A sketch of the poles proposed to be erected has been sent to me, and I have enquired into the question of laying the wires underground, the two principal

Office applied for permission to the Council to install telegraph lines along a route which included the streets within the Four Oaks estate. The Council decided to follow the decision of previous applications and take a canvas of the residents along the route. The canvassing book from 1911⁸¹ has survived and whilst there are some residents objecting to the proposals, none of the objections are on the grounds that the streets are not streets as defined within the Telegraph Acts 1863 & 1892 and did not raise an objection to the Council involvement in the application. This is evidence that the Post Office, the Council and the residents on the estate considered the streets on the estate to be streets which had been dedicated to public use.

In an edition of The Surveyor and Municipal Engineer in 1912⁸², a query was ask of the Editor MR J B Reignier Conder, 11 Old Jewry Chambers, E.C., Solicitor of the Supreme Court, relating to the installation of telegraph poles along highways, the response stated "under s.12 of the Telegraph Act 1863, posts must not be erected by the Postmaster General on highways without the consent of the highway authority". The journal and specifically the law notes section was aimed at local authorities and the views expressed by the Editor would have informed local authorities on the implementation of statutory powers and duties at the time. It is important to note that the editor had interpreted the definition of a street or public road as meaning a highway. This is evidence that it was widely held that the GPO was required to obtain the consent of the Council when a street was a highway.

In June 1933⁸³, the Council received a letter from the Post Office in relation to a refusal to allow overhead lines and poles in Upper Clifton Road "in this connection I am to remark that **the telegraph acts afford the Postmaster General a statutory right to the use of the streets and public roads** for the construction and maintenance of his overhead lines, **subject only to the consent of the highway authority**, and that these acts further empower him to appeal to the courts in any case where such consent is refused or withheld. The Postmaster General is always reluctant to enter into litigation with a public body, but as there is nothing in the character of Upper Clifton Road to differentiate it from any other similar roads throughout the country in which his overhead lines have been erected without objection having been taken, he fears that he will have no alternative but to consider the adoption of that course if an amicable settlement cannot be reached".

In September 1934⁸⁴, Mr John White informed the Borough Surveyor that "he is in communication with the Post Office with regard to the erection of an overhead line in Oakwood Road. This road, the committee will be aware is a private road and Mr White asks for your decision on this matter. Resolved - that Mr John White be informed that this committee are opposed to the erection of an overhead telephone line in Oakwood Road".

objections the Post Office have being the cost and the unsatisfactory nature of the communication obtained on wires laid below ground in a distributing area".

⁸¹ [1911](#)

⁸² [13-09-1912](#)

⁸³ [23/06/1933](#)

⁸⁴ 09/1934

Starting with the application in 1911 and continued with the subsequent applications, it is clear that on a number of occasions over a prolonged period of time:

1. The GPO considered the streets to be dedicated to public use as highways, otherwise that would not have applied to the Council for approval.
2. The Council considered the streets to be dedicated to public use as highways or otherwise it could have stated that approval was not required from them.
3. The Owners on of the streets on the Four Oaks Estate and the residents on the estate had numerous opportunities to have prevented the installation of the telegraph lines if they did not consider the streets to have been dedicated for public use as highways.

f. Street lighting/Electric mains

The installation of electric street lighting by Local Authorities was achieved pursuant to the provisions of the Electric Lighting Act 1882⁸⁵. However, s.13 stated that “nothing in this Act or in any Act incorporated therewith shall authorise or empower the undertakers to break up any street which is not repairable by such local authority, or any railway or tramway, without the consent of the authority, company or person by whom such street, railway or tramway is repairable, unless in pursuance of special powers in that behalf inserted in the license, order or special Act, or with the written consent of the Board of Trade [...]”. Prior to making an Order by the Board of Trade authorising a Local Authority to break open streets not repairable by them, s.13 required notice to have been given to the person(s) or company responsible for the repair of the streets concerned., giving them the opportunity to make objections to the proposals. In 1898 and 1899, Lord Clanrikarde had the responsibility for maintaining the streets on the estate, with those owners of plots already sold being liable for payment of the cost of maintaining their frontage. They would therefore have been consulted on the proposals and therefore made aware of the streets being considered to having been dedicated to public use by the Council and the making of the Orders is evidence of their acceptance of the streets being dedicated for public use by that date.

