

**IN THE HIGH COURT OF JUSTICE**

**Claim No. 11**



**KING'S BENCH DIVISION**

**IN THE MATTER OF S.187B OF THE TOWN AND COUNTRY PLANNING ACT 1990**

**BEFORE THE HONOURABLE MRS JUSTICE DIAS**

**DATED 30<sup>th</sup> March 2024**

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

**ASHFORD BOROUGH COUNCIL**

**Claimant**

**and**

**(1) JOHN MATTHEWS**

**(2) SAILLUS LEE**

**(3) EUGENE LEE**

**(4) NATHAN LEE**

**(5) LEWIS LEE**

**(6) PERSONS UNKNOWN (being those, whether the extended family of the Second to Fifth Defendants or otherwise, with an interest in or intending to undertake works or intending to occupy land known as "Land on the south side of Rosemary Lane, Smarden, Ashford" registered at HM Land Registry under Title Number K803646)**

**Defendants**

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**INJUNCTION ORDER**

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**PENAL NOTICE**

**IF YOU THE WITHIN NAMED: JOHN MATTHEWS, SAILLUS LEE, EUGENE LEE, NATHAN LEE, LEWIS LEE AND PERSONS UNKNOWN**

***DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND LIABLE TO IMPRISONMENT OR FINED OR YOUR ASSETS SEIZED. ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.***

## **IMPORTANT**

1. This Order prohibits you from doing the acts set out in this Order. You should read terms of the Order and the guidance notes very carefully. You are advised to consult a solicitor as soon as possible. You have a right to ask the Court to vary or discharge the Order.
  
2. If you disobey this order you may be found guilty of Contempt of Court and may be sent to prison or fined. In the case of a Corporate Defendant, it may be fined, its Directors may be sent to prison or fined or its assets may be seized.

On the 30<sup>th</sup> March 2024 Mrs Justice Dias considered the Application brought by Ashford Borough Council (“the Claimant”) for an injunction supported by the Witness Statement listed in Schedule A and accepted the undertakings listed in Schedule B at the end of this Order.

**UPON** hearing Counsel for the Claimant, upon reading the witness statement listed in Schedule A and upon accepting the undertakings listed in Schedule B

**IT IS ORDERED THAT UNTIL 9<sup>th</sup> April 2024 (the Return Date) OR FURTHER ORDER:**

### **THE INJUNCTION**

1. In relation to the Land known as “Land on the south side of Rosemary Lane, Smarden, Ashford” registered at HM Land Registry under Title Number K803646 (the Land) as shown edged blue on the attached plan, the Defendants whether by themselves or by instructing, encouraging or permitting any other person must not use the Land or carry out works to the Land in breach of planning control and, in particular, must not:
  - i. Allow the use of the Land for human habitation or residential occupation or any other purpose in breach of planning control;
  - ii. Bring onto the Land any additional touring caravans and/or mobile homes for the purpose of human habitation or residential occupation or any other purpose in breach of planning control;

- iii. Bring /erect/install any buildings or structures on the Land for the purposes of human habitation or residential occupation or any other purpose in breach of planning control;
- iv. Bring onto the Land any portable structures including portable toilets and any other further items and paraphernalia for purposes associated with human habitation or residential occupation or any other purpose in breach of planning control;
- v. Bring onto the Land any further waste materials and/or hardcore and/or like materials for any purpose, including the further creation/laying of hardstandings or hard surfaces, in association with the use of Land for the stationing of caravans and/or mobile homes for the purpose of human habitation or residential occupation or any other purpose in breach of planning control;
- vi. Carry out any further works in relation to the formation of paths, roadways or any works including the provision of sewerage, water and electricity infrastructure associated with the use of caravans and/or mobile homes for the purpose of human habitation or residential occupation or any other purpose in breach of planning control;
- vii. Carry out any further works to the Land associated with or in preparation for its use for stationing caravans/or mobile homes or for the erection of a building and/or any structure for human habitation or residential occupation or any other purpose in breach of planning control;
- viii. Undertake any further development on the Land as defined in section 55 of the Town and Country Planning Act 1990 without the express grant of planning permission.

