



**MR & MRS R STANSFIELD**

**and**

**BAK BUILDING (CONTRACTS)**

**REPORT N<sup>o</sup> 16711Y-01**

Your Ref: LSHA2/BAK 590/1

Our Ref: JDT/KEP/16711Y

Date: 26<sup>th</sup> June 2019

In the Preston County Court

c/o Knights Solicitors  
Hollins Chambers  
64A Bridge Street  
Manchester  
M3 3BA

For the attention of Lisa Shacklock/Sam Garrett

Claim N° D 01 PR214

**First DRAFT**  
**Report N° 16711Y-01**

Dear Sirs,

**Mr Raymond Stansfield**

**Mrs Maria Stansfield**

**Claimants**

and

**BAK Building (Contracts) Ltd**

**Defendant**

EXPERT REPORT by Mr James D Taylor on behalf of the Defendant in the above claim.

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**1. INTRODUCTION**

- 1.1. I am instructed by Knights Solicitors, Manchester, on behalf of the Defendant in the above claim.
- 1.2. My fields of expertise are civil and structural engineering, building surveying, water and environmental management. I have extensive experience of site development infrastructure works including drainage, and in undertaking investigations and in the preparation of reports in civil and criminal litigation.
- 1.3. The matters in this claim have been investigated by myself, James D Taylor DCE, CEng, FICE, FCIWEM, FConsE and I am the author of this report. My CV is shown in Appendix C.
- 1.4. I am a Consultant of Dossor MCA and I was the Managing Director of the Dossor Group. I have long and extensive experience in engineering and surveying, and within which fields I act as an expert witness and give evidence in courts, arbitrations, adjudications, inquiries and inquests.
- 1.5. My instructions are to review disclosed documentation, undertake a non-intrusive site inspection of works undertaken by the Defendant at Rawtenstall specifically in relation to drainage before and after development, respond to drainage issues in the claim and in the defence and, in particular to consider and express opinion on the following issues:
  - The susceptibility of the Claimants' property prior to the development?
  - The potential causes(s) of flooding at the Claimants' property?
  - The potential impact of any flooding at the Claimants' property?
  - The impact of the construction of dwellings built by the Defendant on the Claimants' property and surrounding area?
  - Whether the surface water outfall from the development was adequate?
  - The quality of the drainage infrastructure prior to construction of the dwellings on the development?
  - Whether any remedial works are required at the Claimants' property, together with costs, following access to complete the surface water outfall from the development?
- 1.6. I acknowledge that it will be for the Court to decide the facts and the law. The issues which are subject to expert evidence are those principally within my instructions and within the disclosed documentation.
- 1.7. My report complies to the best of my knowledge and belief with the Civil Procedure Rules, their Practice Directions and the Civil Justice Council Protocol.

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- 1.8. The Instructing Solicitors made available to me copy documentation, a list of which is shown in Appendix A.
- 1.9. On 11<sup>th</sup> June 2019 I undertook a visual site inspection, took photographs and made notes. A selection of my photographs is shown in Appendix B.
- 1.10. I am instructed in relation to only drainage matters, and not in relation to titles of properties, rights of way, easements etc, which are legal matters and therefore not within my fields of professional expertise.

## **2. BASIC INFORMATION**

- 2.1 I have been advised that the Claimants own and live at Hurst Platt, 16 Waingate Road, Rawtenstall, BB11 4JG, (“the Claimants’ Property”), which they have owned from about 1988.
- 2.2 I have been advised that the Claimants in 1991 purchased adjoining and adjacent lands to the Property and subsequently in 2015 sold lands to Prestige Developments (Global) Ltd (“Prestige”), for development.
- 2.3 I have been advised that the Defendant in 2016 purchased adjoining and adjacent lands to the Property, which had been owned by Prestige (“the Defendant’s Development Property”).
- 2.4 I have been advised that the Defendant, Company N<sup>o</sup> 09430009 incorporated on 9<sup>th</sup> February 2015, has a registered office address Belmont House, 2 Dalton Court, Commercial Road, Darwen, BB3 0DG.
- 2.5 I have been advised that Prestige undertook some earthworks, infrastructure and building works on the Development Property but these were incomplete prior to purchase of the Development Property by the Defendant.
- 2.6 I have been advised that the Claimants claim against the Defendant *inter alia* in respect of:
  - An injunction restraining the Defendant from trespassing on the Claimants’ Property.
  - A declaration as to the true boundaries between the Claimants’ Property and the Defendant’s Development Property.
  - A declaration that the Defendant does not enjoy a right of way over the Claimants’ Property.
  - A declaration that the Defendant is not entitled to connect to the drain laid by Prestige under the Claimants’ Property.

