

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

PLANNING COURT

CO/4860/2022

*BETWEEN:*

TAYTIME 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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THIRD 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 reply to the Third Defendant's Detailed Grounds of Resistance ("DGR") of 19 January 2024, as permitted by the Order of Sir Ross Cranston of June 2023.
2. I make this statement as I am concerned about the misleading and unwarranted claims, statements and aspersions made by the Third Defendant (Mr Padden) about the Claimant's (and my husband and my) conduct over the lifetime of this case.
3. Mr Padden (at DGR 17-20) cites a number of issues which he says are not for the Court to resolve. However, he does feel it appropriate to bring to the

attention of the Court irrelevant issues such as the full planning background, despite the fact that this Claim, and any of the documents, should properly refer only to the matter at issue, i.e. whether or not the Planning Inspector made an error of law.

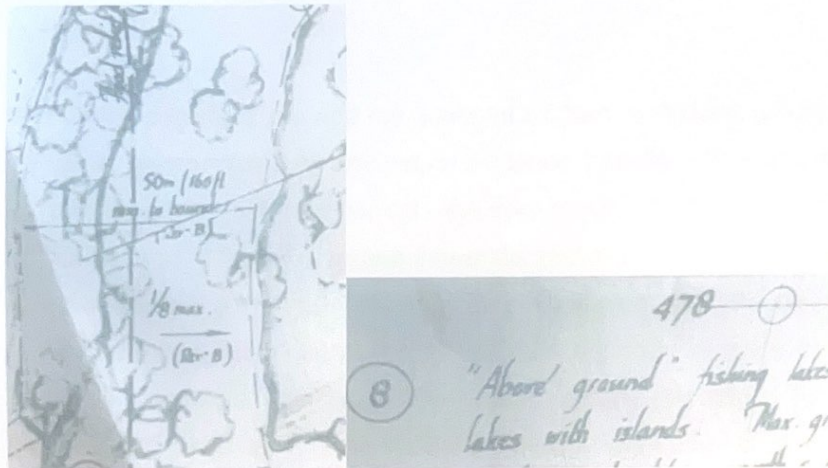
*Use of the site (a fishery)*

4. Firstly, Mr Padden cites a previous judgment which states that “*unauthorised works took place between 2003 and 2008*”, and heavily implies (at paragraph 14 DGR) that these works were considered as unauthorised whilst they were being carried out and that they were being undertaken by the Claimant or a related company.
5. This is not the case. We did not purchase the property until February 2008. The works continued in 2008 but for only six weeks after the purchase (before the enforcement notice was issued on the 30<sup>th</sup> April 2008), and over 97% of the importation had already taken place, and had been carried out by the fishery's previous owner, Simon Hughes.

*Purchase of the fishery*

6. In terms of the purchase itself, we purchased the fishery in good faith, following professional advice that the lake construction was in accordance with an extant planning consent.
7. Full Planning permission had been granted by the Local Planning Authority in 2003 for “above-ground” lakes on the land adjacent to where Mr. Padden lives at Hertsfield Barn. The approved plans clearly show a 50m bank at a 1/8 gradient which results in a 6.25m high crest. It was our belief that works were in accordance with that permission except for some changes to the configuration of the lakes on the top (from many small lakes to fewer larger lakes), which had been accepted by Maidstone Borough Council and were being considered as “minor deviations”. The works from 2003 – 2008 were also carried out pursuant to Exemption Licences issued by the Environment Agency,

who do not issue permits in situations where there is a breach of planning control. The fact that the EA issued exemption licences for the inert soil importation every year is a clear demonstration of their position throughout that time.



\* Extracts from the 2003 approved plans showing the gradient and length of the approved "above ground" lakes.

8. Our conveyancing solicitor approached both authorities during the purchase and they confirmed that planning permissions and exemption licences were in order. We understood there to be some local interest with the construction and accordingly, arranged a meeting with the local planning authority to ensure the plan for its completion was suitable, effective and efficient.
9. Having mortgaged our home to purchase the business, our intent was and is to run it in accordance with the consents and licences granted. Since the 2003 permission was overturned, we continued to work with the Council over the next decade and a half to try and obtain another consent.
10. Mr Padden objected to our first application and whilst we were eventually successful in 2012 in obtaining a new permission, this was quashed following a judicial review lodged by Mr Padden. We addressed all the matters highlighted in the judicial review and our application was recommended for approval by the planning officer at redetermination in 2020, with no objections



by any of the statutory consultees. Mr Padden had made new objections to the application (that had not been raised in the judicial review), and Councillors at committee disagreed with the recommendation and refused to grant permission.

