

**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**

**DATED 11th DAY OF OCTOBER 2024**

**B E T W E E N : -**

**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 BERNADETTE KATRINA 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) THOMAS JUDE DOHERTY**

**(7) THOMAS CASEY**

**(8) MICHAEL CASEY JUNIOR**

**Defendants**

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**INTERIM ORDER**

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**PENAL NOTICE**

**IF YOU, MICHAEL CASEY (1<sup>st</sup> Defendant), BRIDGET CASEY (2<sup>nd</sup> Defendant),  
SIMON DOHERTY (3<sup>rd</sup> Defendant), KATHLEEN BERNADETTE KATRINA  
DOHERTY (4<sup>th</sup> Defendant), THOMAS JUDE DOHERTY (6<sup>th</sup> Defendant), THOMAS  
CASEY (7<sup>th</sup> Defendant), MICHAEL CASEY JUNIOR (8<sup>th</sup> 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 17<sup>th</sup> 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 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 25<sup>th</sup> July 2024 joining the 6<sup>th</sup>, 7<sup>th</sup>, & 8<sup>th</sup> 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 1<sup>st</sup> – 4<sup>th</sup> 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 1<sup>st</sup> and 3<sup>rd</sup> Defendants' application to vary the Orders of Pitchers J dated 30 April 2003 and Master Foster dated 26 October 2005

**AND UPON** the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants' applications to be discharged from the proceedings both dated 20<sup>th</sup> 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 ORDERED THAT:

1. The names of the 4<sup>th</sup> and 6<sup>th</sup> Defendants in the Amended Claim Form and Amended Details of Claim be amended to Kathleen Bernadette Katrina Doherty (4<sup>th</sup> Defendant) and Thomas Jude Doherty (6<sup>th</sup> Defendant) and there be no requirement to reserve those documents.
2. The 1<sup>st</sup>-4<sup>th</sup> Defendants Applications to adjourn are dismissed.
3. The 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Defendants Applications to be removed as parties are dismissed.
4. The Claimant's application to cross-examine the 1<sup>st</sup>-4<sup>th</sup> and 6<sup>th</sup>-8<sup>th</sup> Defendants is granted. The witness statements of the Defendants shall stand in their evidence in chief. Oral evidence will be limited to cross-examination.
5. 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, in relation to the land known as The Tree 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**"), Michael Casey, 1<sup>st</sup> Defendant, Bridget Casey, 2<sup>nd</sup> Defendant, Simon Doherty, 3<sup>rd</sup> Defendant, Kathleen Bernadette Katrina Doherty, 4<sup>th</sup> Defendant, the Persons Unknown at (5) above, and Thomas Jude Doherty, 6<sup>th</sup> Defendant, Thomas Casey 7<sup>th</sup> Defendant and Michael Casey Junior 8<sup>th</sup> 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 19<sup>th</sup> 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 19<sup>th</sup> 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 1<sup>st</sup> to 4<sup>th</sup> 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.

6. Michael Casey (1<sup>st</sup> Defendant), Bridget Casey (2<sup>nd</sup> Defendant), Simon Doherty (3<sup>rd</sup> Defendant), Kathleen Bernadette Katrina Doherty (4<sup>th</sup> Defendant) shall by 4pm on 18 October 2024 remove from the land all caravans (as defined in the Caravan Sites and Control of Development Act 1960, other than the seven caravans identified on the attached plan.
7. The 1<sup>st</sup> and 3<sup>rd</sup> Defendants' application to vary the Orders of Pitchers J dated 30 April 2003 and Master Foster dated 26 October 2005 be adjourned to be determined at the hearing of the Claimant's substantive application for an injunction under section 187B of the Town and Country Planning Act 1990.
8. Costs reserved.

#### **VARIATION OR DISCHARGE OF THIS ORDER**

9. 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.
10. 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**

11. The Claimant have permission to serve this Order and any further application they wish to make or evidence upon which they wish to rely on the 5<sup>th</sup> 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 other document to be served in a transparent 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 other document to be served in on the Claimant's Planning Portal searchable by the address of the property; and
  - (c) Publishing this order and/or any other document to be served 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.

12. By 4pm on **DATE** 2024, any Defendant who wishes to defend the Claimant's Claim must file and serve acknowledgements of service and any evidence upon which they wish to rely at the hearing of the substantive application.
13. By 4pm on **DATE** 2024, the Claimant is to file and serve any further evidence (if so advised) which it wishes to rely upon at the hearing of the substantive application.
14. The hearing of the Claimant's substantive application for a section 187B injunction shall be listed for the first available date after **DATE** 2024, with a time estimate of three days, at the Royal Courts of Justice, Strand, London WC2A 2LL.

**NAME AND ADDRESS OF SOLICITORS THE CLAIMANT**

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

Telephone No.s 020 8545 4568 or 4468

Email [David.Fellows@merton.gov.uk](mailto:David.Fellows@merton.gov.uk) / [Samuel.hick@merton.gov.uk](mailto:Samuel.hick@merton.gov.uk)

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

**NAME AND ADDRESS OF SOLICITORS FOR THE 1<sup>st</sup> to 4<sup>th</sup> and 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> DEFENDANTS**

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

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**BY THE COURT**