

COPY

Ms Pauline James
63 Botany Bay Road
Southampton
Hants
SO19 8FE

Our ref: NIRS/651491
Your ref:

Date: 23rd February 2009

Dear Madam

RE: Section 33 Environmental Protection Act 1990; Section 85(1) Water Resources Act 1991 and Section 23 Land Drainage Act 1991 : Alleged Illegal Deposit and Disposal of Waste at Land Behind 63 Botany Bay Road.

I refer to an incident reported to us on the 8th February 2009 whereby raw sewage was found in the Sholing Common Stream which flows behind your property.

One of my officers attended the site on the 12th February 2009, and observed that the level of the land at the back of your property adjacent to the Sholing Common Stream, has been raised using what appears to be large amounts of waste construction and demolition material (see enclosed pictures BH/A, BH/B).

On the 18th February 2009, one of my officers had a phone conversation with Mr James who said that local traders and builders were allowed to tip their waste material on site at 63 Botany Bay Road.

For your information the deposit of waste material is subject to regulation.

Section 33 (1)(a) of the Environmental Protection Act 1990 states that it is an offence to deposit, or knowingly cause or knowingly permit controlled waste to be deposited, in or on any land unless a Environmental Permit authorising the deposit is in force and the deposit is in accordance with the licence.

A person found guilty of an offence under this legislation is liable on summary conviction to a £50,000 fine or 6 months imprisonment or both.

I must advise you that I could find no record of an Environmental Permit or registered exemption for the deposit of waste materials at your address

What this means is that by allowing the deposit and disposal of waste material on your land we believe that you have committed an offence. What this also means is that as the landowner you may be liable to enforcement action being taken against you **which may include prosecution.**

Environment Agency,
Colvedene Court, Wessex Business Park, Wessex Way, Colden Common, Winchester, Hampshire, SO21 1WP.
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk

We also believe that a further offence may have been committed under the Water Resources Act 1991:

The Water Resources Act 1991 s85(1) states that a person causing any poisonous, noxious or polluting matter to enter any Controlled Water shall be guilty of an offence and liable, on summary conviction to a fine not exceeding £20,000 or imprisonment for a term not exceeding six months or both. Controlled waters include all inland watercourses, coastal waterways, and ground waters, as well as **surface water drainage systems**, which are designed to carry water to the nearest water course.

The material which has been deposited and used to raise the land at the back of your property (see enclosed pictures BH/A, BH/B) may have caused the foul sewer which flows behind your property to collapse. The collapse of the foul sewer caused polluting matter namely sewage to enter the Sholing Common Stream.

By allowing the importation and deposit of unpermitted materials you may have indirectly caused this pollution incident. You may therefore be liable to enforcement action being taken against you under this legislation.

Further to this, Sholing Common Stream (an ordinary watercourse) which flows through the valley behind your property has been diverted. The act of infilling has caused an obstruction and consequently a diversion of the watercourse.

Diversion of a watercourse requires our consent under Section 23 of the Land Drainage Act 1991 and without such permission we are entitled to serve a Notice on you to remove the material causing the obstruction.

For your information we are unable to consider any application for a land drainage consent after the completion of the works. I have enclosed a guide Environment Agency guidance "Living on the Edge", which explains your rights and responsibilities with regard to living next to watercourses.

Action that You Must Now Take:

1. You must not allow any further material to be deposited or disposed of on your land.
2. You must arrange for any waste material that has been deposited at the back of your land to be removed (see enclosed pictures BH/A, BH/B).

We would also Like You to Provide the Following Information:

1. Provide me with an explanation as to where the material that has been used to raise the land at the back of your property (see enclosed pictures BH/A, BH/B) has come from?
2. Provide me with any waste transfer notes or documentation you may have which accompanied the material that has been used to raise the land at the back of your property (see enclosed pictures BH/A, BH/B).

Environment Agency, ²
Colvedene Court, Wessex Business Park, Wessex Way, Colden Common, Winchester, Hampshire, SO21 1WP.
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk

3. Provide me with the names of persons or companies, who provided and/or deposited the material that has been used to raise the level of the land at the back of your property (**see enclosed pictures BH/A, BH/B**).

4. Regarding the alteration of the course of the Sholing Common Stream I would be grateful if you would provide me with details (plans/drawings) of the extent of these works.

I also enclose a Code B Notice of Powers and Rights, for some evidential photographs taken by my officer on the 12th February 2009. Please be aware that we are taking this matter very seriously and would appreciate a response in writing within **7 days** of receiving this letter.

If you have any queries regarding this letter please do not hesitate to contact me.

Yours faithfully

Gareth Bates
Team Leader Itchen and Southampton Team
Tel. 01962 764992.