On 14th October 1898⁸⁶, notice was published in the London Gazette of the intention of the Council to apply to the Board of Trade for a Provisional Order under the Electric Lighting Acts 1882 and 1888 to do amongst other things “9. To authorize the Corporation to break up the following streets, roads, footways, thoroughfares and places not belonging to or not repairable by the corporation, that is to say:- Anchorage Road, Avenue Road, Barker Road, Beaconsfield Road, Bishop’s Road, **Blackroot Road**, Boswell Road, **Bracebridge Road**, Digby Road, Florence Road, Green Lanes from the school to Birmingham Road), **Hartopp Road**, **Ladywood Road**, Somerville Road, Tudor Hill, Victoria Road, **Wentworth Road**”. The making of this provisional Order confirms that the Council did not consider the streets to be maintainable by them. As Blackroot Road was considered to be a highway, it’s inclusion in the list confirms that it was **not** a list of streets which were not highways, but a list of streets which the Council did not consider it had a liability to repair. It has not been determined why

⁸⁵ [1882](#)

⁸⁶ [14/10/1898](#)

Luttrell Road was not included in the list, however it is possible that it had not been laid out by that point.

On 20th June 1899⁸⁷, the Electric Lighting Orders Confirmation (No.1) Act 1899 – Sutton Coldfield Electric Lighting Order 1899 was made. This Order followed on from the Provisional Order made the previous year, however in addition to the inclusion of a list of streets not maintainable by the Council, provision 8 of the Order limited the power to break open the streets listed in the Third Schedule where they had been dedicated to public use⁸⁸. Blackroot Road, Bracebridge Road, Hartopp Road, Ladywood Road and Wentworth Road were listed in the Third Schedule.

On 20th April 1900⁸⁹, the Council stated that its policy on the provision of street lighting was “previously suggested to only light the road when houses are inhabited and to add additional lamps as the building land developed”

On 2nd July 1902⁹⁰ it was decided to install a Lighting Main along Bracebridge Road, Hartopp Road, Blackroot Road. The mains were being laid on 24th October 1902 “the electric lighting cables are being lain along the roads upon the Four Oaks estate and I hear that probably the residents will ask for the roads to be lighted if so public lighting mains would be required and if they are not laid now it will necessitate reopening the ground”.

On 20th February 1903⁹¹ it was proposed to extend the lighting area to include the Four Oaks Estate.

On 24th March 1903⁹² it was decided that “extension of public lighting proposals - assumption that all new lamps on private roads would be paid for by the owners fronting the roads under the Private Street Works Act 1892”

⁸⁷ [20/06/1899](#)

⁸⁸ “8. Subject to the provisions of this Order and the principal Act the Undertakers may exercise all or any of the powers conferred on them by this Order and the principal Act and may break up such streets not repairable by the local authority and such railways and tramways (if any) as are specified in the Third Schedule so far as such streets railways and tramways may for the time being be included in the area of supply and be or be upon **land dedicated to public use**. Provided however as respects any such railway that the powers hereby granted shall extend only to such parts thereof as pass across or along any highway on the level”. Third Schedule – List of streets not repairable by the local authority railways and tramways which may be broken up by the undertakers in pursuance of the special powers granted by this Order: (a) Streets:- Anchorage Road Avenue Road Barker Road Beaconsfield Road Bishop’s Road **Blackroot Road** Boswell Road **Bracebridge Road** Digby Road Florence Road Green Lanes (from the school to Birmingham Road) **Hartopp Road Ladywood Road** Somerville Road Tudor Hill Victoria Road **Wentworth Road** (b) Railways:- The following level crossing of the London and North Western Railway:- Sheffield Lane Chester Road (c) Tramways:- None