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- An injunction to compel the Defendant to carry out all such works as may be necessary to prevent rainwater from escaping or being diverted onto the Claimants' Property as a result of the Defendant's works.
- Damages for trespass, nuisance and/or negligence.

2.7 I have been advised that the Defendant denies the Claimants' allegations and the Defendant counterclaims against the Claimants *inter alia* in respect of:

- A declaration that the Defendant has a right of way along roadways.
- An order requiring the Claimants to remove fencing.
- An injunction restraining the Claimants from interfering with the exercise by the Defendant of the rights of way along the roadways.

### **3 DOCUMENTATION**

#### **Drawings**

- 3.1 A full list of currently disclosed drawings is shown in Appendix A.
- 3.2 I have been advised that the Defendant's Development Property was purchased by BAK on 18<sup>th</sup> July 2016 and at that date dwellings N<sup>os</sup> 1-4 already had been constructed by Prestige to roof level, and were then completed by BAK.
- 3.3 The Heaton survey October 2006, the BMC November 2014, the DWA January 2016 drawings were pre-purchase by BAK.
- 3.4 The Croft Goode April 2016 to May 2017 drawings were both pre- and post-purchase by BAK.
- 3.5 The Crosbie November 2016 to July 2017, the Twigg June 2017, the Volker July 2017, the Lancashire CC September 2017, the BAK October 2017, the Philip Wright Associate November 2018 drawings were all post purchase by BAK.
- 3.6 The Heaton revised survey drawing December 2018, amended/updated the drawing October 2006 which has not been disclosed.
- 3.7 The Malcolm Hughes Expert Agreed Boundary Survey drawing was May 2019.
- 3.8 Relevant information from the drawings is referred to later in my report.

### **4 SITE INSPECTION**

- 4.1 A selection of my photographs, together with descriptions, is shown in Appendix B.

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4.2 The relevant results of my inspection are fully described within the subsections of the Discussions Section of my report.

5. **DISCUSSION**

**Reinforced Concrete Retaining Wall**

5.1 There is a new retaining wall at the rear northern boundary of the Claimants' Property/southern boundary of the Defendant's Development Property. Refer to photographs 4, 5, 7, 8, 10 and 11.

5.2 BMC's drawing N<sup>o</sup> J3794/R1 dated November 2014, road layout and details, showed a reinforced concrete retaining wall at the boundary between the Claimants' Property and the Defendant's Development Property.

5.3 This retaining wall was to be stone faced towards the Claimants' Property, stone filled to the rear, and included a gravel surrounded rear land drain and weep holes at intervals through the reinforced concrete stem and stone facing of the walls.

5.4 BMC's drawing also N<sup>o</sup> J3794/R1 dated November 2014, road layout and details, although not stated or dated as revised, showed a varied reinforced concrete retaining wall.

5.5 This varied retaining wall was to be stone faced towards the Claimants' Property, solid concrete blocks to the rear with stone coping and stone filled, but did not include a land drain and weep holes.

5.6 BAK's drawing N<sup>o</sup> 05 dated 2<sup>nd</sup> October 2017, proposed retaining wall design, showed the reinforced concrete retaining wall the same as the BMC varied retaining wall.

5.7 Croft Goode's drawing N<sup>o</sup> 16-2218-PN001/A dated 16<sup>th</sup> August 2017, proposed site layout, showed the line of the new retaining wall.

5.8 Inspection on site showed that the retaining wall has been constructed from two leaves of brickwork and blockwork with a reinforced concrete core and has a stepped stone coping. The construction of the wall is incomplete at the eastern end. Refer to photographs 7, 8, 9 and 10.

