

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 11 January 2017 15:59  
**To:** [REDACTED]  
**Subject:** Droppingwell Road (2)  
**Attachments:** 11.jpg; 2017 01 11 Letter from RMBC to MHH.doc; IMG3067.JPG; IMG3123.JPG; IMG3124.JPG; IMG3126.JPG; Key to photographs of 16 December 2016.pdf

Without prejudice except as to costs

[REDACTED]

Please find attached reply.

Kind regards,

[REDACTED]

[REDACTED] Legal Services, Rotherham Metropolitan Borough

Council.

**Address:** Riverside House, Main Street, Rotherham, S60 1AE. [REDACTED]. **Email:**

[REDACTED]@rotherham.gov.uk **Website:** [www.rotherham.gov.uk](http://www.rotherham.gov.uk)

Before printing, think about the environment.

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**From:** [REDACTED] mhhcontracting.co.uk]

**Sent:** 09 January 2017 10:00

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** RE: Droppingwell Road

**Importance:** High

Dear [REDACTED]

Further to my email of 30 November 2016 below please find attached our letter of today's date. I would highlight the deadline given in the attached letter of 4.00 pm Wednesday 11 Jan 17.

Kind regards

[REDACTED]

In House Solicitor  
MHH Contracting Ltd



Registered Office: 18 Stalker Walk, Sheffield, S11 8NF  
Site Address: 559 Carlisle Street East, Sheffield, S4 8DT  
t: 01142 213795 f: 01142 213805 m: [REDACTED]  
e: [REDACTED]@mhhcontracting.co.uk  
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From: [REDACTED]@mhhcontracting.co.uk]

Sent: 30 November 2016 16:45

To: [REDACTED]@rotherham.gov.uk>

Cc: [REDACTED]@rotherham.gov.uk>; [REDACTED]@mhhcontracting.co.uk>;

[REDACTED]@mhhcontracting.co.uk>; [REDACTED]@rotherham.gov.uk>

Subject: RE: Droppingwell Road

Dear [REDACTED],

**Alleged Trespass on Rotherham Metropolitan Borough Council ("Council") owned Land off Droppingwell Road, Thorpe Hesley, Rotherham to Access the site known as Watson's Tip (the "Site")**

I write further to our telephone conversation yesterday.

As you are aware, we are presently waiting for the Council to respond substantively to our letter dated 20 Oct 2016. That letter set out in detail our position as to why a right of way exists along the access road from Droppingwell Road to the Site (the "Accessway"). That letter was written in response to the Council's letter dated 10 Oct 2016 which was stated to have been written on behalf of the Council's Strategic Director for Regeneration & Environment, Mr Wilson. In that letter it was alleged that MHH Contracting Limited, its employees and/or contractors had caused criminal damage and it was stated that the Council's position was that MHH Contracting Limited, its employees and/or contractors had no right of way over the Accessway and that if they continued to use the Accessway then the Council would have no alternative but to consider issuing proceedings for an injunction to prohibit any further alleged trespass. Those threats were regarded with the seriousness that they were no doubt intended.

As made clear in our letter of 20 Oct 2016, the Council's position (as set out in its letter of 10 Oct) was untenable and the Council were requested to confirm that a right of way did exist as stated in our letter. Given the seriousness of the legal proceedings that were threatened it was only reasonable to request that the Council confirm its position within a relatively short period. Initially, that confirmation was sought from the Council by 27 Oct 2016. It was agreed, following our conversation on 27 Oct 2016, to extend the period for the Council to provide its confirmation

to close of business on 4 Nov 2016. On 4 Nov 2016, we were advised that the papers had been sent to your counsel (on 2 Nov 2016) and that your counsel's clerk had stated that she would confirm shortly when it was expected that counsel would be able to settle his advice. On 8 Nov 2016 I emailed you to seek confirmation as to the position. Having heard nothing from you, I email you again on 11 Nov 2016. In that email I stated that it was not acceptable to us that the matter be allowed to drift towards the end of the licence period without there being a resolution.

On 11 Nov 2016 you emailed me to advise that you and [REDACTED] had arranged a meeting with Mr Wilson to take place on the afternoon of 14 Nov 2016 and that following which, you hoped that "you would be able to state a clear approach to get this matter resolved". I am afraid that this has not happened.

On 18 Nov 2016, having heard nothing from you, I emailed you to advise that the Council had been in receipt of our letter of 20 Oct 2016 for some four weeks and that we expected to hear substantively from the Council by 4pm on 21 Nov 2016.

I telephoned you on 22 Nov 2016, having heard nothing from you following my email of 18 Nov 2016. You advised me that Mr Wilson, yourself, [REDACTED] and [REDACTED] were due to attend a meeting with local councillors on 24 Nov 2016. You did also advise me that the matter was not going to be resolved at your end by the end of that week and that a further meeting with ward and area assembly members had been scheduled to take place on 6 Dec 2016. You also advised me that the Council had received its counsel's advice and that this had been provided to the councillors.

It was not clear to me why the Council could not set out its position prior to the meeting on 6 Dec and it was therefore reasonable for us to assume that the Council's position in respect of our letter of 20 Oct 2016 would be confirmed sometime during the course of this week. It was rather "out of blue" therefore that I received a telephone call from [REDACTED] yesterday in which she confirmed that she had been asked by Mr Wilson to invite a representative of MHH Contracting Limited to a public meeting to take place on 8 Dec 2016 at Winterhill School at 6 - 8 pm. I did make enquires of [REDACTED] as to what the proposed meeting was for, who would be in attendance and why we had been invited. However, all that [REDACTED] was able to say was that she had been asked to invite us to the meeting.

