

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

CLAIM NO KB-2023-BHM-000271



KB-2023-BHM-000271

BETWEEN:

WYCHAVON DISTRICT COUNCIL

Claimant

-and-

(1) MS MEGAN KIMBERLEY DAVIS

(2) MR JIMMY JOHNSON

(3) PERSONS UNKNOWN BRINGING CARAVANS/MOBILE HOMES ON TO THE LAND KNOWN AS THE "FORMER OLD CLAYFIELD BARN SITE", CLAYFIELD ROAD, BRETORTON, WORCESTERSHIRE ("THE LAND") TO LIVE IN, OR UNDERTAKING DEVELOPMENT (INCLUDING RESIDENTIAL OCCUPATION) AS DEFINED BY SECTION 55 OF THE TOWN AND COUNTRY PLANNING ACT 1990 ON THE LAND SAVE IN RESPECT OF ANY DEVELOPMENT WHICH ACCORDS WITH THE PLANNING PERMISSION DATED 21 SEPTEMBER 2022 (REF: W/22/01422/CU) OR ANY SUBSEQUENT PLANNING PERMISSION

Defendants

ORDER

IMPORTANT NOTICE TO THE DEFENDANTS

YOU MUST OBEY THIS ORDER OF THE COURT. YOU SHOULD READ IT CAREFULLY. IF YOU DO NOT UNDERSTAND ANYTHING IN THIS ORDER YOU SHOULD GO TO A SOLICITOR, LEGAL ADVICE CENTRE OR CITIZENS ADVICE CENTRE.

IF YOU DO NOT OBEY THE INSTRUCTIONS CONTAINED AT PARAS 5, 6 AND 7 OF THIS ORDER, YOU WILL BE GUILTY OF CONTEMPT OF COURT AND MAY BE SENT TO PRISON, FINED OR HAVE YOUR ASSETS SEIZED.

Before Her Honour Judge Emma Kelly sitting as a Judge of the High Court on 13 December 2023

UPON hearing from Counsel for the claimant and reading the evidence filed in support of the claim

AND UPON the Court being satisfied that it is appropriate to deal with the matter in the first instance in the absence of notice to the defendants; the 1st defendant having been given informal notice only and the other defendants having no notice

AND UPON the claimant having provided the 1st defendant with a copy of the proceedings (including the claim form, application, draft order and witness evidence) together with the Notice of Hearing by email at 12.53 on 12 December 2023 and she has confirmed receipt

AND UPON the Court having regard to the emails sent by the 1st defendant to the claimant's solicitor since the documents were sent by email

AND UPON the Court being satisfied that it is appropriate to grant relief against an un-named defendant and to allow service by an alternative method in respect of the 2nd and 3rd defendants

AND UPON the claimant undertaking to provide a typed copy of its solicitor's note of the hearing to the defendants and anyone else who requests it as soon as practicable

IT IS ORDERED:

1. The claimant is granted permission to amend the claim form to change the description of the 3rd defendant to:

“Persons Unknown bringing caravans/mobile homes on to the Land known as the “Former Old Clayfield Barn Site”, Clayfield Road, Bretforton, Worcestershire (“the Land”) as to live in or undertaking development (including residential occupation) as defined by section 55 of the Town and Country Planning Act 1990 on the Land save in respect of any development which accords with the planning permission dated 21 September 2022 (ref: W/22/01422/CU) or any subsequent planning permission.”

2. By 4pm on 13 December 2023, the claimant must file the amended claim form. The claimant must serve it on the defendants forthwith thereafter.
3. The claimant shall forthwith file and serve a witness statement confirming what the Court was told by Counsel during the course of the hearing. The interim injunction may not be served until this has been done.
4. “The Land” referred to in this order is land known as the “Former Old Clayfield Barn Site”, Clayfield Road, Bretforton, Worcestershire which is as delineated in red on the attached plan.
5. **Until final determination of the claim or further order of the Court, the defendants shall not whether by themselves or encouraging, instructing or allowing another undertake any development (as defined by section 55 of the Town and Country Planning Act 1990) on the Land, save in respect of any development which accords with the planning permission dated 21 September 2022 (ref: W/22/01422/CU), without the grant of planning permission or the written consent of the claimant’s solicitor. For the avoidance of doubt, nobody may live on the Land save in respect of the lawful implementation of the planning permission dated 21 September 2022.**
6. **If the 1st or 2nd defendant sells or leases the Land, they shall:**

- a) **Provide a copy of this order to the prospective purchaser/tenant before the Land (or any part therein) is transferred or contracts exchanged;**
 - b) **Provide the full name and contact details of the new owner/tenant to the claimant's solicitor within 48 hours of the transfer / exchange of contracts.**
7. **If the 1st or 2nd defendant has already sold or leased the Land, they shall provide a copy of this order to the purchaser/tenant and provide the full name and contact details of the purchaser/tenant to the claimant's solicitor as soon as practicable.**
8. The claimant shall personally serve the 1st defendant with a copy of this order together with the amended claim form and the application and evidence in support.
9. The claimant has permission to serve the 2nd defendant by an alternative method, namely that the claimant may serve the amended claim form, application notice, evidence in support and this order on him by sending the documents by registered post to him at the prison at which he is being held. In the event that the 2nd defendant is released from custody before service is effected, the claimant shall serve him personally.
10. The claimant has permission to the 3rd defendant by an alternative method namely the claimant shall:
 - a) Attach copies of this order together with the application, amended claim form and evidence in a clear plastic envelope at 4 locations namely: 2 staked locations where the brick wall of the Land abuts the highway, on the entrance gate itself and to the right of the entrance so that it comes to the attention of any visitors; and
 - b) Put on its website a copy of this order together with the application, the amended claim form and evidence so that it is readily and easily accessible by any member of the public including a link to the aforementioned documents from the claimant's home page; and
 - c) Provide to any planning agent or individual who expresses an interest in the Land a copy of this order together with the application, amended claim form and evidence.

11. Liberty to the defendants to apply to set aside or vary this order upon 48 hours written notice to the claimant.

12. The matter shall return for an on-notice hearing of the interim application on 12 noon on 10 January 2024 with a time estimate of 1.5 hours. To be listed before HHJ Kelly or any other s.9 CJ. At this hearing, the Court shall reconsider whether the interim order was properly made and whether its terms ought to be varied or discharged.

13. If the defendants wish to:

- a) Rely upon any evidence to contest the claim, they must file and serve the acknowledgment of service within 14 days of service together with any written witness evidence in support.
- b) Rely upon any evidence to contest the application for an interim injunction, they shall file and serve any written witness evidence by 4pm on 4 January 2024.

14. Costs reserved.

HHJ Emma Kelly

13.12.23