⁸⁹ 20/04/1900

⁹⁰ 02/07/1902

⁹¹ 20/02/1903

⁹² 24/03/1903

On 17th March 1905⁹³ 830 four oaks estate - I have received a letter from Mr W S Edwards of Bracebridge Road asking that the road to Wentworth Road and the latter road might be lighted before next winter. It will require 6 lamps in Bracebridge Road and 10 in Wentworth Road at an annual cost of £50 for electric and £32 for gas; the lamps could be erected under the Private Street Works Act 1892 at a first cost of £72 for electric lamps and £57.15.0 for gas lamps". It was decided on 20th April 1905 to light Bracebridge Road to its junction with Wentworth Road.

The lighting of Blackroot Road was considered on 19th October 1906⁹⁴, it was decided "Blackroot Road - with reference to the lighting of the Blackroot road mentioned at the last council meeting, this is a private road repairable by the owners, but lamps could be erected under the pswa 1892 in a similar manner to those in Bracebridge Road if the committee decide to light and pay the annual maintenance. there is a gas main as far as Beaconsfield Road and electric main to Wentworth Road"

In 1910⁹⁵ the Council considered a request for a public lamp to be erected on a street known as The Drive, which had a gated entrance off the adjoining street. The Council declined the request as the Borough Surveyor could not "see how this lamp could be of any benefit to the public". This decision confirms that when the Council considered requests for new street lights, one of the considerations if the benefit to the public. Therefore, when other streets such as those on the Four Oaks Estate requested the Council to erect new street lighting, there was the necessity for there to be benefit to the public. If the streets on the estate were gated or not in use by the public, you would expect the Council to not approve of the installation of street lights.

In December 1926, minute 1856 public lighting - applications to light Blackroot Road and College Road - both private streets - were received, and I find three lamps will be required in each road at a cost of £27. the applicants have been informed that the committee usually light, extinguish and maintain lamps erected by owners in private roads, if, therefore, you decide to do so in these cases i will communicate with all the frontagers to ascertain if they will pay the sum apportioned to them.

In February 1938⁹⁶, applications were submitted to the Council from Sutton electricity department to "install cables in Ladywood Road, Blackroot Road, Lichfield Road and Bracebridge Road".

A number of street lights were installed and lighted by the Council.

In November 1938⁹⁷, the Lighting Committee "agreed to light and maintain an additional lamp in Ladywood Road, the lamp to be supplied and erected at the cost of the Four Oaks Estate Trustees".

In 1971⁹⁸, the Council undertook a review of the arrangements for the maintenance of the street lighting on the Four Oaks Estate. Until 1971 the Council had "been responsible for the provision and

⁹³ 17/03/1905

⁹⁴ 19/10/1906

⁹⁵ [23/05/1910](#)

⁹⁶ 02/1938

⁹⁷ 11/1938

⁹⁸ [24/11/1971](#)

maintenance of the street lighting units". It was resolved that this responsibility would be transferred to the estate managers. The relevance of this document is that until 1971, the Council regularly patrolled the streets on the Four Oaks Estate, if any measures had been taken to prevent public use of the streets, such as gates, the Council would have been aware of them when making decisions relating to the streets on the estate under other statutory powers.

- g. Traffic on streets – The land owner (Four Oaks Estates and its predecessors) and the Council were**
- 1. Aware of the use of the streets by the public.**
 - 2. Aware that the use of the streets by the public was capable of causing wear to the surface of the streets (vehicular usage).**
 - 3. The volume of vehicular traffic was at such a level that it was sufficient to be causing wear to the surface of the streets.**

In 1922⁹⁹, Mr Jones had an accident whilst driving down Hartopp Road on a trench which had sunk. The Council repudiated the claim. It cannot be determined if the claimant made the claim against the Council because he had the view that the street was a HMPE or whether he had the view that the Council was liable for the reinstatement of the trench.

