



IN THE HIGH COURT OF JUSTICE

CLAIM NO. KB-2024-002247

KING'S BENCH DIVISION

**IN THE MATTER OF SECTION 222 OF THE LOCAL GOVERNMENT ACT 1972
AND SECTION 187B OF THE TOWN AND COUNTRY PLANNING ACT 1990**

Before HHJ Pearce sitting as a Judge of the High Court

DATED 18th DAY OF OCTOBER 2024



BETWEEN :-

**THE MAYOR AND BURGESS OF THE ROYAL
BOROUGH OF KINGSTON UPON THAMES**

Claimant

-and-

- (1) MICHAEL CASEY**
- (2) BRIDGET CASEY**
- (3) SIMON DOHERTY**
- (4) KATHLEEN BERNADETTE KATRINA DOHERTY**
- (5) PERSONS UNKNOWN, BEING THOSE PERSONS CAUSING WORKS TO BE UNDERTAKEN, OR WASTE OR OTHER MATERIAL TO BE DEPOSITED ON THE LAND, AND/OR BRINGING ONTO OR OCCUPYING CARAVANS OR MOBILE HOMES ON THE LAND OR INTENDING TO DO SO, OTHER THAN IN ACCORDANCE WITH A VALID GRANT OF PLANNING PERMISSION.**
- (6) THOMAS JUDE DOHERTY**
- (7) THOMAS CASEY**
- (8) MICHAEL CASEY JUNIOR**

INTERIM INJUNCTION ORDER

PENAL NOTICE

TAKE NOTICE THAT IF YOU, MICHAEL CASEY (1st Defendant), BRIDGET CASEY (2nd Defendant), SIMON DOHERTY (3rd Defendant), KATHLEEN BERNADETTE KATRINA DOHERTY (4th Defendant), THOMAS JUDE DOHERTY (6th Defendant), THOMAS CASEY (7th Defendant), MICHAEL CASEY JUNIOR (8th Defendant) OR THE PERSONS UNKNOWN AT (5) ABOVE, BEING THOSE PERSONS CAUSING WORKS TO BE UNDERTAKEN, OR WASTE OR OTHER MATERIAL TO BE DEPOSITED ON THE LAND, AND/OR BRINGING ONTO OR OCCUPYING CARAVANS OR MOBILE HOMES ON THE LAND OR INTENDING TO DO SO, OTHER THAN IN ACCORDANCE WITH A VALID GRANT OF PLANNING PERMISSION DO NOT COMPLY WITH THIS ORDER YOU (OR ANY OF YOUR DIRECTORS OR OFFICERS) MAY BE HELD TO BE IN CONTEMPT OF COURT AND YOU (OR ANY OF YOUR DIRECTORS OR OFFICERS) MAY BE IMPRISONED OR FINED OR YOUR ASSETS MAY BE SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS (OR ANY OF THEIR DIRECTORS OR OFFICERS) TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

IMPORTANT NOTICE TO THE DEFENDANTS

This Order prohibits you from doing the acts set out in this Order. You should read it all carefully. You are advised to consult a solicitor as soon as possible. You have a right to ask the Court to vary or discharge this Order. If you disobey this Order, you may be found guilty of Contempt of Court and you may be sent to prison or fined or your assets may be seized.

UPON hearing Counsel for the Claimant and Counsel for the 1st, 2nd, 3rd, 4th, 6th, 7th, and 8th Defendants.

UPON the Claimant's Application Notice dated 17th July 2024 for an interim injunction pursuant to section 222 of the Local Government Act 1972 and section 187B of the Town and Country Planning Act 1990 (the 1990 Act).

AND UPON READING the Amended Claim Form, the Amended Details of Claim and the Witness Statements served with this Application TOGETHER WITH the witness statements filed on the Court File

AND UPON the Order of Mr Andrew Kinnier KC (sitting as a Deputy Judge of the High Court) dated 25th July 2024 joining the 6th, 7th, & 8th Defendants; granting an interim injunction, permitting the Claimant to amend its Interim Injunction Application to include an application for a mandatory Order requiring the Defendants, or any of them, to remove any caravans/ mobile homes brought onto the Land since the commencement of the Claim; and listing the 1st – 4th Defendants' application for an adjournment and any application for a mandatory order, together with the reconsideration of his order and the directions for trial for hearing.

