

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

CLAIM NO. KB-2024-002247

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

BEFORE Mr ANDREW KINNIER KC sitting as a Deputy Judge of the High Court

B E T W E E N: -



KB-2024-002247

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

Claimant

-and-

(1) MICHAEL CASEY

(2) BRIDGET CASEY

(3) SIMON DOHERTY

(4) KATHLEEN DOHERTY

(5) PERSONS UNKNOWN, BEING THOSE PERSONS CAUSING OR PERMITTING 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) TOM DOHERTY

(7) THOMAS CASEY

(8) MICHAEL CASEY JUNIOR

Defendants

ORDER

PENAL NOTICE

IF YOU, TOM DOHERTY (6th Defendant), THOMAS CASEY (7th Defendant), MICHAEL CASEY JUNIOR (8th Defendant) OR THE PERSONS UNKNOWN AT (5) ABOVE, BEING THOSE PERSONS CAUSING OR PERMITTING 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 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.

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

AND UPON THE COURT NOTING that the Claim Form, Details of Claim, Application for interim injunction, supporting evidence, and notice of the hearing for 25th July 2024 was served upon the Defendants on 19th July 2024

AND UPON THE 1st to 4th DEFENDANTS NAMED ABOVE UNDERTAKING TO THE COURT, by their Solicitor, that until the conclusion of the Return Date hearing, or until the handing down of judgment if judgment is reserved, or further order in the meantime 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 other than the caravans present on the Land as of 24 July 2024, 10:00am;

(b) to allow or facilitate any further residential occupation of the Land or of the caravans on the Land beyond the presence of those occupying the land as of 24 July 2024, 10:00am.

(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.

TAKE NOTICE that if you, the 1st, 2nd, 3rd and 4th Defendants break any of your promises to the Court you may be fined, your assets seized or you may be sent to prison for contempt of court.

IT IS ORDERED THAT:

1. With immediate effect, and until the conclusion of the Return Date hearing, or until the handing down of judgment if judgment is reserved, or further order in the meantime, in relation to the land known as The Three Birches, at the side and rear of Kenwood, Green Lane, Chessington (registered under Title No.s SY263578 and SGL 643997) 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**"), the Persons Unknown at (5) above, and Tom 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 other than the caravans present on the Land as of 24 July 2024, 10:00am;

(b) to allow or facilitate any further residential occupation of the Land or of the caravans on the Land beyond the presence of those occupying the land as of 24 July 2024, 10:00am.

(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.

COSTS OF THE APPLICATION

2. The costs of this Application are reserved.

VARIATION OR DISCHARGE OF THIS ORDER

3. 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.

4. 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

5. Tom Doherty, Thomas Casey and Michael Casey Junior are hereby joined to the proceedings as 6th, 7th & 8th Defendants respectively. Any Acknowledgement of Service by the 6th, 7th & 8th Defendants must be filed and served within 14 days of

service of this Order **and Amended Claim Form** in accordance with paragraph 11 of this Order.

6. This Order will be reconsidered at a hearing to be fixed (“the Return Date”) after the 16th September 2024 with a time estimate of one day and for this purpose the application is certified as fit for hearing in Vacation. 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.

7. The Claimant has permission 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/mobiles homes brought onto the Land since the commencement of the Claim and any such application shall be heard on the Return Date.

8. Save that there by no order on the 1st-4th Defendants’ Application for adjournment dated 24th July 2024, that Application shall be listed on the Return Date

9. Any further evidence by any party, must be filed and served not less than 7 days prior to the Return Date.

10. On the Return Date, the Court will give directions for the trial of the Part 8 Claim.

11. Service of this Order and Amended Claim Form may be effected by the Claimant (a) affixing sealed copies of the Order and Amended Claim Form, in transparent waterproof envelopes affixed to the entrance to the Land and (b) handing affixing sealed copies of the Order and Amended Claim Form, on any persons (if any) found on the Land

DATED 25th DAY OF JULY 2024

NAME AND ADDRESS OF CLAIMANT'S SOLICITORS

The Claimant's solicitors are: South London Legal Partnership, of Merton Civic Centre, London Road, Morden SM4 5DX

Telephone No.s 020 8545 3470/4468

Email Byron.britton@merton.gov.uk / Samuel.hick@merton.gov.uk

The Legal Representative dealing with the matter is Byron Britton.

Reference 1743/209

NAME AND ADDRESS OF SOLICITORS FOR THE 1ST to 4th DEFENDANTS

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

Email for Service: casework@brilliancesolicitors.co.uk

Telephone 0207 164 6849

Amended 25/7/24 to add Defendants (6),(7), & (8) pursuant to permission granted by Mr Andrew Kinnier KC, (Sitting has a Deputy High Court Judge)

AMENDED SCHEDULE 1 TO CLAIM FOR

LIST OF DEFENDANTS

No	Name	Address
1	MICHAEL CASEY	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS & 61 Woron Road Isleworth Middlesex TW7 6HL
2	BRIDGET CASEY	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS
3	SIMON DOHERTY	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS & 93 Ruxley Lane Ewell Epsom KT19 9HB
4	KATHLEEN DOHERTY	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS & 93 Ruxley Lane

		Ewell Epsom KT19 9HB
5	PERSONS UNKNOWN, BEING THOSE PERSONS CAUSING OR PERMITTING 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	Not known – See application for alternative service
6	Tom Doherty	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS
7	Thomas Casey	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS
8	Michael Casey Junior	The Tree Birches Land at the side & R/O Kenwood Green Lane Chessington KT9 2DS

DATED 25th DAY OF JULY 2024