

IN THE HIGH COURT OF JUSTICE

Claim No. QB 2019-002493

QUEEN'S BENCH DIVISION

IN THE MATTER OF SECTION 222 LOCAL GOVERNMENT ACT 1972 AND

SECTION 187B OF THE TOWN AND COUNTRY PLANNING ACT 1990

BEFORE HIS HONOUR JUDGE FREEDMAN SITTING AS A JUDGE OF THE HIGH COURT

Dated: 11<sup>th</sup> November 2019

B E T W E E N :

SURREY COUNTY COUNCIL



Claimant

-and-

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(1) PERSONS UNKNOWN OCCUPYING LAND  
(2) PERSONS UNKNOWN DEPOSITING WASTE OR FLY-TIPPING ON LAND

Defendants

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INJUNCTION ORDER

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**PENAL NOTICE**

**IF YOU PERSONS UNKNOWN OCCUPYING THE LAND AND DEPOSITING WASTE OR FLY-TIPPING ON LAND (AS DEFINED IN THIS ORDER) DISOBEY THIS ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER YOU MAY BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS PERSONS UNKNOWN OCCUPYING THE LAND AND DEPOSITING WASTE OR FLY-TIPPING ON LAND 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.**

#### **POWER OF ARREST**

**THIS ORDER CONTAINS A POWER OF ARREST FOR BREACH OF PARAGRAPHS 1 TO 4 OF THIS ORDER PURSUANT TO SECTION 27 OF THE POLICE AND JUSTICE ACT 2006. ANY PERSON CAUGHT BREACHING PARAGRAPHS 1 TO 4 OF THIS ORDER MAY BE ARRESTED AND BROUGHT BEFORE THE COURT**

#### **NOTE TO ARRESTING OFFICER**

Where a Person Unknown Occupying Land and / or Depositing Waste or Fly-Tipping on Land is arrested under the power given by Section 27 of the Police and Justice Act 2006:-

- **A Person Unknown Occupying and / or Depositing Waste or Fly-Tipping on Land shall be brought before the judge within a period of 24 hours beginning at the time of their arrest;**
- **A Constable shall inform the person on whose application the injunction was granted, forthwith where a Defendant is arrested under the power given by Section 27 of the Police and Justice Act 2006**

Nothing in Section 27 of the Police and Justice Act 2006, shall authorise the detention of a Person Unknown Occupying and / or Depositing Waste or Fly-Tipping on Land after the expiry of the period of 24 hours beginning at the time of arrest

In calculating any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

**UPON HEARING COUNSEL FOR THE CLAIMANT AND THERE BEING NO DEFENDANT AS NO PERSON HAS APPLIED TO BE A DEFENDANT**

**AND UPON NOTICE OF THIS HEARING HAVING BEEN GIVEN IN THE ORDER OF 12 JULY 2019 WHICH WAS FIXED IN PROMINENT POSITIONS ON THE LAND AND PUBLISHED ON THE CLAIMANT'S WEBSITE;**

AND UPON THE COURT TREATING THE HEARING AS THE TRIAL OF THE PART 8 CLAIM

AND UPON THE READING THE PAPERS AND HEARING THE APPLICATION FOR THE FINAL PART 8 CLAIM FOR AN INJUNCTION ORDER

AND UPON READING THE WITNESS STATEMENT LISTED AT APPENDIX A TO THIS ORDER

AND UPON THE CLAIMANT UNDERTAKING THAT IN THE EVENT THAT ANY PERSON OCCUPIED THE LAND, THEY WOULD STILL BE ENTITLED TO FULL AND PROPER CONSIDERATION BY THE COUNCIL OF THEIR WELFARE, HEALTH, HOUSING AND SOCIAL CARE NEEDS.

**IT IS ORDERED THAT,**

1. There be judgment for the Claimant on the Part 8 Claim for an injunction on the terms set out below.
2. The First and Second Defendants as (1) Persons Unknown Occupying Land and / or (2) Depositing Waste or Fly-tipping on Land (as defined by this Order) are forbidden until midnight on 10 November 2022 from:
  - (1) Setting-up an encampment on Chobham Common without written permission from the Local Planning Authority by virtue of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015/596 (GPDO 2015) or planning permission granted by a planning inspector;
  - (2) Occupying any part of Chobham Common for residential purposes (temporary or otherwise) including with caravans, mobile homes, vehicles, and residential paraphernalia without written permission from the Local Planning Authority by virtue of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015/596 (GPDO 2015) or planning permission granted by a planning inspector;
  - (3) Bringing on Chobham Common any vehicle whether for the purposes of disposal of waste and materials or otherwise, other than when driving through the County of Surrey or in compliance with the Parking Orders regulating the use of car parks or with written permission from the Local Planning Authority by virtue of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015/596 (GPDO 2015) express permission from the owners of the Land.
  - (4) Depositing any personal, domestic or commercial waste and / or fly-tipping on Chobham Common.

### **In this Order**

- (5) "The Land" means Chobham Common, Surrey within the County of Surrey identified on the attached Map.
  - (6) "Occupying" means remaining in for the purposes of treating as a place of residence or as a dwelling;
  - (7) "Encampment" means a place of temporary shelter for the purposes of accommodation
  - (8) Service of this Order shall be deemed served pursuant to CPR 6.27 by affixing a copy of this Order as opposed to an original contained in a transparent waterproof envelope or laminated copy in a prominent position at each of the entrances to the Common;
  - (9) Any person who is presently a Person Unknown (or anyone notified of this Order) who wishes to identify him or herself and join as a named Defendant to the proceedings may apply to the Court on 72 hours written notice to the Court and the Claimant to vary or discharge this Order (or, so much as it affects that person).
  - (10) There shall be a power of arrest attached to paragraphs 1 to 4 of this Order.
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### **Application to Vary or Discharge This Order**

2. Any person who is presently a Person(s) Unknown (or any person notified of this Order) and who wishes to identify themselves and be joined as a named Defendant to this Claim may apply to the Court to be so joined on 72 hours' notice to the Court and to the Claimant, and/or to vary or discharge this Order (or part of it) including upon the basis of their personal circumstances (including grounds of hardship or health).

### **GUIDANCE NOTES**

#### **Effect of this Order**

1. A Person Unknown Occupying and / or Depositing Waste or Fly-tipping on Land (or anyone notified of this Order) who is an individual who is ordered not to do something must not do it by him or herself or in any other way. He/she must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.

2. A Defendant which is a corporation and which is ordered not to do something must not do it itself or by its directors, officers, employees or agents or in any other way.

### **PARTIES OTHER THAN THE CLAIMANT AND DEFENDANTS**

#### **Effect of this Order**

3. It is 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/her assets seized.

### **UNDERTAKINGS**

4. The Claimant will serve a copy of this Order in a transparent waterproof envelope or laminated copy in a prominent position at all the entrances to the Common with a notice that a copy of the supporting evidence can be obtained from County Hall, Penrhyn Road, Kingston-upon-Thames, Surrey during normal opening hours or on the Council's website.
5. The Claimant will place a copy of this Order together with the evidence served in support and the Part 8 Claim Form on the Claimant's website.

### **COMMUNICATIONS WITH THE COURT**

6. All communications with the Court about this Order should be sent to Room WG08 Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6010)

### **APPENDIX A**

#### **SCHEDULE OF WITNESS STATEMENTS**

- (1) Witness Statement of Mr. Ian Horgan dated 10 July 2019
- (2) Witness Statement of Mr. James Adler dated 10 July 2019
- (3) Second Witness Statement of Mr. Ian Horgan dated 05 November 2019