

**IN THE HIGH COURT OF JUSTICE**

**KING'S BENCH DIVISION**

**PLANNING COURT**

**CO/4860/2022**

***BETWEEN:***

**TAYTIME LIMITED (as the appointed agent for and on behalf of  
MONK LAKES LIMITED)**

**Claimant**

**-and-**

**(1) THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND  
COMMUNITIES**

**(2) MAIDSTONE BOROUGH COUNCIL**

**(3) DAVID PADDEN**

**Defendants**

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**FIRST WITNESS STATEMENT OF EMILY HARRISON**

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I, Emily Harrison, of Sopers Farm, Peppers Lane, Ashurst, Steyning, West Sussex BN44 3AX, SAY AS FOLLOWS:

1. I make this statement in response to the Third Defendant's:
  - a. Requests for disclosure of information relating to the relationship between Taytime Limited, Monk Lakes Limited and Quantuma (as liquidator of Monk Lakes Limited); and
  - b. Application for Security for Costs dated 21 April 2023.
  
2. I was a director of Monk Lakes Limited ("MLL") from 2008 to 2009 and am the sole director of MLL's parent company, Merrymove Limited.

3. I also handle Taytime Limited's ("Taytime") business administration and finance, and have also been dealing with all planning issues.
4. At all relevant times I have conducted the planning process on behalf of MLL and Taytime.
5. I have produced copies of relevant correspondence at pages 2 - 34 of Exhibit EH1.

#### *Planning Application*

6. On 9 December 2011 the Second Defendant validated a planning application made by MLL in relation to the Land, seeking part retrospective and part prospective permission for recreational fishing related development at a site known as Monks Lakes in Staplehurst, Kent (the "Property"). This followed a 2003 consent granted to the previous owner of the Property for recreational fishing related development which was held to be breached due to the failure to formally discharge relevant planning conditions.
7. The Property was owned by Taytime, who held an Asset Purchase Agreement for the rights to any planning permission, application or appeal associated with the Property.
8. The planning application form listed Mr and Mrs Harrison as applicant, and gave MLL as the company name. It had been intended that the application would be submitted on behalf of Taytime (which was the owner the Property), but this was not what happened and MLL was the company name used in the application form. Where documents refer to the application being made in the name of MLL "in error" (or otherwise use words to that effect) it is to this that they are referring.

9. The application was granted consent, and the works were largely completed, but the permission was subsequently quashed following an application for judicial review by the Third Defendant.
10. The application was remitted back to the Second Defendant for redetermination.
11. As part of the redetermination, the Claimant sought to address the matters raised in the High Court proceedings, and in particular undertook a lengthy ground and surface water study. In addition, due to the length of time the Second Defendant took to determine the application, many of the existing reports had to be updated and/or redrafted. The Third Defendant made detailed comments and submissions throughout the redetermination process.
12. On redetermination, despite a recommendation for approval by the Council's officers, and no objections from any of the statutory consultees, the planning application was refused by Council's planning committee, and an appeal submitted to the Planning Inspectorate in September 2020 (the "Appeal").
13. The Appeal form was completed by Pegasus Planning Group Limited ("Pegasus") who I had appointed to act in relation to the planning appeal. Because MLL appeared on the application form, MLL was listed on the appeal form.
14. Planning appeal forms are completed online. Once an appeal form has been created, the first question asked is "are you the appellant?". If the answer is no, then there is a drop-down menu by which the appellant's details are provided. You then click "save and continue" and the next page is headed "agent details". This page contains a form which enables the details of one agent to be entered. The form does not enable multiple agents to be identified. I have reproduced screenshots of this process at pages 35 - 37 of Exhibit EH1. In this case, in accordance with common practice, Pegasus completed the appeal form and

entered their own details. This did not mean that they were MLL's sole agent, but rather were the planning consultant dealing with the appeal.

### *Liquidation*

15. The Appeal was not heard until October 2022. In the intervening period, MLL entered voluntary liquidation proceedings (in July 2021) as a result of COVID and the ongoing legal proceedings, and appointed liquidators to oversee the winding up of the company. For the avoidance of doubt, MLL remains extant.

16. I approached the liquidators in July and August 2021 to discuss whether Taytime could take over conduct of the ongoing Appeal. Following discussions the liquidators agreed, subject to Taytime Limited and its director (William Kinsey-Jones, who manages the fishery business at the Property) indemnifying them.

17. The indemnity agreement was signed in September 2021 (EH1 pages –38 - 41) The agreement provided in essence that:

- a. The liquidators consent to Taytime having conduct of the Appeal at its own expense, and will sign, do and permit all documents and things reasonably necessary for that purpose; and
- b. In consideration of that consent, Taytime and Mr Kinsey-Jones jointly and severally covenant with the liquidators that, so long as the Appeal is on foot, and after that period shall have expired, they will pay and discharge all the costs and expenses of and occasioned by the Appeal or any damages arising therefrom and will keep the Liquidators and their personal representatives indemnified against all such costs and expenses and damages and against all claims, proceedings, costs, demands and expenses in respect of them.

18. As part of the discussions with the liquidators, they provided a letter to the Planning Inspectorate dated 22 September 2021 (EH1 page 42) setting out the nature of Taytime's involvement in the planning appeal. The letter confirmed

that further to the liquidation of Monk Lakes Limited on 15th July 2021, the liquidators, operating in their capacity under the Insolvency Act 1986, appointed Taytime Limited (registered number: 07062161, registered office: Camburgh House, 27 New Dover Road, Canterbury, Kent, CT1 3DN) to take over full responsibility for the planning appeal.

19. Taytime is, and has at all material times therefore been, acting as agent for MLL in relation to the planning appeal.

#### *Costs*

20. The Third Defendant has requested security for costs in the amount of £100,000.

21. If the Third Defendant's application is successful, Taytime would be unable to continue with the Claim.

22. MLL is in liquidation, and has been indemnified by Taytime and its director.

23. According to Taytime's last published accounts, it holds net assets totalling £15,020 (pages 43 - 50 of EH1).

24. Mr Kinsey-Jones has limited assets – he is paid £275 per week by Taytime and rents a home with his partner for £895 per month.

25. MLL's parent company, Merrymove Limited, holds assets of £12,118 (pages 51 - 57).

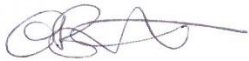
26. Following MLL's liquidation, the business is now being run by Monk Lakes Fishery Limited (another group company). According to its 2022 accounts this company has assets of £65,504 (pages 58 - 65), but owing to the seasonal nature of the business the assets will have been reduced over the winter period.

27. Having to pay security or costs in the sum of £100,000 would make both Taytime's and Monk Lakes Fishery Limited's operations entirely unsustainable.

Continuing with the proceedings would become impossible and the Claim would be stifled.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Date: 10/05/2023