AND UPON the 1st and 3rd Defendants' application to vary the Orders of Pitchers J dated 30th April 2003 and Master Foster dated 24th October 2005

AND UPON the 6th, 7th and 8th Defendants' applications to be discharged from the proceedings both dated 20th September 2024.

AND UPON the Claimant's applications to cross-examine the named Defendants as to their witness statements and evidence and to amend the title of proceedings and dispense with reserve.

IT IS HEREBY ORDERED THAT:

1. The names of the 4th and 6th Defendants in the Amended Claim Form and Amended Details of Claim be amended to Kathleen Bernadette Katrina Doherty (4th Defendant) and Thomas Jude Doherty (6th Defendant) and there be no requirement to reserve those documents.
2. The 6th, 7th and 8th Defendant's Applications to be removed as parties are dismissed.
3. The Claimant's application to cross-examine the 1st-4th and 6th-8th Defendants is granted and the Claimant do have permission to cross-examine those witnesses. The Defendant has permission to cross examine Toby Feltham on matters of fact relevant to the issues between the parties. Witness statements shall stand as evidence in chief. Oral evidence will be limited to cross-examination.
4. With immediate effect, and until the conclusion of the final hearing, or until the handing down of judgment if judgment is reserved, or further order in the meantime Michael Casey, 1st Defendant, Bridget Casey, 2nd Defendant, Simon Doherty, 3rd Defendant, Kathleen Bernadette Katrina Doherty, 4th Defendant, the Persons Unknown at (5) above, and Thomas Jude Doherty, 6th Defendant, Thomas Casey 7th Defendant and Michael Casey Junior 8th Defendant whether by themselves or by instructing, encouraging or permitting any other person, must not carry out development on the Land in breach of planning control. In particular, those Defendants must not, without planning permission:
 - (a) to bring onto the below defined Land, or station on the Land, any further or replacement caravans as defined in the Caravans Sites and Control of Development Act 1960 and Caravans Act 1968 (the 1960 and 1968 Acts respectively) other than the caravans present on the Land as of 19th July 2024, 10:00am;

(b) to allow or facilitate any further residential occupation of the Land or of the caravans on the Land other than by the following persons:

1. Simon Doherty
2. Michael Casey
3. Eileen Casey
4. Ann Casey
5. Irene Casey
6. Katey Casey
7. Bridget Casey
8. Bridget Quinn Junior
9. Kathleen Bernadette Katrina Doherty
10. Ann Bernadette Doherty

(c) Carry out any further development on the Land;

(d) Bring onto or deposit on the Land any further material

(e) Carry out any further ground excavation works on the Land;

(f) Clear the Land (save for the purpose of routine grounds maintenance);

(g) Lay, or create any further areas of, hardstanding, hardcore, bitumen, gravel, stones, concrete or other similar materials on the Land;

(h) Bring onto the Land, or any part thereof, or keep on the Land, or any part thereof, any plant, machinery or equipment used, or capable of being used, for the development of the Land (save as to those that are used SOLELY for the purpose in the 1st to 4th Defendants' business as trades persons);

(i) Bring onto the Land, or place, station or keep on the Land, any other structures capable of residential use or occupation (apart from pre-existing structures) ;

(j) Erect any further buildings or shelters on the Land; and/or

(k) Install any, or connect any further, services on the Land.

5. The Land in this Order means land known as The Tree Birches, at the side and rear of Kenwood, Green Lane, Chessington (registered under Title No.s SY263578 and SGL643997) as shown edged in red on the Plan attached to this Order (**the Plan**), together with the adjoining land as shown edged and hatched pink on the Plan ("the **Land**").

6. Michael Casey (1st Defendant), Bridget Casey (2nd Defendant), Simon Doherty (3rd Defendant), Kathleen Bernadette Katrina Doherty (4th Defendant) shall by 4pm on 28th October 2024 remove from the land all caravans (as defined in the 1960 and 1968 Acts, other than the seven caravans identified on the Injunction Plan (Caravans) attached to this Order.

7. The 1st and 3rd Defendants' application to vary the Orders of Pitchers J dated 30th April 2003 and Master Foster dated 24th October 2005 be adjourned to be determined at the hearing of the Claimant's substantive application for an injunction under section 187B of the 1990 Act.