In March 1923¹⁰⁰, a deputation from the Four Oaks Lands Limited which represented the owners of property on the Four Oaks Estate attended the meeting and "submitted that the roads should be attended to by the corporation as they were large ratepayers and their roads have been damaged by traffic apart from traffic to their properties".

s.46(1) Road Traffic Act 1930¹⁰¹ gave the Council the power to restrict the use of roads.

"The Minister may, on the application of a council to which this section applies [...], by order prohibit or restrict [...], the driving of vehicles [...], on any specified road within the area of the council in which he is satisfied that any such vehicles cannot be used , or cannot without restriction be used, on that road without endangering the safety of the other persons using the road[...]".

"Road" was defined in s.121 as "any highway and any other road to which the public has access".

The definition of "road" within the Act, meant that an Order under this section could only be used on a street that was either formally a highway or where there was use of the street by the public.

No evidence has been identified of the owners of the streets giving permission to members of the public to use the streets.

In October 1937¹⁰², the Committee considered a Ministry of Transport Circular which request "highway authorities to undertake a review of halt signs and substitute "slow major road ahead"

⁹⁹ [22/09/1922](#)

¹⁰⁰ [23/03/1923](#)

¹⁰¹ [1930](#)

¹⁰² 10/1937

signs. The halt sign should generally be erected only where conditions are such that the driver of a vehicle approaching a major road from a minor road cannot have a reasonably clear view in both directions of the major road before he enters that road”.

In May 1941¹⁰³, “an application has been received for the erection of "Halt" signs in Wentworth Road at the junction with Bracebridge Road. These roads are on a private estate and the Ministry of transport stated that the application should come from the Local Authority. It was resolved that “the Four Oaks Estate Co. request that "Halt" signs be erected on their behalf and at their expense application be made to the Ministry of Transport for permission to place “Halt" signs in Wentworth Road on either side of the junction with Bracebridge Road”.

In October 1941¹⁰⁴, the Borough Surveyor informed that committee that “a halt sign has been erected at the junction of Wentworth Road and Bracebridge Road”.

In October 1947¹⁰⁵, it was resolved that “this committee acquiesce in the request of the Four Oaks Estate Co. to place Halt signs in Bracebridge Road on both sides of its junction with Ladywood Road, subject to it being clearly understood that by so doing the corporation shall not be deemed to have adopted the road and to all costs therefor being met by the Four Oaks Estate Company”.

The application and approval of restrictions at two junctions on the estate mean that possibly both the owners and the Council considered the streets to be highways or at least that both the owners and the Council were aware of the use of the streets by the public and that the use was sufficient for a restriction to be made.

In 1965¹⁰⁶ 397 four oaks estate - the town clerk reported that the four oaks estate residents' association had asked whether the council would make a contribution towards the cost of maintenance of the roads on the four oaks estate. It is alleged that additional wear and tear fall on these roads by people using them to gain access to the entrance gates of the park. Resolved that no action be taken at the present time. Alderman Mrs Grounds declared an interest in this matter

h. Sewering/water

Under the Waterworks Clauses Act 1847¹⁰⁷, s.28 gave the water undertakers the statutory power to lay drains and pipes in streets, however s.29 prohibited the laying of drains or pipes on land that was not dedicated to public use without the consent of the owners and occupiers. In addition, s.30 required the undertakers to give notice to persons in control or management of the street of their intention to break open the street.