5.9 The stone facing towards the Claimants' Property has not been constructed, and there are gaps in the blockwork at intervals. Refer to photographs 19 and 20.

5.10 I consider that weep holes will be unnecessary because of the clay soil, the existing and proposed extended road on the Defendant's Development Property and the separate steel sheet

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piled retaining wall and proposed land drainage up slope to the rear of proposed dwellings N<sup>os</sup> 5-8.

**Claimants' Property**

- 5.11 There is a redeveloped and extended dwelling on the Claimants' Property with a gravel parking area to the southern front, lawn to the west, grassed margin with a narrow width of parking to the rear, and bitumen macadam/block paving parking areas to the east/part rear. Refer to photographs 10, 11, 2, 13, 17, 18, 19 and 20.
- 5.12 To the south west there is a separately fenced depression with inset stone walling which, on the topographical survey plan, was described as a watercourse. There is a PVC pipe in this depression which I consider may be a SW drain from the inspection chamber ("IC") at the north western corner of the dwelling. Refer to photographs 12, 13 and 17.
- 5.13 On the rear eastern elevations of the dwelling there are rainwater pipes ("RWPs") and gullies from roof surface water runoff. Refer to photographs 4, 7 and 19.
- 5.14 To the eastern side of the dwelling, the bitumen macadam surfaced rear area has falls of between 10 and 24mm towards the dwelling. Refer to photographs 19 and 20.
- 5.15 The remainder of the eastern and south eastern side driveway of the dwelling has block paving, with a dished channel at the interface between the block paving and the macadam rear area, and a dished channel at the interface between the block paving and the carriageway of Waingate Road. Refer to photographs 18, 19 and 20.
- 5.16 The surface of the block paving is very irregular, block paving has settled in particular in the area passed the eastern elevation of the dwelling. Refer to photograph 20.
- 5.17 On the topographical survey plan at the eastern side of the dwelling the step level was shown as 100.09 and the IC site datum level was shown as 100.00 which is on the block paving of the driveway, ie the step is 90mm above the level of the driveway, and which is likely also to be floor level of the dwelling.
- 5.18 Along the rear elevation of the dwelling the ground level is an average of 100.10 which is slightly higher than the eastern driveway level.
- 5.19 The paved driveway falls from adjacent to the dished channel at the interface between the macadam and the blockwork in a southerly direction to the dished channel at the carriageway of Waingate Road, from approximately 100.04 to 99.78, ie a fall of 260mm.



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- 5.20 I consider that because of the fall of the macadam surfaced rear area towards the dwelling dependent on a narrow unsurfaced margin next to the elevation and the dished channel, there is the likelihood that this area is poorly drained and some ponding of surface water runoff may occur on this area.
- 5.21 I consider that because the surface of the block paving is very irregular and settled passed the eastern elevation of the dwelling, there is the likelihood that this area is poorly drained and some ponding of surface water runoff may occur on this area.
- 5.22 I consider that because the step level of the dwelling is 90mm above the level of the driveway, it is unlikely that any ponding or flooding of surface water on the driveway will affect inside the dwelling.
- 5.23 I note that the watercourse Balladen Clough flows in a westerly direction underground approximately parallel with Waingate Road in front of the Claimants' Property, and has a trash screen at the intake from the open watercourse to the east. Refer to photograph 16.
- 5.24 I have not investigated any risk of flooding to the Claimants' Property and dwelling, as a result of any out of bank flow from the watercourse due to either surcharged flows or blockage of the trash screen.
- 5.25 I note that the Claimants have provided photographs of ponding of water to part of the rear and on the macadam and block paved areas at the Claimants' Property, photographs taken I understand in or about October/November 2017.
- 5.26 I consider that the ponding of water is entirely consistent with the lack of any, or any adequate, provision of positive surface water drainage for the paved areas, together with the very irregular and settled surface at the Claimants' Property.
- 5.27 I have not seen any evidence of provision of any land drainage to the grassed and paved margin to the rear of the dwelling, only that there are RWPs and gullies from roof surface water runoff.

