

From: Taylor's Boatyard info@taylorsboatyard.co.uk
Subject: Re: A letter from the Ombudsman-more information request
Date: 14 September 2020 at 11:28
To: enquiries@waterways-ombudsman.org

Dear Ms Daniel,

Please find attached my reply and supporting documents.

Kind regards

Peter Askey



Ombudsman
Inform...0.docx

Dear Ms Daniel

Thank you for your email of the 10th September 2020 requesting further information.

The Trust has explained in an email to you from Richard Spencer (27May) why they used the design they did and that their heritage advisors have agreed with the design and the way it was done. In your complaint letter you say you think the repair is unsafe and you do not want to accept responsibility for it? As the Trust's engineers are satisfied that, once the lock gates are in place, it will be safely operable, we seem to be at an impasse. Can you provide any evidence that the dry dock would not be safe to use?

I do not believe we are at an impasse. I know only too well the reaction I receive when I relate the actions of the Trust to those who are concerned about the dry dock and boat yard. It seems so implausible that a Government owned charitable trust can act in such a manner but it is not without local precedent.

I appreciate your requirement to deal with only the relevant facts and to that end I believe we need to remove the replacement of the dry dock lock gates from the issue.

Dry Dock Lock Gates

The decision by the Trust to replace the lock gates of the dry dock has no bearing on the dangerously negligent and unsafe repair to the culvert, however I very much welcome their replacement.

Although in need of replacement it is incorrect for the Trust to imply the present lock gates are in some way hazardous or impede the safe operation of the dry dock. They were regarded as safe by the Trust's own contractors, Kier Group PLC, to keep the dry dock safely empty for months while their employees worked below inside the original culvert.

It cannot be ignored that the Trust has deliberately timed the lock gate replacement to further maximise the disruption to my business.

Alistair Staton informed me (email 12 February 2020) that an order for the lock gates had been placed and there would be at least a 12-week lead in period for production. He informed me that replacement work would take between two to three weeks. Further emails (12 August 2020) said site preparation work would start on 2nd September 2020 with replacement work commencing on 7th September 2020.

To date very little has been done.

Replacing lock gates is routine for the Trust but the total lack of any progress at the dry dock or even an attempt at communication is clearly deliberate. This can only be regarded as harassment and a further indication of the Trust's true motive.

Email from Richard Spencer 27th May 2020 at 17:57

I disagree that this email explains why the Trust used the design they did.

When referencing this email, I feel it is important to consider my preceding email to the Trust at 10:50 am on the same morning and the later email response from Alistair Staton at 17:06. These emails clearly caused Richard Spencer to send his email, copies attached.

As you know, despite my best efforts, I have never received any offer of consultation, discussion or been given any information by the Trust regarding their method of repair. My serious safety concerns and requests for information have constantly been ignored. The only pieces of information I have ever managed to obtain from the Trust is contained in the two emails from Richard Spencer (27 May 2020 & 12 June 2020).

I appreciate you have requested evidence that the dry dock culvert is not safe to use and I feel I can best explain this in two ways:-

- The Trust has deliberately misinterpreted the dynamics of the culvert, how it is operated and therefore the related structural and safety aspects.
- With reference to the main UK industry standard document 'CIRIA document C786 Culvert, Screen and Outfall Manual'. The Trust were part of the steering group for this document, copy attached.

Unfortunately, Richard Spencer has given very little detail on the reasoning behind his choice of repair but he does state in his first email, *"This method of repair is something we do on numerous culverts along our network when we have unexpected failure."*

This was not an unexpected failure and it is dishonest of Richard Spencer to say it was.

I personally know the Trust has been filling in numerous sink holes around this culvert for over six years. He must have referenced the Trust's maintenance records for the culvert or at the very least talked to the local Trust's employees who filled in the holes.

The dry dock culvert is not a common 'field drain type' culvert running under the canal. It is part of the discharge system of one of the largest, deepest double-dry docks on the canal system.

The radical modifications the Trust have installed at the dry dock has created a pressurised conduit, often called a pressure culvert. This has major consequences on the design and materials used. Richard Spencer has ignored this and therefore his design is incompetent and the new culvert is structurally unsafe.

(Pressure culvert, page 6 of CIRIA document C786).

Richard Spencer must also be aware that no other similar sized dry dock culverts have been 'repaired' by such a design.