¹⁰³ [05/05/1941](#)

¹⁰⁴ 10/1941

¹⁰⁵ [10/10/1947](#)

¹⁰⁶ 06/07/1965

¹⁰⁷ 1847

In the 1890s, there is a record of the Council being involved with the South Staffordshire Waterworks Company in installing water services to flush the sewers on Wentworth Road¹⁰⁸¹⁰⁹. In January 1935¹¹⁰, an “application from South Staffordshire Waterworks Company to lay 100 yds of 4" main in Ladywood Road. Application granted”.

In October 1937¹¹¹, the South Staffordshire Water Company submitted an application to “fix additional hydrant in Ladywood Road” and to fix a “4" sluice valve and hydrant in Hartopp Road & hydrant in Luttrell Road”.

i. Post box

There are three Royal Mail post boxes sited on the streets within the Four Oaks Estate. One on Hartopp Road, at its junction with Bracebridge Road and Luttrell Road, the second on Wentworth Road, at its junction with Lichfield Road and the third on Luttrell Road near its junction with Four Oaks Road.

In 1939¹¹² the GPO submitted an application to erect a “pillar style letter box on Four Oaks Road - Luttrell Road junction”.

It has not been possible to determine under what powers were used to install these pillar post boxes, it is possible that it was done under however what is clear from the 1939 application is that the GPO considered it necessary to obtain the consent of the Council for the installation of the pillar letter box, prior to it being installed. The application and subsequent consent is evidence that both the GPO and the Council considered that the Council had an interest in the street.

This is an area of inquiry requiring further investigation.

j. Two thirds requirement for adoption

On numerous occasions, private developers approached the Council to take over streets they had constructed but the Council declined to adopt the streets until at least two thirds of the frontages had been constructed. It is probable that this requirement had origins from the Private Street Works Act 1892, whereby two thirds of the frontagers could petition a Council for a street to be made up under the PSWA 1892. However, there also appears to be a second more practical reason for the Council’s position. During the construction of the houses, connections to utilities laid in the streets would be required and therefore the footways and carriageways would need to be opened and trenched to lay the infrastructure. In addition, the use of heavy construction traffic associated with the building of houses would damage the newly adopted streets¹¹³. The breaking up of the street in

¹⁰⁸ [23/12/1892](#)

¹⁰⁹ [17/02/1893](#)

¹¹⁰ 01/1935

¹¹¹ 10/1937

¹¹² [07/07/1939](#)

¹¹³ [12/06/1935](#)

front of the undeveloped plots when they are developed in the future to connect them to the mains was also a concern for the Council.

The five streets on the Four Oaks Estate had a total frontage of approximately:

Hartopp Road is approximately 1,440m in length (2,880m frontage)

Luttrell Road is approximately 720m in length (1,440m frontage)

Ladywood Road is approximately 900m in length (1,800m frontage)

Bracebridge Road is approximately 1,000m in length (2,000m frontage)

Wentworth Road is approximately 600m in length (1,200m frontage)

Total length of streets approximately: 4660m/5100yds or 2miles 1580yds providing a total frontage of 9320m/10200yds or 4miles 1400yds.

By the survey of the 1901¹¹⁴ Ordnance Survey map, approximately 4000yds of the 10200yds frontage had been built up, approximately 40% of the total.

By the survey of the 1913¹¹⁵ Ordnance Survey map, approximately 5600yds of the 10200yds frontage had been built up, approximately 55% of the total.

By the survey of the 1938¹¹⁶ Ordnance Survey map, approximately 8300yds of the 10200yds frontage had been built up, approximately 81% of the total.

In 1955¹¹⁷ it appears the Council's policy on the adoption of streets had changed from the minimum of 66% built up frontage to 75%.

k. Ownership and control of the streets

Typically, when an area of undeveloped land is repurposed for the purposes of residential development, the owner of the land or their developer would lay out the alignment of the new streets, construct all of the houses on the estate those completed houses would be sold for occupation and then complete the construction of the streets. However, the approach taken by the owner of the Four Oaks Estate (Marquis Clanrikarde) was to at first lay out and construct the new streets and then to sell plots of land individually to persons who would arrange to have their own house constructed to their own specification. The result of this approach seems to have been that

¹¹⁴ [1901](#)

¹¹⁵ [1913](#)

¹¹⁶ [1913](#)

¹¹⁷ [09/11/1955](#)

large part of the estate were left undeveloped for a considerable period of time and it wasn't until the second half of the 20th century that all of the land had been sold and developed.

