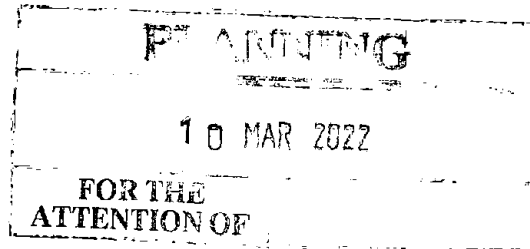


PlanningOffice
Ribble Valley Borough Council
Church Walk
Clitheroe
BB7 2RA

9th March 2022
Recorded & Email
c.c. LCC Highways
enc.



Dear Sir or Madam,

**Re: Shackleton's Garden Centre Ltd.
Planning Application 3/2020/0911 Amended Drainage Statement**

We wish to object to the above Amended Drainage Statement.

Our premises [REDACTED] and we already have serious problems with water running into our yard. It is evident that the local drainage system is grossly overloaded and cannot cope with the volume of water created by the repeated development of Shackleton's Garden Centre. Looking through our records we wrote to the Planning Office three times in 2005, once in 2007, once in 2008 and more recently in 2021, all in relation to various planning applications and the problem with drainage.

In 9th October 2007, the Highways Dept and Lancashire County Council issued us with a notice and took us to court over the same "drain." After 15 months of investigations and legal wrangling LCC withdrew their case and paid our costs. I enclose a copy of the LCC letter from our extensive records withdrawing their action and stating that an alternative solution would be looked into, something which, to my knowledge, has never been done. I also enclose a copy of a letter sent by email which outlines our case and resulted, after further investigations and drilling by LCC, in the case being withdrawn. We note that the latest Shackleton planning amendment proposes that surface water from their site is being directed to the same "drain", which was the subject of the court case. You may remember that the failure to provide proper drainage caused the subsidence and closure of Clitheroe Road in 2007.

We have had no notice of the intention to direct water through [REDACTED] and obviously strongly object as it has already been accepted that the drain being used has never been anything but a soak-away. The drainage application relies on an "assumed route based on historic arrangement" but investigations by yourselves and old maps including those of the old railway sidings make no reference to any sough or drain. The site of Shackleton's Garden Centre was until fairly recently a field with a couple of greenhouses on it so, why would that need a substantial drain?

We therefore wish to object in the strongest terms to the proposal to direct water off the Shackleton's site and [REDACTED] via an unsubstantiated and unproven route, which will undoubtedly lead to the flooding, not only to [REDACTED], but to the other businesses on the trading estate.

The proposal which flies in the face of all the facts is based on pure assumptions and should not be passed.

Yours faithfully,

[REDACTED]

[REDACTED]

tel

fax

e-mail

Messrs Haworth and Nuttall
Solicitors

DX 17954 BLACKBURN 1

Your ref CRJB/JG

Our ref

Date: 27th March 2008

Dear Sirs

**RE APPEAL AGAINST LAND DRAINAGE ACT NOTICE
RECENT WITHOUT PREJUDICE INVESTIGATIONS
CASE MANAGEMENT HEARING 2nd APRIL 2008**

As you know recent work has been carried out to try to find a solution to the drainage problems in the location of your client's premises.

Unfortunately I am informed that a soak away is not a viable option in that location and that further investigations will be needed to seek any alternative solutions. I trust that your clients will be as able to co-operate with any such future investigations as they have done with the recent work.

The County Council prefer to allocate funding in trying to resolve the drainage problems for the highway as in reality the solution is a practical one in this matter and accepts that the solution does not lie in continuing with opposing your appeal in the courts and notes the possible financial burden on your clients.

I therefore propose to withdraw the Land Drainage Act Notice served on your clients and agree to the dismissal, by consent, of your complaint. The County Council agree to pay your costs reasonably incurred in this matter to be assessed if not agreed and would be pleased if you could let me have a note of them as soon as possible.

I would be grateful if you could respond by return so that parties can write to the court early next week to inform the court and dispense with the proceedings by way of agreement without attendance at court next week.

I look forward to hearing from you.

Yours faithfully

From: [REDACTED]
Sent: 03 January 2008 10:12
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED]

Haworth & Nuttall

SOLICITORS

1A Strawberry Bank

Blackburn, BB2 6AS

Tel: 01254 272640

Fax: 01254 272641

DX 17954 BLACKBURN 1

Email: admin@hn-commercial.co.uk

Direct E-mail (not to be used for *service*)

roger.bury@hn-commercial.co.uk

<<http://www.haworth-nuttall.co.uk/>>

Your Ref: [REDACTED]

Our Ref: [REDACTED]

Date: 3rd January 2008

Dear [REDACTED]

Please see attached letter.

Yours sincerely,

[REDACTED]

This e-mail is private and confidential between the sender and the addressee. In the event of misdirection the recipient is prohibited from using, copying or disseminating it or any information contained in it. Please notify this firm of any such misdirection and delete the message from your system immediately.

A list of partners is available for inspection [REDACTED]

Lancashire County Council
County Secretary and Solicitor Group
DX 710928
PRESTON COUNTY HALL

LSG4/SG/5.25254

[REDACTED]
03 January 2008

Dear Sirs

Re: Land Drainage Act 1991
Our clients: [REDACTED]

We refer to our previous correspondence and our site meeting on the 21st of November last.

We understand that our Summons was adjourned from its initial hearing date and is now due to be heard on the 9th of January at 1.45 p.m.