**Steel Sheet Piled Retaining Wall**

- 5.28 The Claimants obtained the grant of planning permission dated 2<sup>nd</sup> September 2014 for the erection of eight dwellings together with infrastructure on what is now the Defendant's Development Property, and condition 11 *inter alia* referred to investigation of the site in relation to the structural stability of the land and existing properties to the north of the site.

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- 5.29 Sub Surface Consultants undertook a ground investigation at the Defendant's Development Property and issued a report dated March 2017.
- 5.30 The investigation comprised:
- 4 N<sup>o</sup> mini boreholes.
  - 2 N<sup>o</sup> cable percussion boreholes.
  - Geotechnical laboratory testing.
  - Effective stress laboratory testing.
  - Standpipes followed by groundwater monitoring.
  - Interpretative report and slope stability analysis.
- 5.31 The report noted that previously 7.5m long steel sheet piles had been installed at the bottom of the slope of the site as a retaining wall and no drainage measures had been provided.
- 5.32 A slip plane was observed on the northern site boundary and other slip planes were considered may be present, a bench had been cut into the base of the slope to form a development platform for the dwellings.
- 5.33 From the boreholes the sequence of the strata generally comprised silty clays, interbedded silty sands/silty clays over gravelly silty clays. Monitoring of standpipes found groundwater generally at variable depths, about 3m below surface level but with localised perched water tables.
- 5.34 Sub Surface Consultants' recommendations were that slope stability should be improved sufficiently by the installation of a 11.5m steel sheet piled wall, 2m above and 2m below the existing piled wall, with additional loading of the toe of the slope upslope of the sheet piled wall, by placing granular fill.
- 5.35 The recommendations were also that 3m deep stone filled drains should be installed down the slope, and these should be intercepted by a stone filled drain immediately upslope of the existing steel sheet piled wall, and the new slope surface should be grassed.
- 5.36 These proposals were shown on Crosbie's drawings B 14110/C and 02 dated 29<sup>th</sup> November 2016.
- 5.37 Sub Surface Consultants' letter dated 13<sup>th</sup> June 2017 and program outturns referred to additional slope stability analysis and factors of safety up to 1.29, ie 29% in excess of the actual working requirement.
- 5.38 Volker's program outturns for a fully embedded 12.0m long steel sheet piled wall, including 2.0m surcharge, was for a factor of safety minimum 1.35, but a resultant of 1.42.

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- 5.39 These proposals were shown on Volker's drawing N° C12538-PW01-101/-dated 7<sup>th</sup> July 2017.
- 5.40 The proposals shown on Crosbie drawing N° B14110/01 included 225mm dia perforated land drains in trenches lined with a geotextile membrane filled with free draining stone, between 2 and 3m deep downslope and to the rear of the proposed steel sheet piled retaining wall, together with collection/soakaway manholes, and the area of stone additional loading at the toe of the slope upslope of the retaining wall. Refer to photographs 4, 6 and 9.
- 5.41 Inspection on site showed that the new steel sheet piled wall has been installed, has stone filling to the rear and weepholes at a low level. These construction works are incomplete as none of the upslope land drainage has been installed, although pipes and manhole rings are on site. Refer to photographs 4, 6 and 9.
- 5.42 There are two manholes on the development platform beyond the retaining wall, and a low level land drainage pipe through the wall, which are likely to be on the land drainage outfall route between dwellings N<sup>os</sup> 6 and 7, which may not yet have been installed, and then to the proposed off-site discharge of both land drainage and surface water runoff drainage. Refer to photographs 4, 5 and 6.
- 5.43 I consider that the steel sheet piled retaining wall was a competent design and installation to restrain and stabilise the upslope site area of the Defendant's Development Property.
- 5.44 I consider that the proposed land drainage upslope of the retaining wall was a competent and usual design solution to deal with ground water, surface water runoff and to complement the design of the retaining wall.
- 5.45 Crosbie drawing N° B14110-01 showed in plan and section the reinforced concrete retaining wall to the rear of dwellings N° 1-4 which were cut less distance into the slope of the site.
- 5.46 The Margaret Twigg drawing N° 452.01 dated June 2017, detailed landscape proposals, showed existing and proposed mass planting of trees and vegetation upslope and north of the dwellings.
- 5.47 I consider that these proposals for the upslope areas were good practice to assist in alleviating ground water and surface water runoff, and in stabilising the slope.