**IT IS FURTHER ORDERED THAT:**

**ALTERNATIVE SERVICE**

- 2. Service of this Order and related documentation may be effected by:
  - a. the posting of sealed copies of the said Order, the Application Notice, the Claim Form and evidence in support of the Application and any future documentation in a transparent waterproof envelope in a prominent position on the Land;

- b. advertisement on the Claimant's website and social media sites which it considers might be reasonably bring this Order to the attention of the Defendants;
- c. service at any mobile homes, caravans, static homes of other dwellings already on the Land

and such posting, advertisement or service in accordance with a. and/or b. and/or c. above shall be deemed to be good and sufficient service on the Defendants of the said Order, the Application Notice, Claim Form and evidence in support of the Application and any future documentation on the date it was so affixed.

### **THE RETURN DATE**

- 3. There shall be a hearing at 10.30am on 9<sup>th</sup> April 2024 (the Return Date) at the Royal Courts of Justice, unless the named parties consent in writing that no such hearing is necessary. On the Return Date, the Defendants can make, if so advised, representations in relation to the continuation, variation or discharge of the Order.

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

- 4. The Defendants may each of them (or anyone notified of this Order) apply to the Court on 48 hours written notice to the Claimant's legal representatives to vary or discharge this Order (or so much of it as affects that person). Except that the hours between 5pm on any Friday and 9am on any Monday cannot be counted as part of the 48 hours' notice period.
- 5. Any person, other than the First-Fifth Defendants, who wishes to be heard under paragraphs 3 or 4 must apply to the court to be added as a named defendant to these proceedings and must provide their names and contact details in the application.

### **COSTS OF THE APPLICATION**

- 6. Costs reserved.
- 7. Liberty to apply.

### **GUIDANCE NOTES**

#### **Effect of this Order – The Defendants**

A Defendant who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.

### **Effect of this Order - Parties other than the Claimant and Defendants**

It is a Contempt of Court for any person notified of this Order knowingly to assist in or permit a breach of this Order. Any person doing so may be sent to prison, fined or have his assets seized.

The grant of this order does not prevent the Defendants from raising any objection of law, practice, justice or convenience at the Return Date or other hearing before the court.

### **Interpretation of this Order**

1. In this Order, the words “the Land” means land known as “Land on the south side of Rosemary Lane, Smarden, Ashford” registered at HM Land Registry under Title Number K803646, edged blue on the attached plan.
2. In this Order, where there is more than one Defendant (unless otherwise stated) references to “the Defendants” means each or all of them.
3. A requirement to serve on “the Defendants” means on each of them. However, the Order is effective against any Defendant on whom it is served.
4. An Order requiring “the Defendants” not to do anything applies to all Defendants.
5. In this Order, the Sixth Defendant identified only as “Persons Unknown” refers to those adult persons, whether the extended family of the Second to Fifth Defendants or otherwise, who are not named Defendants to this Application who have an interest in the Land and/or intend to carry out further works to the Land and/or intend to station caravan and/or mobile homes on the Land for the purpose of human habitation and/or residential occupation or any other purpose in breach of planning control.

### **Communications with the Court**

All communications to the Court about this Order should be sent to Room WG08, Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6010). The offices are open between 10 a.m. and 4.30 p.m. Monday to Friday except holidays.

## **SCHEDULE A**

### **Evidence**

The Judge read the following written evidence before making this Order:-

1. First Witness Statement of Joanne Alexander dated 29<sup>th</sup> March 2024

## **SCHEDULE B**

### **Undertakings given to the Court by the Claimant:-**

1. As soon as practicable the Claimant will serve on the named Defendants a sealed copy of this Order and evidence in support, together with Counsel's skeleton argument and a note of the hearing pursuant to the Order for alternative service herein.
2. As soon as practicable, the Claimant will sign and serve on the named Defendants a further witness statement (a) confirming the additional information provided to the court by counsel concerning the Claimant's implementation of policy HOU16 in its Local Plan and (b) complying with the formal requirements of Practice Direction 49E paragraph 21.6.
3. As soon as practicable the Claimant will serve on the named Defendants the sealed Claim Form in this action claiming the appropriate relief.
4. To use the Claimant's best endeavours to effect personal service on the named Defendants including ensuring that the First Defendant is served by post.

### **Name and Address of Claimant's Legal Representatives:-**

Mr Terry Mortimer  
Solicitor to the Council and Monitoring Officer  
Legal Department  
Ashford Borough Council  
Civic Centre  
Tannery Lane  
Ashford, Kent, TN23 1PL

Tel: 01233 330214

Email: [samantha.clarke@ashford.gov.uk](mailto:samantha.clarke@ashford.gov.uk)

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Solicitors for Ashford Borough Council