

IN THE TECHNOLOGY AND CONSTRUCTION COURT

WELCOMES AND UPLANDS ROAD ASSOCIATION - Claimant  
And  
ARNOLD TARMAC LIMITED - Defendant

JOINT STATEMENT BY EXPERTS

Mr Andrew Munro – Claimant

Mr John Eiffert - Defendant

We have exchanged correspondence on the matter and reached agreement on a number of issues and facts. Mr Eiffert declined to meet, and preferred to communicate in writing. Mr Munro agreed to conduct the discussion on this basis.

The discussion was without prejudice, and neither of us was under instruction not to reach agreement on any issue. We have set out below the matters on which we are agreed, and the matters where we have not been able to reach agreement.

These facts and issues are agreed:

There is no visible indication that a binder material failure has occurred.
Chippings size 6.3/10mm were used
Binder was supplied by Colas. Colas advised of an appropriate spray rate for the time of year. There is no evidence of what rate Colas advised. There is conflicting information as to if binder was sprayed at 1.7 l/m <sup>2</sup> or if 0.2 l/m <sup>2</sup> was added on site by Arnold Tarmac for shade. Arnold Tarmac states 1.7 l/m <sup>2</sup> as their standard practice for 6.3/10mm chippings and 1.6 l/m <sup>2</sup> as standard practice.
The work was carried out in the last 2 weeks of September, outside the recommended period in Road Note 39 for 6.3/10mm stone.
The work was immediately followed by heavy rain and cold weather.
Heavy rain and cold weather immediately after laying prevented chipping embedment to a sufficient degree to prevent plucking out by tyres
Surface dressing needs a period of "running in" after being laid to fully embed the stone
Welcomes Road lacks (except in some locations) a specific drainage system in the form of gullies and channels.

These facts and issues are not agreed between us:

Issue/Fact	Reasons
There should be a gully for every 200 m <sup>2</sup> of Welcomes Road. Agreed as a rule of thumb, but many rural minor roads similar to Welcomes Road lack gullies. Actual spacing may be more or less when designed.	Mr Munro does not believe Welcomes Road to be any different to many miles of rural minor road without gullies surface dressed every year by local authorities.

	Mr Eiffert considers that as Welcomes Road is on a very steep incline lack of drainage is an important factor.
Lack of drainage was the sole and only cause of failure.	The question would be to what extent a gully drainage system, if one had existed, would have prevented failure. Given the temperatures and late season work Mr Munro does not believe it would. He does not disagree that heavy rain was a factor, but does not believe that gully drainage would have made a significant difference to the outcome. Mr Eiffert considers that the gradient of Welcomes Road made drainage essential and notes that 2012 was a very wet Autumn/Winter.

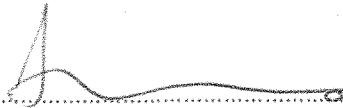
This is agreed as a joint statement by:

Mr John Eiffert for the defendant:

Signed J Eiffert

Date 13 - 6 2015

Mr Andrew Munro for the claimant:

Signed 

Date 12 June 2015