**Road Layout and Surface Water Drainage Systems**

- 5.48 BMC's and Crosbie's drawings show the road layout together with levels and directions of falls, for the Defendant's Development Property.

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- 5.49 The existing access from Green Street to the west was to be the subject of S.278 road improvement works, whereas on the Defendant's Development Property access was to be a private road. Refer to photograph 1.
- 5.50 For the private road, the longitudinal fall was from east to west and the cross fall was from north to south, and with kerbs to both sides of the road. Due to the crossfall, road gullies were shown along only the southern kerblines. Refer to photographs 1, 8 and 10.
- 5.51 Currently the private road has been constructed only as far as the end of the dwelling N<sup>o</sup> 4, as dwellings N<sup>os</sup> 5-8 have not yet been constructed. The surface course for the road has not yet been laid. Refer to photographs 1, 4 and 8.
- 5.52 The Lancashire CC and Crosbie drawings showed on-site surface water drainage systems for the road, the existing and proposed dwellings and proposed land drainage upslope of dwellings N<sup>os</sup> 5-8.
- 5.53 The Lancashire CC and Crosbie drawings showed an off-site surface water 300mm dia outfall pipe in a generally southerly direction.
- 5.54 The Crosbie drawings showed that the outfall pipe terminated at the fenced depression south west of the dwelling on the Claimants' Property and which abutted Waingate Road, which was described as a watercourse and with a note that the outfall final details and levels were to be confirmed to suit site conditions.
- 5.55 I have been advised that drainage systems for surface water runoff from dwellings N<sup>os</sup> 1-4 have been constructed and connect off-site to existing systems in Green Street.
- 5.56 I have been advised that no other on-site surface water drainage systems have to date been constructed.
- 5.57 Gullies on the private road on the Defendant's Development Property are full of water, therefore they have not yet been connected to discharge to any positive drainage system.
- 5.58 I have been advised that the Defendant intends to construct further drainage systems on-site for surface water runoff, and which also will be connected to existing systems off-site in Green Street.
- 5.59 The proposed land drainage systems for upslope of the steel sheet piled retaining wall have not been installed.

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- 5.60 I have not investigated the fenced depression described as a watercourse. However, since the watercourse Balladen Clough flows in a westerly direction underground approximately parallel with Waingate Road, I consider that the fenced depression may be either on, or connect with, the watercourse Balladen Clough.
- 5.61 I note that the route of the watercourse Balladen Clough is shown as “main river” on the Environment Agency (“EA”) flood map, and therefore it is under the control of the EA.
- 5.62 I note also an email from United Utilities (“UU”) to the local authority dated 11<sup>th</sup> July 2017 in relation to the Defendant’s Development Property, that UU had no objection to the drainage proposals and reiterated that the riparian owner of the watercourse had given their consent.
- 5.63 However, I have been advised that the Defendant has abandoned, and has no need for, the former proposal by Prestige and its advisers, to construct drainage systems for surface water and land drainage systems off-site to, and connected with, the fenced depression described as a watercourse which abuts Waingate Road.
- 5.64 The planning approval N<sup>o</sup> 2014/0168, September 2014, was obtained by the Claimants and condition 10 was in respect of foul water and surface water drainage.
- 5.65 The planning approval N<sup>o</sup> 2016/0630, July 2017, was obtained by the Defendant and condition 9 was in respect of foul water and surface water drainage.
- 5.66 The Philip Wright Associates’ drawing showed the surface water drainage for the Defendant’s Development Property. This comprised drains for surface water runoff from existing dwellings N<sup>os</sup> 1-4 and proposed dwellings N<sup>os</sup> 5-8, together with land drainage from the slope to the rear, and drains for surface water runoff from the road and into the gullies, all discharged off-site to the west via Green Street/existing surface water sewerage systems.
- 5.67 I consider that the existing off-site surface water sewerage systems will discharge to either the Balladen Clough watercourse or other surface water/combined sewerage systems.
- 5.68 I note that none of the existing and/or proposed on-site surface water drainage systems either discharge, or will discharge, off-site in a southerly direction towards and/or onto the Claimants’ Property.
- 5.69 I have been advised that the Defendant has submitted the Philip Wright Associates’ drawing to Rossendale BC, pursuant to condition 9 of the planning approval, to discharge that condition in respect of surface water drainage, and has requested an extension of time to implement the surface water drainage systems.