We have not heard from you since our meeting and need to ascertain from you the Local Authority's view so that we may advise our clients how to proceed on the adjourned hearing.

You will appreciate that there are a number of other "interested parties" who have necessarily been joined, by us, into the proceedings and they similarly need to know what stance they should adopt with regard to the forthcoming hearing.

The commencement of our involvement in this matter - and the first formal notification of an issue - arose from your letters of the 19th of September to ourselves and our client.

That letter was headed "Drainage of land near and crossed by Chatburn Road" it also referred to "The Land Drainage problem [which] involves a blocked drain on your client's land at [grid reference etc]".

That letter proceeded on the bases that:

- a) there is an ordinary water course;
- b) that the "proper flow of water (through that water course) is impeded"; and
- c) that the water course was impeded on land owned or occupied by our client.

Nothing that was said (albeit on a without prejudice basis) at our site meeting persuaded either our clients or ourselves as to the accuracy of any of the above three contentions.

Without attempting to be too partisan we venture the views that our joint inspection disclosed:-

- a) there is no surface indication of there being a water course under our client's land;
- b) there is a brick shaft and chamber on the southerly side of Chatburn Road set into the pavement adjacent to part of Shackleton's Nursery. It was between 9 and 12 feet deep in which there were about 12 or 18 inches of water at the time of inspection. Water was flowing into the chamber at a reasonable rate and was presumably exiting as the chamber was substantially empty;
- c) a manhole adjoining [REDACTED] yard was also lifted and although not as deep as the chamber referred to above, there was a brick shaft with, at the very bottom, some static water/liquid and there was no obvious signs of water ingress into the chamber or of water/fluid movement.

Our clients concede that excavation work some time ago in their yard revealed some stone work that may (once) have been the end of a culvert. That culvert did not, however, drain into any "ordinary water course" and, insofar as water did exit from it then it simply "soaked away" in the adjacent part of our client's yard.

It will not therefore surprise you that our clients do not believe they have any liability for the "land drainage problem" which you allege exists and, indeed, they make no admissions that such a "problem" has been identified or proven. Their detailed grounds of complaint are set out in the Schedule to the Summons which will have to be considered by the Magistrates in the event of agreement otherwise.

So that our clients may know precisely what the Local Authority contends we would be grateful if you would confirm to us:-

- a) What (in precise terms) is the "land drainage problem" to which your correspondence refers?
- b) Where (precisely) is the (blocked) drain referred to in the Statutory Notice served by you pursuant to Section 25 of the Land Drainage Act (please mark on a suitably scaled plan and return)?
- c) What is the condition of the drain which justifies the description (in your Statutory Notice) that the "proper flow of water is impeded" (ie, please say precisely what is alleged about the condition of the drain; what is the County

Council's view as to what constitutes a "proper flow of water" and to what extent is that flow said to be impeded).

In the time since our site meeting we have conducted further research into the Title to the area to attempt to ascertain whether any further assistance can be derived from Deed plans etc. In that regard:-

1. The entirety of the area of land between the Chatburn/Clitheroe Road and the railway was acquired by [REDACTED] in October 1967 from the British Railways Board.
2. The [REDACTED] sold off, from time to time, various of the parcels of land now occupied within the industrial estate.
3. On the 18th of November 1969 the [REDACTED] entered into separate deeds granting easements to three of the purchasers of various of the plots. Those deeds granted:-
 - a) access over the estate road;
 - b) a right "to bring through the line of pipes hereinafter mentioned sewage, water and soil from the Dominant Property into the septic tank to be made or excavated at the Grantors' and Grantees' and other expense in the position marked with a green line on the said plan";
 - c) the right to "lay and maintain or to tie into a line of pipes from the boundary of the Dominant Property to the tank under the Servient Property in such a position and in such a manner as may be approved by the Grantors such pipes to be laid solely at the expense of the Grantees as marked in green on the said plan".

We attach a copy of the Deed plan referred to from those separate Deeds which plainly shows the green line of pipes linking in to the drainage and ultimately to the septic tank. We venture the view that the manhole cover which we examined adjacent to [REDACTED] is one of the manhole covers along that line of drains and has nothing to do with any ostensible drain crossing our client's property.

4. Further (modest) assistance can be gleaned from a Licence Agreement dated 24th of June 1920. This Agreement (from which a plan marked "B" is enclosed) was entered into between the then Railway Company and [REDACTED] who owned the [REDACTED]. It granted easements relating to an extension being built at the [REDACTED]. Its importance is that it shows a line of pipes in part marked "A-B" which carried both water and soil (see the

Schedule of Easements attaching) which line of pipes ran across the Goods Yard in a line that would bring it (in a south westerly direction) to where the green line runs down the middle of the estate road.

These would tend to suggest that whatever drains there are across the former [REDACTED] Yard they do not cross our client's land.

We accordingly invite you to respond, at the earliest opportunity, in the greatest detail possible with regard to our enquiries noted above.

In the absence of hearing from you substantively with regard to the above we shall invite the Magistrates, on the adjourned hearing, to deal with the matters noted at "a)" of our Complaint as a preliminary issue such that the costs necessitated by the attendance of all the other parties will be saved at least in the first instance.

Bearing in mind the shortage of time before the adjourned hearing we would welcome your immediate reply.

Yours faithfully

[REDACTED]

[REDACTED]