*Our status*

11. Mr Padden describes me and my husband as "*two individuals whom there is evidence, never refuted by any actual evidence from the Harrisons, that they are very wealthy*". This is not correct – the evidence that Mr Padden has brought is nothing more than rumours and innuendo, and full evidence to the contrary was provided in my witness statements for the oral permission hearing in 2023. Our income has been depleted and our assets greatly reduced due to Mr Padden's continued objections which have greatly impacted myself, my husband and our loyal and long-suffering staff who have been in limbo with us for 15 years. Ironically, those objections also caused the liquidation that is now the basis for Mr. Padden's campaign to prevent the merits of the planning application being heard.
12. In any event I do not see how our financial position is remotely relevant to the claim, especially as Mr Padden himself owns companies with combined assets of over £70m.
13. Mr Padden describes the ownership of the relevant property as by "*a continually changing web of companies under their control*". There are only three companies involved (the land owner, the business operator and the business owner) – and considering that Mr Padden has interests in around 15 companies it seems that he should be capable of following the trail of ownership.
14. Interestingly, he states that he is "*the owner and occupier of Hertsfield Barn*", though documents from the Land Registry (see exhibit EL2 which accompanied my second witness statement) in fact show that this property is owned by a corporate entity. The fact that these proceedings are brought in Mr Padden's

personal capacity relating to a corporate-owned property suggests that he is perfectly aware of corporate assets, structures etc.

15. With regard to Hertsfield Barn, Mr Padden states that the development has caused groundwater flooding. I append to this statement a letter from the owner of the company who carried out flood repair and defence works to that property before it was purchased by Mr Padden – that letter (which formed part of the appeal documents and was referred to by Maidstone Borough Council) states that the alleged flooding Hertsfield Barn cannot possibly be as a result of our development. Ironically, had the scheme under appeal gone ahead, our comprehensive drainage scheme would have been in place since 2012 and would have mitigated any alleged risk.

#### *The Appeal*

16. Aside from these proceedings and the applications connected to it, I have little experience of the planning system. However, it seems to me that Mr Padden is determined to prevent the merits of the appeal being heard under any circumstances and by any means and cost with heavy reliance on procedural and technicality-based grounds such as the administrative identity of the appellant.
17. He has for example on a number of occasions questioned the administrative basis on which Taytime have been acting, despite it having been explained at the appeal hearing itself by my husband (who had been the director of Monk Lakes Limited until its liquidation) that Taytime had been appointed by him on behalf of Monk Lakes Limited to act as agent for the appeal, and the two letters from the liquidator setting out the same (the most recent letter is appended to this statement and is at tab 50 of the Claim Bundle).
18. He has also, on a number of occasions, directly approached the liquidators, threatening them with legal action should they not discontinue the appeal or fail to complete the liquidation process. As he is not a creditor of the relevant company it is clearly inappropriate for him to do so, in an attempt to dictate how



they carry out their professional duties and prevent the merits of the planning application being heard.

19. Mr Padden states that the merits of the planning application *were* heard at the Planning Appeal. It is not disputed that they were heard but they were neither considered nor determined, as a result of Mr. Padden's appellant-issue.

20. In summary, my view is that Mr Padden's behaviour goes beyond that of a disgruntled neighbour and it began long before our ownership of the fishery. Indeed, I recall a conversation with him at the property boundary in around 2013 where he described litigation processes as "sporting" and "what he did for a living". However, I accept (as he should) that this is not the purpose of these proceedings – my view is that the merits of the planning appeal should be properly determined by a Planning Inspector, and the Court should endorse the position of the Claimant and the other two Defendants that the appeal decision should be quashed and remitted to PINS for redetermination.

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, appearing to be 'D.A.' with a horizontal line extending to the right.