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5.70 I have been advised that the Defendant is currently awaiting a decision from Rossendale BC, and I know no reason why discharge of that condition in respect of surface water drainage systems either will not be granted or will be delayed.

6. **CONCLUSIONS**

6.1 The Claimants' Property, prior to development by the Defendant, has always been susceptible to some risk of flooding, because it is located in a low area and downslope of the steep hillside to the north.

6.2 Groundwater, and surface water runoff from the hillside with overland flow towards the Claimants' Property, would always have been likely to risk flooding at the Claimants' Property unless there was positive, effective and maintained drainage at the Claimants' Property.

6.3 The presence of trees and vegetation on the steep hillside would have provided some attenuation and reduced speed of runoff, but that would have been very limited due to the relatively impervious interbedded soft and firm silty clays and clayey silts, and with no installed land drainage. The Defendant proposes mass planting of trees and vegetation upslope upon completion of dwellings N<sup>os</sup> 5-8 and on-site infrastructure.

6.4 The potential causes of flooding at the Claimants' Property are that there are either no, or no adequate, land drainage and surface water drainage systems.

6.5 The grassed and paved margin, between the new retaining wall and the rear of the dwelling on the Claimants' Property, appears likely to have no land drainage and surface water drainage systems.

6.6 Although the survey drawing shows gullies adjacent to the rear elevation of the dwelling, these are likely to be associated with RWPs from roof drainage. Also the ground levels fall from the retaining wall towards the rear elevation of the dwelling.

6.7 The macadam surfaced rear area and the block paved eastern driveway adjacent to the dwelling have very limited installed positive provision to drain surface water runoff from these surfaces and, in particular, the surface of the block parking is very irregular and settled.

6.8 The potential impacts of any flooding at the Claimants' Property are likely to be water lying on part of the rear margin, on part of the macadam surfaced area, and on part of the block paved driveway, unless there is positive, effective and maintained drainage to these areas.

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- 6.9 There are unlikely to be risks of any flooding internally to the dwelling at the Claimants' Property, because the step level, and the likely internal floor level, is significantly above surrounding external ground level.
- 6.10 I am not aware of any risks of flooding at the Claimants' Property due to any out of bank flow from the Balladen Clough watercourse.
- 6.11 The potential impacts of any flooding at the Claimants' Property, due to construction works on the Defendant's Development Property, have been removed because of these works.
- 6.12 The steel sheet piled retaining wall has cut off groundwater and surface water runoff from the upslope hillside and, until the land drainage has been installed and in the meantime overland flow will be contained within the site.
- 6.13 The reinforced concrete retaining wall has also cut off groundwater and surface water runoff from the site immediately north of the Claimants' Property, the wall will be impermeable and has no weepholes.
- 6.14 The top of the reinforced concrete retaining wall has an upstand in relation to existing ground levels on the currently undeveloped part of the Defendant's Development Property, and ground levels falling to the west, which will prevent surface water overland flow from the Defendant's Development Property onto the Claimants' Property, the eastern end of the wall is not yet complete.
- 6.15 The southern kerblines to the access road on the Defendant's Development Property, will prevent surface water runoff from the Defendant's Development Property onto the Claimants' Property. There will be no flooding due to ponding of water on the access road as there is significant longitudinal fall to the west, and off-site towards Green Street.
- 6.16 Although gullies on the access road are not yet connected to a surface water drain, therefore are not effective, surface water runoff from the access road will bypass the gullies and, due to the longitudinal fall to the west, will flow in the channel of the access road, and off-site towards Green Street.
- 6.17 The reinforced concrete wall immediately north of the Claimants' Property together with the upstand, and the access road together with the southern kerblines, remove the risk of flooding at the Claimants' Property, due to surface water runoff from the Defendant's Development Property and, in effect, have achieved betterment for the Claimants' Property.