On 18/03/1886¹¹⁸ a petition for the winding up of the Four Oaks Park Company Limited by the Chancery Division of the High Court was made.

An Indenture dated 5th July 1892¹¹⁹ between Most Honourable Hubert De Burgh Canning Marquis of Clanrikarde (Vendor) and Thomas Vincent Holbeche (Purchaser) for a plot of land which would become 4 Wentworth Road required the purchaser to "pay one moiety of the expense of maintaining and keeping in repair so much of the said new road called Wentworth Road after it shall have been constructed as abuts upon the land hereby conveyed until such road is taken over by the town council such expense to be apportioned between the purchaser and the vendor or other frontage owners on the said road by the borough surveyor in case of dispute". In addition "And the vendor hereby covenants with the purchaser that he the vendor will on or before the twenty fifth day of March 1893 at his own expense construct and complete in a proper and workmanlike manner the whole of the said new road called Wentworth Road as lies between Bracebridge Road on the west and the highway leading from Sutton Coldfield to Little Aston on the east and will at his own expense maintain or cause to be maintained the whole of the said road called Wentworth Road until it is taken over by the Town Council. And also will at the like expense sewer the said Wentworth Road as far as may be necessary to enable the purchaser to conveniently connect his drains with such sewer".

In order for the Council to take over a street, the street must first be a highway. This indenture shows either that it was the intention of the land owner (Marquis of Clanrikarde) for the streets to become highways repairable by the inhabitants at large or at least that it was not his intention for the streets not to become highways repairable by the inhabitants at large.

In May 1892¹²⁰ the Council became aware that "a portion of the old stable left standing in Four Oaks Park is inhabited by a family named Thornton, the Thorntons were still in occupation of the stables by the following meeting in June 1892. It is unlikely that the Thorntons were living there with the sanction of the owner (Marquis of Clanrikarde), this is evidence that there was not occupation of the land by the owner.

In the General District Rate Book from 1895¹²¹, there were 13 entries for houses on Hartopp Road, and 2 entries for houses on Wentworth Road. There was then 1 further entry for Four Oaks Hall and 1 for Four Oaks Hall cottage and 1 entry for the land attached to Four Oaks Hall, comprising 164 acres. The rate book did not have any entries for Ladywood Road, Luttrell Road or Bracebridge Road. Neither of these three streets were named in the book. This document confirms that by 1895, there were only 17 houses on the estate and the majority of the estate had not been altered. What cannot

¹¹⁸ [18/03/1886](#)

¹¹⁹ [05/07/1892](#)

¹²⁰ [20/05/1892](#)

¹²¹ 1895

be confirmed by this document is whether or not only Hartopp Road and Wentworth Road had been laid out by this point.

In 1947¹²², the secretary to the Four Oaks Estate Ltd from 1909 to 1946, Mr Bickley, wrote a history of the Four Oaks Park Estate. Mr Bickley was named several times in correspondence between the company and the Council. In 1898 following events by one landowner during the Royal Agricultural Show, the landowners decided to establish the Four Oaks Land Owners Protection Society. This society was one of the predecessors to the Four Oaks Estate Ltd. Unfortunately there is limited available information on what activity the society undertook, however from the account of the former Secretary to the Association, it appears that the control and maintenance of the streets on the estate was not one of them “the roads in the early stages were looked after by an elderly lady who went round with a basket weeding and sweeping and there was not much else to do except to keep the verges cut and trimmed”.