8. The requirement for personal service on the Defendants is hereby dispensed with pursuant to CPR r. 6.15 and r. 6.27. Service of this Order shall be effected on the 1st, 2nd, 3rd, 4th, 6th, 7th and 8th Defendants by way of e-mail to Brilliance Solicitors Ltd at casework@brilliancesolicitors.co.uk
9. A copy of this Order (as opposed to the original) contained in a transparent waterproof envelope shall be affixed in:
 - (a) a prominent position on a post or on a gate at the entrance to the Land; and
 - (b) a prominent position as close as is reasonably practicable to any caravan, mobile home or vehicle currently sited on the Land;as soon as reasonably practicable.
10. Costs reserved.

VARIATION OR DISCHARGE OF THIS ORDER

11. The Defendants may apply to the Court at any time to vary or discharge this Order, but if the Defendants wish to do so, they must first inform the Claimant's solicitors in writing at least 48 hours beforehand.
12. The Claimant has liberty to apply to the Court to extend or vary this Order, or for further directions, but if the Claimant wishes to do so, it must first give the Defendants at least 48 hours' notice in writing.

FURTHER DIRECTIONS

13. The Claimant have permission to serve this Order and any further application they wish to make on the 5th Defendant pursuant to CPR 6.15(1) and CPR 6.27. The alternative method and alternative place for service is by the alternative methods set out at sub paragraphs (a) – (c) below: -
 - (a) affixing a copy of this Order and/or any further application concerning persons unknown in a transparent waterproof envelope in a prominent position on a post or on a gate at the entrance to the Land;
 - (b) publishing a copy of this Order and/or any further application concerning persons unknown on the Claimant's Planning Portal searchable by the address of the property; and
 - (c) publishing this order and/or any application concerning persons unknown on the Claimant's planning enforcement and breaches page of its website at

<https://www.kingston.gov.uk/applications/planning-enforcement-breaches-1>
with links to the Court Proceedings.

14. By 4pm on 8th November 2024, any person other than the 1st – 4th and 6th – 8th Defendants who wishes to defend the Claimant's Claim must file and serve an acknowledgement of service and any evidence upon which they wish to rely at the hearing of the substantive application.
15. The Parties do have permission to rely, if so advised, upon Expert Reports in accordance with CPR Practice Direction 35 – Experts and Assessors, limited to the issues of:
 - (a) Land stability and contamination; and/or
 - (b) Planning.
16. By 4pm on 7th January 2025, the Parties are to file and serve any further evidence (if so advised), including expert evidence, which they wish to rely upon at the hearing of the substantive application.
17. By 4pm on 4th February 2025, the Parties are to file and serve any evidence in reply.
18. Any further application to cross-examine any witness shall be made by 4pm on 11th February 2025.
19. The Claimant shall file and serve an agreed Hearing Bundle 28 days before the substantive hearing.
20. The Parties shall file and serve skeleton arguments 10 days before the hearing of the substantive application.
21. The Claimant shall file and serve an agreed bundle of authorities 7 days before the hearing of the substantive application.
22. The hearing of the Claimant's substantive application for an injunction under section 187B of the 1990 Act shall be listed with a time estimate of three days for the first available date after 17th March 2025 at the Royal Courts of Justice, Strand, London WC2A 2LL. The Parties shall submit their dates to avoid to the King's Bench Judges Listing Office within 7 days of the date of this Order
23. The 1st-4th and 6th-8th Defendants' applications (a) for permission to appeal and (b) for a stay of execution are dismissed.

NAME AND ADDRESS OF SOLICITORS THE CLAIMANT

South London Legal Partnership of Merton Civic Centre, London Road, Morden
SM4 5DX

Telephone Nos 020 8545 4568 or 020 8545 4468

Email David.Fellows@merton.gov.uk / Samuel.hick@merton.gov.uk

The Solicitor dealing with the matter is David Fellows.
Reference 1743/209

**NAME AND ADDRESS OF SOLICITORS FOR THE 1st to 4th and 6th to 8th
DEFENDANTS**

Brilliance Solicitors of HatTech Business Centre, Beaconsfield Court, Beaconsfield Road, Hatfield, Hertfordshire AL10 8FF.