He goes on to state *“The 450mm diameter twin-wall pipe is the maximum diameter we could fit inside the 470x530mm diameter culvert.”*

The twin-wall pipe system used is ‘Ridgidrain’. This is not suitable for a pressurised culvert system of the type that has now been created at the dry dock. (Ridgidrain data sheet, see under Applications). This product should not have been specified for this type of culvert. Its failure will be catastrophic and endanger the safety of anyone in and around the dry dock.

The stated *“470x530mm diameter culvert”* is not only mathematical nonsense but Richard Spencer is again being dishonest. The original culvert is in excess of 1650mm tall. This can be clearly seen from the road, (*Alistair Staton email 28 May 2020, last image, copy attached*).

More importantly the original tall culvert was regarded as free flow and not the full flow as we now have with the undersized plastic pipe. This important difference has major implications to both safety and blockage. (Good practice principle 11.2, page 153 of CIRIA document C786).

The massively undersized plastic pipe is stated to have a diameter of 450mm and this is important to Richard Spencer as it is the minimum culvert size (A1.7 Minimum Culvert Sizes, page 317 of CIRIA document C786). However, appallingly this is another lie as the actual pipe installed has a diameter of only 400mm. This can also be clearly seen from the road.

The 400mm diameter plastic pipe used in the culvert repair was made up from three lengths. Prior to installation each length had their corrugations cut through lengthways in three places. This must have been a time-consuming task. I do not know of any plausible explanation why this product would be deliberately damaged in such a way other than to cause premature failure of the culvert. This certainly means the culvert is structurally unstable and therefore unsafe.

One of the plastic pipe connections was made with a gasket the other by mortar, this is incorrect and negates the possibility of testing the pipe before backfilling, as required by the manufacturer. The lack of any testing means the culvert repair is unstable and unsafe. (Ridgidrain Air testing and jointing guide, copy attached).

The culvert has one bend in it. Instead of specifying the readily available correct angled pipe fitting the Trust installed their own ‘home-made’ version cut from a length of straight pipe. This is incorrect and will quickly fail. This means the culvert repair will become unstable and unsafe. The extra restriction of this sharp bend on an already undersized pipe will undoubtedly block with debris, (*Alistair Staton email 28 May 2020, image 3&4, copy attached*).

The massively undersized plastic pipe has been inserted into the middle section of the large original culvert. The large gap around each end of the pipe was infilled by men working inside the original culvert placing concrete filled plastic bags and spray foam at each end. It required eight contractors four days pouring concrete to fill the large void above the plastic pipe (sink hole and original culvert).

There is now a major change in the cross-sectional area of the middle section of the culvert barrel. This is an extreme danger to life. If a person was to fall into the dry dock as it was emptying, they would be drawn into the culvert.

Prior to the 'repair' the most likely outcome is that a person would pass through the culvert and survive. This type of accident involving a free flow culvert is well known to the Trust. (Foxton Locks, 79 year old woman sucked through a culvert, copy attached).

If a person was to fall into the emptying dry dock today, they would pass part way through the sluice before getting trapped or wedged within the entrance bend of the new much smaller plastic pipe, the result would be certain death by drowning.

The Trust has knowingly created an unacceptable safety risk of an 'execution chamber with death by drowning'.

Another unacceptable consequence of the undersize plastic pipe is that it is now impossible to operate the dry dock in a safe manner.

Correctly positioning two narrowboats, often of different lengths and draughts, is a skilled operation. This procedure requires skill and knowledge. It is particularly difficult in the open-sided dry dock, such as we have at Chester, where even the wind can play a significant role with the precise positioning of the boats. This situation has already been greatly exacerbated by the Trust's high-rise developments surrounding the boatyard.

Often water levels have to be carefully but quickly raised or lowered to avoid damage to both boats and operator. Safely controlling the water discharge rate is essential. This can no longer take place as raising or lowering the dry dock sluice will have little effect on the discharge rate. Should a narrowboat be incorrectly placed onto the support blocks then there could be an extreme danger to those working later underneath.

In the second email of Richard Spencer (12th June 2020 copy attached) he mentions the significantly reduced pipe size. He states *"Regardless of the size of the outlet, the rate of discharge from the dry-dock is determined by the smallest area along the entire culvert. In this instance this is around the penstock, which as stated below is c.470mmx530mm - our hydraulic engineers have modelled the flows and the additional time taken to drain the dry-dock as a result of installing the new pipe is minimal"*.