Date:

08/02/2024



# HAWKHURST FISH FARM

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V.A.T. number 522 904071

27<sup>th</sup> August 2014

To Whom It May Concern:

**Re: Bank Stabilisation and Overflow System at Hertsfield Barn, Hertfield Road, Marden, Kent**

It has come to my attention that the current owners of the above address have alleged that the lake construction at Monk Lakes fishery is causing flooding at the pond next to the said property. This is of particular interest to me because I was commissioned in the late 1990s, by the previous owner of Hertsfield Barn; Mr. Ray Parry, to carry out some flood-defence work in and around the pond there. The reasons given for this work were 4-fold:

- 1) **Winter flooding** - the water would rise in the pond threatening to flood the house
- 2) **Block-Broken Overflow Pipe** – the pipework that had been previously installed was ineffective
- 3) **Fish escape** – Mr. Parry's fish were being washed away
- 4) **Erosion** – Mr. Parry's wildfowl and carp in the lake which were eroding the pond edge and therefore pathway between the house and pond

We carried out the following works to the pond at Hertsfield Barn:

- 1) Roding the old overflow pipe (to no avail)
- 2) Installing a new overflow pipe in opposite the kitchen, running down to a ditch which in turn ran into the River Beult
- 3) Fixing a wire mesh grill in front of the overflow pipe to prevent the fish escaping
- 4) Carrying out 50 meters of bank stabilisation around the house
- 5) Rebuilding the pathway between the house and the pond (in front of the lounge and kitchen)

We kept in touch for about 12 months and Mr. Parry seemed to have no further flooding related problems.

The current owners of Monk Lakes have asked for copies of the invoices that relate to this work but sadly, as it was out of our 10-year document-retention policy timeframe, I no longer have copies. I recall the problem however, plus the scope of works and the owners of Hertfield Barn themselves.

Constructors of

Lakes - Ponds - Waterfalls - Desilting - Filter Systems - Koi Ponds - Bridges - Jetties  
Bank Stabilisation - Patios - Driveways - Fencing - Tree Surgery - Algae Bloom Management  
Suppliers of Trout & Coarse Fish



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Just for your background knowledge – I knew that Mr. Parry had a designer luggage company and I bought 2 suitcases from his wife Toni at the time in the years following that particular job.

In my opinion the problem cannot be in any way related to the development at Monk Lakes because these works were commissioned as a result of the same type of flooding in the late 1990s - long before their lake construction began. I would suggest that the flooding arises from storm water heading towards the river from the direction of the main road (the A229).

I would be happy to testify in Court if necessary. If you would like further information, please do not hesitate to get in touch.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'A. Garnham-Wilkinson', written over a horizontal line.

**Anthony Francis Garnham-Wilkinson**  
Managing Director

Constructors of  
Lakes - Ponds - Waterfalls - Desilting - Filter Systems - Koi Ponds - Bridges - Jetties  
Bank Stabilisation - Patios - Driveways - Fencing - Tree Surgery - Algae Bloom Management  
Suppliers of Trout & Coarse Fish



**Private and Confidential**

To whom it may concern

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30 January 2024

Dear Sirs,

I am writing in my capacity as joint liquidator of Monk Lakes Limited, which entered liquidation on 15 July 2021.

I write to confirm that:

1. It is and always has been the understanding of the joint liquidators of Monk Lakes Limited that Taytime Limited (a creditor of Monk Lakes Limited) had already, prior to the liquidation, been appointed by the directors of Monk Lakes Limited to act as the agent of Monk Lakes Limited in relation to planning appeal reference APP/U2235/W/20/3259300 ("the Appeal"), with authority to act and take decisions in relation to the Appeal (including the appointment of legal advisors and planning agents), and the intention of the liquidators was to allow that agency to continue. To that end that the indemnity agreement dated 27 September 2021 was entered into and the letter dated 22 September 2021 was written to the Planning Inspectorate.
2. Monk Lakes Limited (and its liquidators) has not withdrawn either the Appeal or Taytime Limited's authority to act as its agent in relation to the Appeal.
3. The authority of Taytime Limited to act in relation to the Appeal extends to the proceedings before the High Court in Taytime Limited v Secretary of State for Levelling Up, Housing, and Communities (CO/4860/2022).

Yours faithfully,



**Duncan Beat**  
**Joint Liquidator**  
For and on behalf of Monk Lakes Limited

Licensed in the United Kingdom to act as an Insolvency Practitioner by the Institute of Chartered Accountants in England and Wales