



Your Ref: 200116-MHH
Our Ref : GLL/Watson's Tip

Mr Tom Smith
Assistant Director for Community Safety and Street Scene
Regeneration & Environment Office
Rotherham Metropolitan Borough Council
Regeneration & Environment
Riverside House
Main Street
Rotherham
S60 1AE

3 February 2020

Dear Mr Smith,

Grange Landfill Limited's site, Droppingwell Road, Rotherham ("Watson's Tip")

We refer to your letter dated 16 January 2020.

Vehicular access across the land owned by the Council

Your comments in relation to the, "turning circle" area that you refer to and, it is presumed, the track that leads up the side of phase 1 of Watson's Tip, (situated between the site occupied by Millmoor Juniors football club ("Millmoor") and the eastern boundary of phase 1 of Watson's Tip), are noted.

Whilst it is accepted that there may be no, formal "agreement", for the use of this area, it is understood that the land owner (MHH Contracting Limited ("MHH")) is reviewing the position as it is believed that it may have acquired a right of way by prescription to traverse this area with vehicles through long user by the right being exercised over a period of more than 20 years without interruption. As you are no doubt aware, the site has operated as a tip with planning permission since 1958 and, in more recent years (since phase 1 of Watson's Tip was completed), the turning circle and the track referred to above have been accessed by the land owner on a regular basis to carry out maintenance to the site and to access the south eastern corner of phase 1 of Watson's Tip. Obviously, this is a matter for the land owner, not Grange Landfill Limited ("GLL"), and we would suggest that now that you are, "on notice" of such a claim, that you direct your proposal to the land owner so that this can be considered further prior to physical barriers being installed. It is anticipated that MHH will



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also be able to provide substantive evidence from Swift & Co, who acted as the agents for the previous owners of the site.

Vehicle movements on the Access Road from Droppingwell Road to Watsons' Tip ("the Accessway")

It is noted that you have asked that we set out in writing what, "measures", we might put in place to ensure that pedestrians are protected during operational hours and any potential operational restrictions that we would consider to ensure that any risks present by the movement of vehicles are minimised.

With respect, this is a matter that we (and MHH) have tried to address with senior officers of the Council for a number of years. It is presumed that you are not aware of the history of this issue. We therefore enclose a copy of our letter dated 14 December 2017, which addressed in detail the very issues that you now raise, and clearly shows the discussions that we had been trying to advance with the Council at that time.

In summary, you will note:

1. Both this company, and MHH, have always attempted to work with and be open with the Council and its officers in an attempt to foster a healthy working relationship. These attempts were stymied and frustrated somewhat by the Council and the conduct of Damien Wilson, RMBC's then Strategic Director.
2. [REDACTED] and [REDACTED] the in-house solicitor of MHH, met with Mr Wilson on 11 August 2016 at the Council's offices at Riverside House ("the First Meeting"). Also in attendance at the First Meeting was the Council's [REDACTED] and [REDACTED] of the Environment Agency (the "EA").
3. It was agreed at the First Meeting that the Council, the EA and GLL 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, how many vehicles would be accessing the Accessway and the measures that would be put in place to ensure the safety of residents. 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/GLL prior to circulation by the Council to all stakeholders.
4. On 15 August 2016, [REDACTED] telephoned the Council's [REDACTED] to enquire as to when the first draft of the Fact Sheet could be expected. [REDACTED] was informed that [REDACTED] was to work on the Fact Sheet that week and then provide a first draft the following week when you had been able to consider the draft. At that stage, [REDACTED] explained that she had not been able to discuss the contents of the Fact Sheet further with you following the First Meeting.
5. On 15 September 2016, [REDACTED] again called [REDACTED] to ask whether the Council were now in a position to provide a first draft of the Fact Sheet. [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 the writer advised that he looked forward to receiving the same.
6. On 7 October 2016, having heard nothing further from the Council in relation to the Fact Sheet, [REDACTED] emailed [REDACTED] copying in Mr Wilson. That email asked if [REDACTED] could update the writer on where the Council were at with the fact sheet that



was agreed to be produced for the local residents and businesses. The email stated that, *"We are presuming that it is still intended that a fact sheet is going to be prepared and we look forward to receiving the first draft as soon as possible. We are very conscious that there has been a significant amount of misleading information generated by local media recently and it is hoped that the fact sheet will go some way to giving the local residents and businesses an accurate description of how the landfill will operate when open"*