This is nonsense, but it does clearly illustrate the lack of basic knowledge and understanding of the dynamics of this culvert. It shows the complete incompetence and disregard of safety by the Trust. I have never been permitted to see any 'modelled flows' and I do not believe they were ever carried out.

Richard Spencer then goes on to arrogantly provide two website links *"to explain the method used on this scheme;"*. These appallingly do not even illustrate the method he specified and installed.

Having no understanding of the culvert or even how the repair was carried out negates any claim by the Trust that the culvert is safe to operate or is even structurally sound.

I think it is very significant that one of the website links provided by Richard Spencer is to a company called OnSite. This company repaired a culvert for the Trust, which was very similar to the one he specified at Chester, in just one week! Copy attached. Therefore, he knows that the repair at the dry dock could have been done in one week. This comparison leads to the inescapable conclusion that it is the Trust's real intention to destroy my business in order to further develop this site.

The undersized plastic pipe will block with debris. It was not uncommon to see bits of wood and other debris the size of railway sleepers passing through the culvert (this could be confirmed by asking the Trust's local employees). To clear any blockage now would require the dry dock to be pumped out to gain access. Installing a suitable sized pump has already been dismissed by the Trust. Any attempt to clear the blockage from the quayside risks possible death by drowning.

Accumulated debris, which previously would have simply travelled through the original culvert, now will require a mechanical hoist and method of disposal. Any such hoist would require annual testing and suitable road access needs to be provided for disposal.

Heritage advisors

I have never had any communications from any heritage advisors in this matter but it is very difficult to believe they are fully aware of the situation. Perhaps they were pacified by expressions such as "This solution is completely reversible", "interim" and "temporary".

My experience of restoring listed buildings suggest having a wall of plastic sandbags visible from the road and scrapping historical artifacts is not permissible.

The biggest heritage issue is modifying a grade two listed structure, without permission. The building is now commercially unviable and therefore its future is at serious risk.

The Trust have certainly no regard for their published charitable aims of protecting the canal heritage which has been entrusted to them.

Has it been tested and demonstrated to you?

The dry dock has not been, nor do I require it to be, demonstrated to me. I have been working in and around dry docks all my adult life and have operated the Chester dry dock for almost ten years.

To my knowledge the dry dock culvert repair has never been tested. Back in September 2019 when the sink hole first appeared, I closed the dry dock lock gates and opened the sluice to empty the dry dock. The dry dock emptied easily as normal. It stayed empty until 9th June 2020 when the contractors shut the sluice and allowed the dock to re-fill. At no time did the contractors re-open the sluice to test the repair before they left site.

On the 17th July 2020 a team of seven Trust employees (who were apparently measuring up for the lock gate replacement work) tried to empty the dry dock. After several hours they gave up with the dry dock only partially emptying.

This exercise was repeated on the 12th August 2020 this time with only six Trust employees. Again, they were unsuccessful and failed to fully empty the dry dock.

In his email (27th May 2020) Richard Spencer states "... but our engineers will need to complete further checks before the asset is deemed safe;" I do not know what these checks were but I do not believe they were ever carried out.

[Would that help provide you with confidence it could be used?](#)

The only way anyone outside the Trust could have confidence in such a 'repair' is for the Trust to commission an independent technical report from a chartered civil engineer.

I have never received any paperwork of any kind from the Trust handing back the dry dock to my business following their major modifications to the culvert. I believe this contravenes both the HSE (section 6.6, p65 & section 8.1, page 96 of CIRIA document C786) and the Construction (Design and Management) regulations.

As the operator of the dry dock this is totally unacceptable to me and dangerously negligent not to correctly inform me of the 'risk to life' now created. (section 5.5, page 50 of CIRIA document C786)

The Trust has specified and installed an undersized plastic pipe that the manufacturer has stated is unsuitable for a pressure culvert. The Trust have deliberately and inexplicably damaged the plastic pipe before using it. The pipe has been incorrectly installed with no testing performed. The botched mortar joints of the 'home-made' bend is sub-standard and will inevitably block with debris. I have no confidence that the culvert is even structurally stable let alone safe.

The Trust has knowingly created an unacceptable safety risk of an 'execution chamber with death by drowning' putting my own and others' lives at risk. The Trust have lied, ignored my safety concerns, refused to give out any real information and seek to hide anonymously behind job titles. I have no confidence in anything the Trust does or says.

