

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

BETWEEN:



SURREY COUNTY COUNCIL

Claimant

-and-

(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 NOTICE TO THE DEFENDANTS**

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

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

AND UPON INFORMAL NOTICE BEING GIVEN TO THE SURREY GYPSEY AND TRAVELLER FORUM BY LETTER DATED 4 JULY 2019

AND UPON ANY PERSON FROM THE GYPSY AND TRAVELLER COMMUNITY WHO WISHES TO ATTEND THE HEARING OF THE PART 8 CLAIM IF THEY WISH TO DO SO

AND UPON THE CLAIMANT UNDERTAKING TO THE COURT TO FORTHWITH NOTIFY THE SURREY GYPSY AND TRAVELLER FORUM OF THE TERMS OF THIS ORDER

AND UPON THE CLAIMANT UNDERTAKING THAT IN THE EVENT THAT ANY PERSON OCCUPIES 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, UNTIL THE HEARING OF THE PART 8 CLAIM OR FURTHER ORDER AS FOLLOWS:

1. The Defendant as Persons Unknown Occupying Land and / or Depositing Waste or Fly-tipping on Land are forbidden 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.

#### **Directions for Service of this Order & Part 8 Claim**

2. Service of this Order and Part 8 Claim shall be effected at Chobham Common as shown on the attached Map by affixing copies of this Order (as opposed to an original sealed Order) contained in transparent waterproof envelopes or laminated copies in a prominent position at each of the entrances to the Land together with a Notice that a copy of the Part 8 Claim Form and Notice of Hearing and supporting evidence can be obtained from Surrey County Council, County Hall, Penrhyn Road, Kingston-upon-Thames, Surrey during normal opening hours and on the Council's website.

#### **Application to Vary or Discharge This Order**

3. 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).

#### **Directions for Hearing of Part 8 Claim**

4. The Claimant shall file (and serve upon any named Defendants joined to this claim) further evidence in support of this Claim by not later than 3 days prior to the hearing of the Claim. Such evidence shall include:
  - (a) evidence of service in accordance with the terms of this Order;

- (b) evidence of any unlawful incursions and fly-tipping following the making of the Order and the risks of such future potential incursions or fly-tipping;
- (c) evidence as to any enforcement action taken in pursuance of this Order, including informal enforcement measures;
- (d) evidence as to how the welfare considerations of Travellers who may be affected by the terms of this Order and any final order sought, including the interests of Travellers wishing to come into the Council have been or will be dealt with.

### **Date of Hearing of Part 8 Claim**

- 5. The hearing of the Part 8 Claim, at which hearing this Order shall be reconsidered shall be listed on first open date after 01 November 2019 with a time estimate of 2 hours. In the event that the time estimate needs to change, the Claimant is to advise the Court Office as soon as possible.

### **Duration of this Order**

- 6. This Order shall remain in force until the seventh day following the hearing of the Part 8 Claim or until further order.

### **Costs**

- 7. The costs of this application be reserved.

## **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.
6. The Claimant will notify the Surrey Gypsy and Traveller Forum of the terms of this Order and of any further Hearing Date.

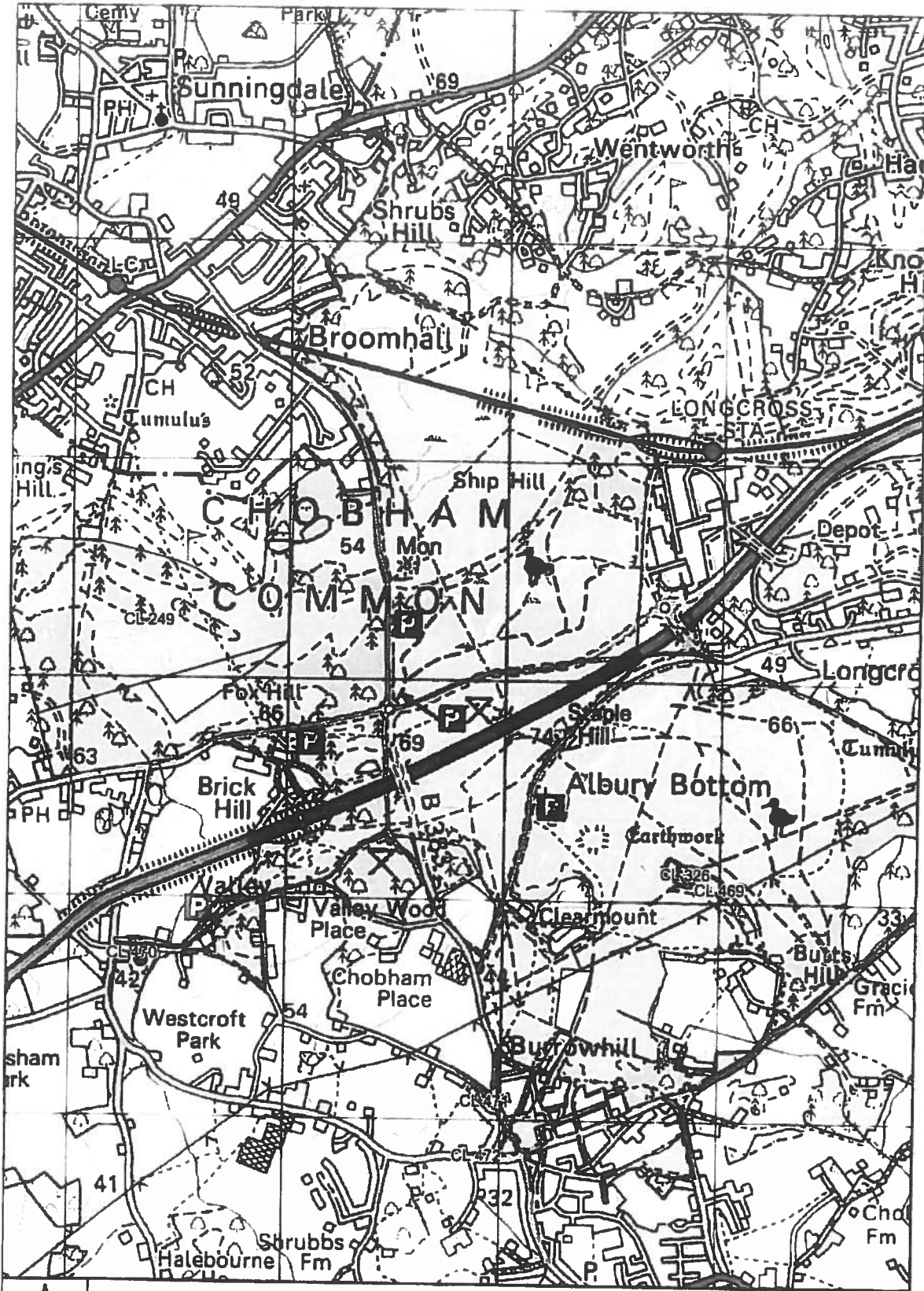
## COMMUNICATIONS WITH THE COURT



7. 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



 <b>GRID NORTH</b>	Date Printed: 25/06/2019	Scale (approx): 1:24706	 <b>SURREY</b> COUNTY COUNCIL
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