In 1902¹²³, the Council proposed the construction of a Tramway along Lichfield Road. The deposited maps, dated November 1902 included the junctions of Bracebridge Road and Wentworth Road with Lichfield Road. On the deposited maps, there was no indication at any of the junctions that there was any physical barrier preventing access onto the streets from Lichfield Road.

In February 1904¹²⁴, a Mr Barks complained of surface water from Four Oaks Road running down the old drive to the Hall and then into his new garden, this gives the impression that whilst Four Oaks Hall was demolished around 1898, large part of the site had been left unaltered. This is indicated on the Ordnance Survey maps from 1901¹²⁵.

In 1905¹²⁶ notice was given in the London Gazette for the dissolving and striking off of Four Oaks Park Limited. On 20/03/1906¹²⁷ notice was given that Four Oaks Park Company Limited had been dissolved and struck off under the Companies Act 1860 & 1900.

By October 1910¹²⁸, the Four Oaks Association had formally approached the Council for them to take over the streets “Surveyor to inform the Four Oaks Association that the Committee is prepared to take over the roads when properly made up and footpaths asphalted or the money deposited to cover cost of same. Surveyor met with Mr Bickley (secretary) and Mr Whitelock regarding Corporation undertaking maintenance of roads. Work would involve verge edging and cutting, scavenging, snow plough, watering, small repairs to carriageway and footways. Surveyor presented option of Corporation taking over the roads. Committee of Association would like to see costs.

¹²² [05/1947](#)

¹²³ [11/1902](#)

¹²⁴ 02/1904

¹²⁵ [1901](#)

¹²⁶ [28/11/1905](#)

¹²⁷ [20/03/1906](#)

¹²⁸ [21/10/1910](#)

Luttrell Road and portion of Ladywood Road included in costs although they mainly consist of building land. Total length nearly 3 miles. current costs of maintenance £150. Costs to make up under PSWA 1892 £8000". It is not clear under what authority the Association was acting under when it approached the Council, however as they did not acquire the freehold to the streets until after 1918, it is most likely that they were doing so in their capacity as frontagers as they would be the ones liable for the costs under Private Street Works Act 1892.

The application in 1910 by the Association for the Council to take over the streets shows at least that at 15 years after the streets were laid out, the frontagers did not object to the use of the streets by the public. In addition, it confirms that as the works involved in the proposed maintenance of the streets by the Council included watering, the streets were not surfaced with an impervious layer and were most likely made of broken stone.

In 1916¹²⁹, the Council entered into an Agreement with the London and North Western Railway Company, for the widening of Station Approach and Lichfield Road. The accompanying plan detailed the island and the junction of Lichfield Road with Wentworth Road. The plan dated 29th October 1915 was drawn to a level of detail that it included the entrance gates to the property on both corners of the junction of Wentworth Road and Lichfield Road. If there was a barrier at this junction across Wentworth Road, it would have been included in the plan, no barrier was depicted.

In his history of the Four Oaks Estate¹³⁰, Mr Bickley addressing the question of the Council taking over the streets on the estate, there is little extra evidence that is contained within it, apart from confirmation that on several occasions that the Company representing the owners of land adjacent to the streets requested for the Council to take over the streets on several occasions and that the reason why it was not progressed with was due to cost.

The 1947 history of the estate states that when the Marquis of Clanrikarde passed on in 1916¹³¹, the estate devolved upon the Viscount Lascelles, his nephew¹³². This included the freehold of the streets as well as any unsold building plots. Viscount Lascelles then intended to dispose of his interest in the estate at an unknown date following the First World War (1914 – 1918). In reaction to this, the individual owners on the estate formed a syndicate to acquire the freehold and was registered as the Four Oaks Land Ltd. The acquisition of the land "carried with it the burden of maintaining the roads etc, with the benefit of the covenants with the frontagers to pay their proportions according to their frontages".