I have no confidence that this botched, dangerously negligent repair is safe to use.

Repairing the damaged section of the original culvert would have been quick, cheap and easy but the Trust instead purposefully lavished vast expense on making the dry dock commercially unviable. The only possible explanation for this is that the Trust needs to

demonstrate a boatyard business at the site is unviable in order to continue with their surrounding property development.

What do you want the Trust to do?

Reinstate the dry dock culvert back to its original design and repair the problems which caused the culvert to fail.

The original culvert was a good design and it was made to fail by water ingress from outside the culvert. This water ingress is a direct result of the Trust's lack of maintenance to the surrounding canal structures.

The Trust claims the work is temporary, interim and reversible.

I estimated that had I been allowed to fix the damaged section of the culvert in September 2019 it would have been approximately two to three weeks work at a cost of between £12,500 and £15,000. I would have reused most of the original stonework and therefore negated any heritage issues.

It is estimated the Trust has spent well over £300,000 to date and will no doubt need a similar amount to reinstate the culvert. It is difficult for me to understand how a charitable trust is allowed to financially mis-manage simple projects in such a way.

Have you provided evidence of your lost income/business experienced as a direct result of the loss of the Dry Dock?

Yes, an interim compensation payment has been discussed with Alistair Staton. I regarded this interim payment as a test of goodwill until the matter could be resolved.

To be clear all of the major income streams was lost not just income from the dry dock. Access to the boatyard, moorings and the dry dock was removed by the Trust.

I was right to test the Trust, despite operating their own dry docks and having their own accountancy resources what they did next was truly disgraceful.

I regard employing the services of Mr Froome of Vail Williams as unprincipled, antagonistic and harassment. It certainly confirms the Trusts plans to develop the boatyard site.

The relationship between the Trust and Vail Williams is often raised in the media particularly in regard to the disposal of canal side assets. It is impossible to reconcile the services of a commercial estate agent in this matter.

It is also worth noting that at the start of the Covid-19 pandemic government advice to commercial landlords (the Trust) was to provide a lease/rent holiday. Despite the Trust being fully aware that they had removed all income streams from my business this was refused. Even the intervention of my MP failed to change the decision.

Before the Trust can make any payment it needs to assess the level of payment required and to do this it would need to see your accounts and probably details of your lost booking. I understand the intention behind using Vail Williams is to provide an independent view to assess the level of any compensation payment. If you are unhappy with an outside agent the Trust has advised me they would be happy to work with you or an agent of your choice to make the assessment. What is your preferred option?

I disagree that Vail Williams can be considered as independent they are the Trust's estate agents.

This subject was covered in my letters of 4th June 2020 to Vail Williams and the 5th June 2020 to the Trust, **copies attached**.

As I have previously said I have always given the Trust every courtesy and accommodation and yet they have made no attempt to pay the interim compensation payment requested.

If the Trust could provide the contact details of a Trust employee (the Trust has its own extensive finance team) then that will be the person within the Trust I will discuss this with, if this is agreeable on receipt of the contact details I will proceed to instruct our appointed accountants to deal with this.

Sadly, I feel the Trust will continue to ignore this.

I understand that you have a lease that is for fifty years with the majority of the lease remaining. Can you explain a little more about what the known issues are and how you want them to be resolved.

Alistair Staton is fully aware of the issues the Trust has created regarding the lease. It has been impossible to get the Trust to deal with any of them. Briefly the main ones are -

Access

The Trust has built apartments over the access rights of the boatyard. We can no longer get goods vehicles to the boatyard.

The Trust is allowing the adjacent building to deposit roof slates and asbestos over the boatyard.

Repairs

The lease is a full repairing lease with a timescale for repairs. This is all fine except we can no longer get repair material onto site to undertake the repairs.

A major part of the repairs is a listed wall which has been seriously damaged by the Trusts' builders.

Moorings

The boatyard lease has three mooring sites attached to the 'heads of terms'. These sites remain unavailable. The income generated from these mooring sites would have funded the repairs.

Insurance

Building insurance premium is not correctly allocated within the lease/rent.

I have raised each of the above matters in the past with former Trust managers, my concerns were swept aside as “drafting errors”.

I would like the Trust to commit to some form of compulsory arbitration with agreed commitment to act upon the results.

Kind regards

Peter Askey