When we spoke last night, you were unable to provide any confirmation as to what the intention was in respect of the meeting on 8 Dec 2016 or how this impacted upon the Council being in a position to respond to our letter of 20 Oct 2016. I did suggest to you that it very much sounded like Mr Wilson was inviting us to attend a meeting to allow members of the public to raise questions as regards the re-opening of the Site.

I reminded you that when [REDACTED] and I met with Mr Wilson and [REDACTED] on 11 Aug 2016 it was agreed that the Council, the EA and Grange Landfill Limited would work together to produce a fact sheet of information (the "Fact Sheet") that could be distributed to local residents and businesses to inform them of, amongst other things, how the Site would operate, what hours it would operate and how many vehicles would be accessing the Accessway. It was agreed that the first draft of the Fact Sheet would be produced by the Council and that this would then be completed by MHH/Grange Landfill Limited prior to circulation by the Council to all stakeholders.

When we spoke yesterday, you indicated that you believed that the Fact Sheet may not have been produced as there was some confusion surrounding it. As I explained, the emails and telephone calls that followed the meeting on 11 Aug 2016 made it very clear that there was no confusion at all and that we were simply waiting for the Council and Mr Wilson to produce the first draft of the Fact Sheet. You will note from the letter of 20 Oct 2016 that I set out in detail what was agreed at the meeting and that on 15 Aug 2016 I telephoned [REDACTED] to enquire as to when the first draft of the Fact Sheet could be expected. I was advised that [REDACTED] was to work on the Fact Sheet that week and then provide a first draft the following week when Mr Wilson had been able to consider the draft. A further similar telephone call took place on 15 Sept 2016, when [REDACTED] advised that there had been a delay in producing the Fact Sheet as the EA were reluctant to be involved in the production of the same. However, the Fact Sheet was still to be produced and I advised that I looked forward to receiving the same. On 7 Oct 2016, having heard nothing further from the Council in relation to the Fact Sheet, I emailed

██████████ copying in Mr Wilson, to say that we still presumed that it was intended that the Fact Sheet was going to be prepared and that I looked forward to receiving the first draft as soon as possible.

The first written communication that we received from the Council following the meeting on 11 Aug 16 was the Council's letter dated 10 Oct 2016.

We are clearly therefore not in a position to be able to fully consider whether it is appropriate or not to accept the invitation that was received yesterday from ██████████ until:

1. We are in receipt of the Council's substantive response to our letter of 20 Oct 2016 and the Council has confirmed that a right of way exists over the Accessway as described in our letter of 20 Oct 2016;
2. It has been confirmed in writing:
  - a. What is the agenda for the meeting on 8 Dec 2016?;
  - b. Who the Council intends to be present at the meeting on 8 Dec 2016?;
  - c. What role, if any, the Council envisages will be played by any representative of this company that does attend?; and,
  - d. Why the Council believes it is necessary for a representative of this company to attend?

For reasons that you will appreciate, it is not clear at this stage why it is necessary or reasonable to expect a representative of this company to attend the meeting on 8 Dec 2016. That being said, it is recognised that the local residents will not be fully aware of the history of the matter and what was agreed with the Council on 11 Aug 2016. No doubt the Council will not be publicising to the local residents that it was originally agreed that the Fact Sheet would be produced and that the reason why this did not materialise fully rests with the Council and the way in which the Council determined it best to proceed, without any prior consultation with ourselves.

I look forward to hearing from you by 4 pm on 2 Dec 2016.

Regards

██████████  
In House Solicitor  
MHH Contracting Ltd



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**From:** [REDACTED]@rotherham.gov.uk  
**Sent:** 23 November 2016 10:20  
**To:** [REDACTED]@mhhcontracting.co.uk>  
**Cc:** [REDACTED]@rotherham.gov.uk>  
**Subject:** RE: Droppingwell Road

Dear [REDACTED]

I will leave [REDACTED] to respond on the bulk of your letter but will deal with the licence myself. As I'm out of the office, are you able to let me have a version of the licence showing the changes you have made since the previous version, either by hand or in track or deltaview or something similar? I will then turn it around asap.

Kind regards

[REDACTED]  
**Solicitor**  
**Legal Services**  
**Finance and Customer Services**  
**Rotherham Metropolitan Borough Council**

[REDACTED]  
**Email:** [REDACTED]@rotherham.gov.uk  
**Visit our website:** <http://www.rotherham.gov.uk>

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**From:** [REDACTED]@mhhcontracting.co.uk]  
**Sent:** 23 November 2016 09:24  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Droppingwell Road

Dear [REDACTED]

I write further to our conversation yesterday.

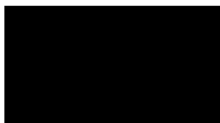
I look forward to hearing further from you following the meeting that you mentioned this Thursday with the local councillors. It is hoped that we will hear further from you with the Council's definitive position shortly after this meeting.

In the meantime, and without prejudice to the above, I attach a further licence. I have not yet obtained instructions on this and therefore all our rights are fully reserved as regards the claim that we have to pursue the declaratory relief as referred to in our letter of 20 Oct 16. I must also reserve all our rights and remedies against the Council as regards the loss and damage that was suffered (and continues to be suffered) as a result of the Council's actions on 10, 11 and 12 Oct 16.

The only alterations made to the further licence are at clauses 1.4, 5.1 and 6.1. Save for these small changes the licence is as agreed previously. I would propose to use the same plan.

I look forward to hearing from you.

Regards



In House Solicitor  
MHH Contracting Ltd



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