The conveyance of land for 8 Ladywood Road dated 22nd September 1919¹³³ confirms that Viscount Lascelles had not sold his interest in the estate by that date.

¹²⁹ [02/02/1916](#)

¹³⁰ [05/1947](#)

¹³¹ [1916](#)

¹³² [05/1947](#)

¹³³ [22/09/1919](#)

In 1922¹³⁴, a dispute had arisen between the residents on the Four Oaks Estate regarding the maintenance of the streets. The title deeds required any dispute to be referred to the Borough Surveyor. The Council approved that the Borough Surveyor could act as arbitrator. This was not the first time that this had occurred.

On 14/09/1927¹³⁵ notice was given in the London Gazette for the incorporation of Four Oaks Estate Limited.

On 21/10/1927¹³⁶ notice was given in the London Gazette that Four Oaks Land Limited was voluntarily wound up.

In 1927¹³⁷ the Four Oaks Land Ltd conveyed the land forming the streets to the Four Oaks Estate Ltd. The sale required the purchaser to maintain the streets on the same terms as before. The second schedule list several previous conveyances from the vendor (Four Oaks Land Ltd), with the earliest date listed 16th May 1923, it is presumed therefore that at least by this date, Four Oaks Land Ltd had acquired the land from Viscount Lascelles.

The Association was comprised mainly (if not solely) by owners of land on the Four Oaks Estate. Mr Bickley, as secretary of the Association played a leading role in discussions with the Council, however it is also important to identify that at least two other owners on the estate would have been uniquely aware of the situation of the streets on the estate.

A Mr William Alfred Henry Clarry lived at Lea Hurst, 9 Bracebridge Road. He was employed as the Sutton Coldfield Council Borough Surveyor from 1898 until 1932 and had submitted an application to build Lea Hurst in 1899. Mr Clarry was recorded as living at Lea Hurst in publications of Kelly's Directory between 1904 and 1936. He died in 1938.

A Mr Tomas Vincent Holbeche lived in 4 Wentworth Road. He was employed as the Sutton Coldfield Council Town Clerk by 1886 until 1904 and had submitted an application to build a house and stable on Wentworth Road in 1892. Mr Holbeche was recorded as living at Wentworth Road in publications of Kelly's Directory between 1896 and 1904. He died in 1904.

Mr Clarry and Mr Holbeche were two of the most senior officers employed at the Council, Mr Clarry's position as Borough Surveyor made him the most senior highways officer at the Council and Mr Holbeche's position as Town Clerk made him the most senior Legal officer at the Council. As experts in their fields they would have had the knowledge of the law necessary to prevent public use of the streets and any subsequent dedication, if they had so desired. As owners of land on the Four Oaks Estate, both Mr Clarry and Mr Holbeche are likely to have been members of the Four Oaks Association, both paying for the upkeep of the streets and in the case of Mr Clarry, paid maintenance contribution to the Four Oaks Land Ltd and the Four Oaks Estate Ltd. There is no

¹³⁴ [22/09/1922](#)

¹³⁵ 14/09/1927

¹³⁶ 21/10/1927

¹³⁷ [01/11/1927](#)

evidence that the Association took any action to prevent use by the public.

Summary of evidence:

No documentary evidence has been located to support the view that the land owner objected to the use of the streets by the public or took any action to prevent access by the public.

There was use of the streets by the public.

The land owners were aware of the use of the streets by the public.

The Council exercised powers concerning control over the streets in relation to granting applications for installation of statutory undertakers' equipment.

On several occasions the streets notice was given to the owners of the streets that the Council intended to use powers limited to streets that were highways and the owners did not object to the use of these powers.

Decision: Based upon the available evidence, on the balance of probability it has been determined that the five streets Bracebridge Road, Hartopp Road, Ladywood Road, Luttrell Road and Wentworth Road are all purpose highways, including carriageway rights and in consequence of there being no formal adoption of the streets, they are highways not maintainable at the public expense.