

**IN THE HIGH COURT OF JUSTICE Claim No:
KING'S BENCH DIVISION**

IN THE MATTER OF PROCEEDINGS

B E T W E E N:-

WEST BERKSHIRE DISTRICT COUNCIL

Claimant

and

**(1) UK LAND HOLDINGS 1 LTD
(2) CAROLINE BERRY
(3) NORA CONNORS
(4) PATRICK FAGAN CONNORS
(5) JIMMY O'CONNORS
(6) JOHNNY WALL
(7) PATRICK JAMES CONNORS
(8) JOHN JUDE O'BRIEN
(9) MICHAEL WALL
(10) JERRY GROGAN
(11) RICHARD O'BRIEN
(12) JOSEPH DOYLE
(13) NOREEN FLYN
~~(14) C RYAN~~
~~(15) C STOKES~~
(16) PATRICK STOKES
(17) BERNARD STOKES
(18) TOMMY STOKES
(19) VINCENT CRUMLISH
(20) HUGHIE STOKES
(21) BENJIT SINGH DHESI
(22) THOMAS FLYNN
(23) MARTIN STOKES
~~(24) FLYNN~~
(25) PERSONS UNKNOWN (THOSE WITH AN INTEREST IN OR
INTENDING TO UNDERTAKE WORKS OR INTENDING TO OCCUPY THE
LAND KNOWN AS "LAND SOUTH OF READING ROAD" AND THOSE
WHO ARE KNOWN TO HAVE AN INTEREST IN THE LAND BUT FOR
WHOM THE COUNCIL DOES NOT KNOW FULL NAMES: FLYNN, C
STOKES, AND C RYAN)**

Defendants

**SKELETON ARGUMENT ON BEHALF OF THE CLAIMANT
IN SUPPORT OF AN APPLICATION FOR AN
INJUNCTION**

References are to paragraphs in the Witness Statement of Fenella Woods [WS/FW/§X]

Essential Reading:

1. Application Notice
2. Draft Order
3. Witness Statement of Fenella Woods
4. Witness Statement of Carolyn Richardson
5. Planning Assessment

INTRODUCTION

1. West Berkshire District Council (“the Claimant”) seeks an interim injunction in relation to the land “south of Reading Road” (“the Land”) shown edged red on the plan attached to the draft order which is registered with HM Land Registry under various title numbers including pending titles as set out in the tables at WS/FW/§12.
2. The Claimant is the Local Planning Authority within the meaning of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”) for an area including the Land.
3. The Claimant makes this application as there have been significant breaches of planning control across the Land. Furthermore, the service of a Temporary Stop Notice (“the TSN”) for part of the Land on 4th November 2025 has not been effective and has been ignored. The breaches of planning control have serious consequences for public safety.
4. As set out at WS/FW/§3, the Land forms two parcels, separated by Winkworth Lane. The eastern parcel is where most recent and current activity is taking place. The western parcel was initially used as a route to provide electrical power to the eastern parcel and is understood to be controlled/owned in large part by persons who are members of the wider

Traveller community. The injunction is sought for both parcels as there are real risks that if the entirety of the Land is not protected, activity will simply be displaced.

5. The First Defendant is the original owner of the Land. Various parcels within that overall parcel have been carved out and sold in recent years. There has been very recent activity in relation to further transfers of land within the overall Land.
6. The Second to 13th Defendants are all named on a recent planning application (ref 25/02518/FUL/MAJ) (the Planning Application) for change of use of part of the Land to a Traveller site with 13 plots. The 14th – 24th Defendants have applications pending for transfers of parcels of land within the Land.

Persons Unknown

7. The 25th Defendant identified only as “Persons Unknown” refers to those persons who are not named Defendants to this Claim who have an interest in the land or in undertaking works to the Land or intending to undertake works to the Land or entering onto the Land intending to occupy the Land in breach of planning control. The Claimant relies upon paragraph 21.2 of the Practice Direction Part 49E and s.187B (3) of the 1990 Act in support of seeking an Order against “Persons Unknown”.
8. The Claimant is aware of the guidance of the Supreme Court in *Wolverhampton City Council and Others v London Gypsies and Travellers and Others* [2023] UKSC47. The *Wolverhampton* judgment of the Supreme Court provides that the granting of injunctions against “newcomers” is not constitutionally improper [170] and, in relation to breaches of public law,

including planning law, local authorities are empowered to seek injunctions by statutory provisions.