7. Neither [REDACTED] nor Mr Wilson responded to that email.
8. The only written communication that was received from the Council following the First Meeting was a letter dated 10 October 2016 in which it was alleged that the Accessway passed over Council owned land and that MHH, employees and/or contractors did not have any right of way over the Accessway, and that in the event that the use of the Accessway did not cease, then the Council would consider issuing proceedings for an injunction in order to prohibit any further alleged trespass and claim damages in trespass. The said letter was also dated the same day that the Council sought fit to change the lock on the gates on the Accessway so as to prevent MHH, its employees, agents and contractors from accessing the Site via the Accessway as they had done for many years.
9. It appeared that the Council had no intention (or if it did as at 11 August 2016 that intention subsequently changed) of producing the Fact Sheet in conjunction with MHH, GLL and the EA. Instead, the Council sought to threaten MHH with serious and expensive litigation and to unilaterally prevent egress along the Accessway on 10, 11 and 12 October 2016.
10. As you may be aware, it was agreed that a further meeting would take place between representatives of MHH/GLL and the Council (the "Second Meeting"). There was a significant delay on the part of the Council in the Second Meeting being arranged. The Second Meeting eventually took place on 12 June 2017, but we were advised that Mr Wilson was unable to attend.
11. Several potential operational constraints were discussed at the Second Meeting. It was left that [REDACTED] (Council solicitor) needed to revert to Mr Wilson to consider with him the matters discussed so that he could then set out in writing the matters that were discussed and agreed in principle. This did not happen. We are aware that on 8 August 2017 [REDACTED] had cause to email [REDACTED] (Council solicitor). In that email [REDACTED] stated, *"We have not heard further from you following our meeting on 12 June 17. Is there still a desire on the part of RMBC to see if we can agree some of the operational issues that we discussed on 12 June? Unless we hear further from you on this matter by close on Friday 11 Aug we will presume not and I will refrain from chasing you on this point"*.
12. [REDACTED] replied this comment by email dated 8 August 2017 to state that, *"There is still a desire on the part of RMBC to see if we can agree some of the operational issues that we discussed on 12 June 2017"*.
13. Despite such an assurance, nothing further was heard from the Council and so this matter was raised again by [REDACTED] in his email to [REDACTED] on 24 August 2017 when it was stated, *"Whilst emailing, we have still not heard further from you or [REDACTED] substantively following our meeting at your offices on 10 June. [REDACTED] did comment in his previous email that you remain keen to see if we can agree some operational matters. As you will appreciate and as I have alluded to in my recent emails, at some point in the near future the tip will be operational and therefore the opportunity to agree these issues prior to that period will have been lost."* This issue was not addressed further by the Council's representatives following this email.



As you are aware, a concerted campaign has been carried out by local residents under the guise of a local action group headed by [REDACTED] (the "Group"). The Group and its members have relentlessly lobbied neighbours, councillors, officers of the EA, the Health and Safety Executive ("HSE"), the local MP, and various news media organisations. It is also clear that many of the issues raised by the Group and its members are unfounded and not based on any proper foundation or regard for the facts. It can only be presumed that you have received the complaints that you refer to from members of the Group, as we are aware that one of the issues raised by the Group relates to the use of the Accessway.

It is presumed that that whilst such issues are being raised with you by the Group, the Group have not been made aware of the attempts that this company and MHH have gone to in order to try to agree certain operational measures with the Council, which included in 2016, considering whether a further access could be created in order to bypass that part of the Accessway that is also used by Millmoor and its visitors. We (and MHH) have, as was made clear that the Second Meeting, always been open to considering any alternative suggestions that the Council may wish us to consider.

You will therefore appreciate that it is somewhat galling to read in your above letter that, some three and a half years after attempts were first made with the Council to address such matter, that the Council writes to say that it, *"is aware of its responsibilities to enable access you (sic) and your contractors to the site, but we must seek to balance this with our duty of care to other users of our land and to ensure this access does not prevent a risk to residents"*.

You should be aware that the use of the Accessway was considered by the HSE in November 2019 following, it is believed, a complaint from a member(s) of the Group. This issue was considered and addressed. The HSE were advised that when the Accessway had been used, we had ensured that no vehicular movements had taken place when Millmoor had been, "in operation", and that in any event, when any vehicle passed Millmoor and their site, we always ensured that they were travelling in a forward direction in crawler gear and travelling at less than 10mph. The HSE were satisfied with the position and their investigation was closed.

Given the level of animosity that certain members of the Group have shown towards the operations at the site, it is not unreasonable for us to conclude that any further measures will not satisfy all of those involved. That being said, and in spite of conclusions of the HSE, we remain, as we have always been since 2016, in conjunction with MHH, open to discussing with you any reasonable measures that you might consider appropriate in order to further ensure the safety of all users of the Accessway.

Should you wish to meet to consider this further as you suggest, please provide three alternative dates and times for such a meeting to take place.

We look forward to hearing from you.

Yours faithfully,

Grange Landfill Limited

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Enc: Letter 4 December 2017



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