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- 6.18 There currently is no surface water outfall, and the Defendant does not propose to construct an outfall, from the Defendant's Development Property either towards and/or onto the Claimants' Property.
- 6.19 I am not aware that there were any drainage systems on the Defendant's Development Property, prior to construction works by Prestige.
- 6.20 Any groundwater seepage and/or surface water flows from the Defendant's Development Property towards and/or on to the Claimants' Property, prior to construction works by Prestige, would have been the natural flow of water from higher land to lower land, in the course of the ordinary and proper use of that land, and there was no unnatural accumulation of water, or no misuse of that land.
- 6.21 There are no remedial drainage or other works required on the Claimants' Property due to construction works on the Defendant's Development Property, either in the past or in the future.
- 6.22 The Claimants may wish to consider new and improved independent drainage works, which would benefit only themselves and alleviate existing deficiencies, at and/on the Claimants' Property.

7. **CLAIMANTS' EXPERT'S REPORT**

7.1 Mr Andrew Hill of Strange Strange and Gardner prepared a report dated 30<sup>th</sup> May 2018.

7.2 Mr Hill *inter alia* stated,

*"2.3 This report has been written in accordance with my instructions, which relate to drainage issues. I am aware that there are unrelated issues between the parties ... These are not addressed in this report.*

*5.1 ... I am not instructed with respect to issues concerning land ownership, the extent of any easements which may exist, or any other related issues as between the parties. I am not instructed with respect to any issues associated with the transfer of land from the Claimants to Prestige. I am aware there are planning consent issues. I have considered these only with respect to drainage issues."*

7.3 Despite Mr Hill's qualification above, that he was instructed to deal with drainage matters, he has indulged himself in hearsay, speculation, and discussion in relation to land ownerships, boundaries, easement, trespass and nuisance which will be outside his fields of expertise and were legal matters outside his instructions.



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7.4 In his sections 4 and 5, I note that 56 and 24% respectively of the paragraphs in these sections, referred to the non-admissible matters outside his expertise and instructions.

7.5 I consider that Mr Hill's report is unsatisfactory and, in my opinion, parts of his report should be struck out.

7.6 In section 1.3, Mr Hill *inter alia* stated,

*"1.3.1 The evidence would suggest that prior to construction of the houses and the access road by the Defendant, the area behind the Claimants' home drained satisfactorily ...*

*1.3.2 Works by the Defendant will all have significantly altered the drainage and groundwater regime. They will have increased the amount of water present towards the base of the slope, ie towards the Claimants' home, and reduced the time it took for water to reach these ... The evidence strongly suggested that at the present time ... it is discharging at/towards the Claimants' home ..."*

7.7 I disagree with Mr Hill, because there is no escape or diversion of surface water runoff from the Defendant's Development Property onto the Claimants' Property, and therefore no risk of damage to the Claimants' Property due to construction works on the Defendant's Development Property.

7.8 I disagree with Mr Hill also on other matters, because he has been either misinformed or has misinterpreted construction works already undertaken/to be undertaken on the Defendant's Development Property.

8. **OPINION**

8.1 The Defendant does not intend to construct a drain from its Development Property towards and under the Claimants' Property.

8.2 Construction works on the Defendant's Development Property do not cause either the escape or the diversion of surface water runoff from the Defendant's Development Property onto the Claimants' Property.

8.3 Titles of properties, rights of way and easements are not within my fields of professional expertise, are legal matters, and are dealt with by others.

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9. **STATEMENT OF COMPLIANCE**

9.1 I understand my duty as an expert witness is to the Court I have complied with that duty and will continue to comply with that duty. This report includes all matters relevant to the issues on which my expert evidence is given. I have given details in this report of any matters which might affect the validity of this report. I have addressed this report to the Court.

10. **STATEMENT OF TRUTH**

10.1 I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Yours faithfully,  
**for Dossor MCA**

James D Taylor DCE CEng FICE FCIWEM FConsE  
Consultant