Email for Service: casework@brilliancesolicitors.co.uk

Telephone 0207 164 6849

BY THE COURT



ch Ln

32m

1
Plot 1

3
Plot 2

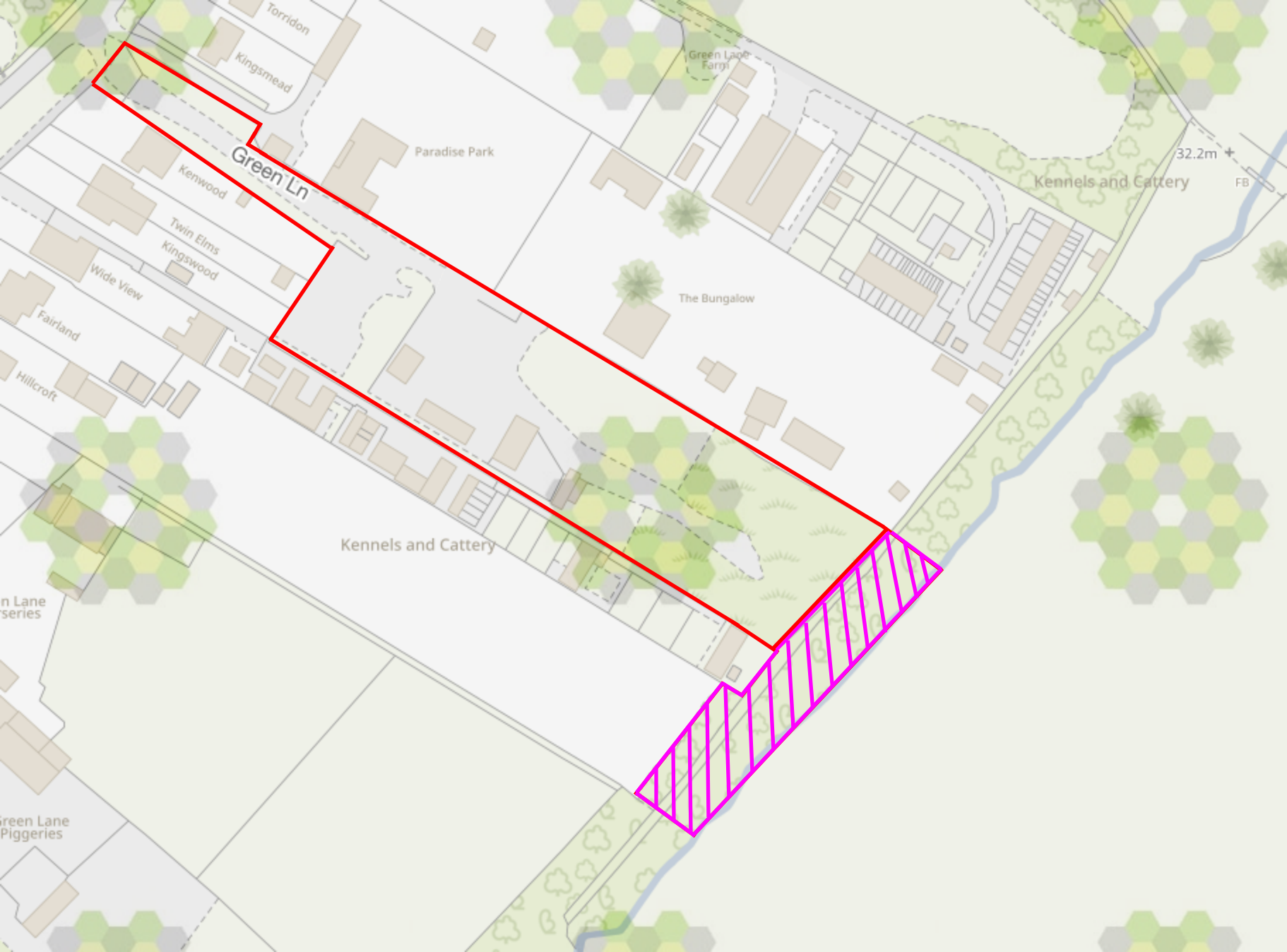
4

Plot 3

6

Plot 4

7



Green Ln

Kenwood

Twin Elms
Kingswood

Wide View

Fairland

Hillcroft

n Lane
series

Green Lane
Piggeries

Paradise Park

The Bungalow

Kennels and Cattery

Kennels and Cattery

32.2m

FB