

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

CLAIM NO



KB-2024-BHM-000004

BETWEEN:

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

-and-

(1) MR HUGH PATRICK McGINLEY

(2) MR WILLY McGINLEY

(3) PERSONS UNKNOWN BRINGING CARAVANS/MOBILE HOMES ON TO THE LAND TO THE NORTH OF ATHERSTONE ROAD (ADJACENT TO THE KIRBY GLEBE TRAVELLERS' SITE) AND SOUTH OF BARN FISHERY IN WARWICKSHIRE ("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

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 PARAGRAPHS 1, 2, AND 3 OF THIS ORDER, YOU WILL BE GUILTY OF CONTEMPT OF COURT AND MAY BE SENT TO PRISON, FINED OR HAVE YOUR ASSETS SEIZED.

Before HHJ Rawlings, sitting as a Judge of the High Court at the Birmingham District Registry on 17 September 2024;

UPON an application for planning permission for the development of material change of use to residential purposes on the Land having been submitted;

UPON the Claimant and the 1st and 2nd Defendants having indicated their consent to the terms of this Order;

AND UPON the Court reading the evidence filed in support of the claim and being satisfied that it is appropriate to grant relief against the Defendants including the un-named 3rd Defendants

IT IS ORDERED:

- 1. 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 without the grant of planning permission or the written consent of the Claimant's solicitor. For the avoidance of doubt, nobody may move a mobile home or caravan onto the Land and no person may live on the Land who is not presently living on it.**
- 2. 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.**
- 3. 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.**

4. The Land referred to in this order is land to the north of Atherstone Road (adjacent to the Kirby Glebe Travellers' site) and south of Barn Fishery which is as delineated and hatched in red on the attached plan.
5. Permission to the Claimant to effect service on the 3rd Defendants by an alternative method namely the Claimant shall:
 - a) Attach copies of this order, the claim form and evidence in a clear plastic envelope conspicuously at the entrance to the Land so that it comes to the attention of any visitors;
 - b) Load up on to its website a copy of this order together with the application, the 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 main web page; and

There shall be deemed service upon completion of these steps.

6. In the event that the planning application for residential use of the Land is refused by the Claimant, the 1st Defendant shall lodge any appeal against the same with the Planning Inspectorate within 28 days of any such refusals of planning permission by the Claimant.
7. Following the occurrence of one or more of the following 'trigger' events, the steps applying to that event (as set out below) shall be taken:
 - a. Should the Claimant confirm in writing that the planning application is not valid the Defendants shall have 42 days to make a valid application for planning permission. If no such valid application is made within those 42 days, the Defendants shall cease their residential use of the Land and remove their caravan(s) from the Land within a further 28 days (being a total of 70 days from the date of confirmation in writing of the lack of a valid application having been made);
 - b. Should the Defendant not lodge an appeal against the refusal of the planning application within 28 days of that refusal in accordance with paragraph 6 (above) the Defendants shall cease their residential use of the Land and remove all caravans and hardstanding from the Land within a further 90 days (being a total of 128 days from the date of refusal of the planning application);
 - c. Should any Defendant make an appeal to the Planning Inspectorate against the refusal of the planning application by the Claimant, on the dismissal of any such appeal to the Planning Inspectorate (including any statutory appeal to the High Court by virtue of s288 of the Town and Country Planning Act 1990) the Defendants shall, within 90 days of the dismissal of any such appeal (including any statutory appeal) cease their residential use of the Land and remove all caravans and hardstanding from the Land.
 - d. The expiry of any temporary planning permission for residential use of the Land,

whereupon the Defendants shall, within 28 days of that expiry, cease their residential use of the Land and remove all caravans and hardstanding from the Land within 56 days.

8. The matter is adjourned generally with liberty to restore. If the proceedings are not restored by 29 May 2026, they shall stand dismissed without further order. In the event that planning permission in respect of the planning applications is granted, the parties may apply to the Court to discharge or vary this order.
9. Costs reserved.