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[REDACTED]
MHH Contracting Limited
Carlisle Street East
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S4 8DT

By email ([REDACTED]@mhhcontracting.co.uk)

My Ref: [REDACTED] 057300

Your Ref: [REDACTED]

Direct Line: [REDACTED]

Contact: [REDACTED]

Date: 11 January 2017

Without prejudice except as to costs.

Dear [REDACTED]

Land off Droppingwell Road, Rotherham (Watson's tip site)

Thank you for your letter of 20 October 2016 (addressed to [REDACTED] and Mr Dermot Pearson) and subsequent emails, in particular your email to me of 30 November 2016 16:45, and for your letter of 9 January 2017.

As the licence we agreed on 25 November 2016 (extended from the first that began on 13 October 2016) is due to expire on 14 January 2017, I feel that now is a good opportunity for us to seek to resolve as many issues as possible regarding the Grange Park (Watson's Tip) site.

Rather than replying to your letters paragraph by paragraph and point by point I feel it would be more helpful in finding a resolution for me to respond more broadly to the issues with specific detail about a possible way forward.

Access

Regarding the access road from Droppingwell Road to the Site (the "Accessway"), Rotherham MBC does not believe that it has committed legally actionable wrongdoing in its actions of 10-11 October 2016 and trusts that MHH Contracting Ltd (MHH) will choose not to issue court proceedings. Conversely, in the interests of seeking a resolution Rotherham MBC is prepared to forgo issuing court proceedings against MHH for making access to the site around that time.

Fact sheet

As you indicate, Rotherham and MHH met together on 11 August 2016 to discuss proposals for the site. Damien Wilson's recollection of the meeting is that it was of the nature of an initial fact-finding and discussion meeting covering the impact of the landfill site if (rather than when) it was re-opened. Details of the proposed operation such as likely numbers, frequency and times of lorry movements were not available and so, in Mr Wilson's recollection, this did not give him reassurance regarding these matters. Mr Wilson's recollection of the fact sheet was as something that could establish a baseline of information at this preliminary stage. I am sorry that MHH's understanding of the meeting differs. If you still feel that a fact sheet would be helpful then please forward us the information that you would wish to be included in it.

Public meeting of 8 December 2016

As this meeting has now happened then I presume that questions about it such as "What role, if any, the Council envisages will be played by any representative of this company that does attend?" no longer apply and hope that others are not of importance in finding a resolution of the issues regarding the site.

Proposed settlement options

At the moment the documents that MHH relies on in claiming a right of way to the site from Droppingwell Road are not recorded on the title register of the land. Apart from any other issues there might be, this creates room for argument. Further uncertainty could be avoided by the respective landowners (Rotherham MBC and MHH) entering into a formal deed of easement over the accessway (perhaps by the deed of release and a grant of easement).

In exchange for providing MHH with the assurance that would be given by documents becoming part of the legal title and being recorded on the title register as such, Rotherham MBC would want some reciprocal concessions from MHH, specifically: MHH giving up any vehicular right of way to the north-east corner of the site from Upper Wortley Road, prescribing hours of operation in line with the hours of operation set out in paragraph 2.4 of the *Working Plan for the Phased Restoration of 'Watsons Tip'* Hague Plant Excavations Ltd (the old name of MHH Contracting Ltd) of 17 January 1994 and the Waste Disposal Licence schedules of conditions with effect from 28 February 1994, i.e. 7am-6.30pm Monday-Friday, Saturday 7am-4.30pm, and reasonable limits on the volume of traffic during those times.

Re-routing of the Accessway to put greater distance between the access route and Millmoor Juniors Football Club is something that could also be agreed to the mutual benefit of both Rotherham MBC and MHH. This could also have the effect of reducing danger to people from vehicles making access to (and egress from) the land, through discussions about the system of work and a safe system of segregation of vehicles from pedestrians would be preferable.

Focusing on settlement options would, I feel, be a more constructive use of time, effort and money than arguing in court about proprietary estoppel and the doctrine of lost modern grant, etc., with all the risks that would entail on both sides.

Ruts from tyres on Rotherham MBC's land

There is another matter I feel I have to raise now. It is apparent that heavy vehicles, presumably of or on behalf of MHH, have been making access along the eastern perimeter of Watson's tip to the south of the accessway. As might be expected in winter, the surface of the land has been churned up and left greatly rutted from tyres. I enclose six documents that show the problem as at 10 October 2016 (beforehand, for comparison) as at (I believe) 9 December 2016 and as at 16 December 2016. This damage is visible, impedes pedestrian access (dog walkers, etc.), and needs to be addressed. Rotherham MBC, which owns the land, has not given permission for vehicles to make access by this route. It also appears that a borehole has been drilled on land owned by Rotherham MBC in this area. Will MHH undertake to stop accessing the site via that route or working on Rotherham MBC land and undertake remedy the land and re-seed the grass?

Yours sincerely,

[REDACTED] solicitor

[REDACTED] Rotherham MBC