9. In section 5 of the judgment [187ff] the Supreme Court considered the practical application of the principles affecting an application for a newcomer injunction against Gypsies and Travellers and the safeguards and provided guidance. It is submitted that the safeguards are met in this case:

- i. Compelling justification for the remedy. This includes consideration of the obligation/duty to provide sites for Gypsies and Travellers [190], Needs assessments, planning policy, other statutory powers available and byelaws. As set out at WS/FW/§128, the Claimant is able to demonstrate a 5-year supply of Gypsy and Traveller sites. There is a specific criteria based policy (DM20) for Gypsy and Traveller applications and the development on the Land is contrary to planning policy and other statutory powers are not effective;
- ii. Evidence of threat of abusive trespass or planning breach – it is submitted that there is more than a sufficiently real and imminent risk as evidence shows that works have already been undertaken and a change of use of part of the Land has already been effected (WS/FS/§122). By virtue of the Planning Application for a change of use, the fact that one family has already moved on to the Site and the activity on the Site, the Council considers the operational works on the Land to be preparatory for further residential occupation. There has been significant recent activity in breach of

planning control and in breach of a TSN and the lack of engagement (eg providing names and details) leads the Council to believe that further breaches are imminent.

- iii. Identification or other definition of the intended respondents to the application - it is impossible to name the persons as (a) it is not known those undertaking works and (b) it is not known who future potential occupants may be and (c) there has been a reluctance for those spoken to on the Land to provide details but the Claimant has attempted to define them as precisely as possible;
- iv. The prohibited acts - the terms of the injunction correspond to breaches that are feared will take place if not restrained and it is submitted that the terms of the injunction order are clear and precise – furthermore, the terms simply tell those potentially affected not to do that which they are not allowed to do without express planning permission;
- v. Geographical and temporal limits - the injunction has clear geographical limits as outlined on the plan attached to it and has temporal limits in that there is a return date;
- vi. Effective notice of the order - it is possible to give effective notice by virtue of the Alternative Service provision;
- vii. Liberty to apply has been included;
- viii. Costs protection – there is no evidence that this is appropriate in this matter;

ix. Cross-undertaking - there is no cross-undertaking and it is submitted this is not appropriate in this case.

10. The Claimant has provided strong evidence that actual breaches of planning control have taken place, and there is a real risk of further breaches and it apprehends further operational development and material change of uses taking place in breach of planning control across the Land. The order simply holds the ring and maintains the status quo.

Service

11. For the reasons set out at WS/FS/§115ff this application is made without notice. Whilst, this is understood to be exceptional, the Claimant's position is that there are good reasons (CPR 25.3(1). in short, providing even abridged notice of this application will defeat the purpose for which it is sought. (eg *South Downs National Park Authority v Daroubaix* [2018] EWHC 1903). Those undertaking works are doing so in breach of the TSN and it is feared that any notice will provide opportunity to expedite occupation.

THE POWER TO GRANT AN INJUNCTION

12. Section 187B of the Town and Country Planning Act 1990 (as amended) ('the 1990 Act') provides as follows:

- “(1) *Where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.*
- (2) *On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.*

- (3) *Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.*
- (4) *In this section "the court" means the High Court or the county court."*

13. The leading authority on the exercise of the Court's discretion to grant injunctions pursuant to section 187B of the 1990 Act is the decision of the House of Lords in the combined appeals known as *South Bucks District Council v. Porter* [2003] UKHL 558; [2003] 2 AC 558 [20] approving the judgment of the Court of Appeal [2001] EWCA Civ 1549; [2002] 1 WLR 1359.
14. The decision of the House of Lords also confirms that the Court has an original jurisdiction in respect of its exercise of discretion to grant an injunction pursuant to section 187B of the 1990 Act [27].
15. In *Davis v Tonbridge & Malling Borough Council* [2004] EWCA Civ 194, the Court of Appeal summarised the conclusion of the House of Lords in *South Bucks District Council v Porter* as follows [34]:

1) Section 187B confers on the courts an original and discretionary, not a supervisory, jurisdiction, so that a defendant seeking to resist injunctive relief is not restricted to judicial review grounds;

2) it is questionable whether Article 8 adds anything to the existing equitable duty of a court in the exercise of its discretion under section 187B;

3) the jurisdiction is to be exercised with due regard to the purpose for which was conferred, namely to restrain breaches of planning control, and flagrant and prolonged defiance by a defendant of the relevant planning controls and procedures may weigh heavily in favour of injunctive relief;

4) however, it is inherent in the injunctive remedy that its grant depends on a court's judgment of all the circumstances of the case;

5) although a court would not examine matters of planning policy and judgment, since those lay within the exclusive purview of the responsible local planning authority, it will consider whether, and the extent to which, the local planning authority has taken account of the personal circumstances of the defendant and any hardship that injunctive relief might cause, and it is not obliged to grant relief simply because a planning authority considered it necessary or expedient to restrain a planning breach;

6) having had regard to all the circumstances of the case, the court will only grant an injunction where it is just and proportionate to do so, taking account, inter alia, of the rights of the person or persons against whom injunctive relief is sought, and of whether it is relief with which that person or persons can and reasonably ought to comply.

16. The well-known principles laid down by the House of Lords in American Cyanamid Co. v. Ethicon Limited [1975] AC 396 apply to the Court's exercise of discretion (see 406F, 407G, 408F).
17. It is to be noted that each of the appeals in Porter concerned cases where the Local Planning Authority were seeking mandatory injunction orders to remove persons who had taken up occupation of their land in breach of planning control. This application does not seek any mandatory steps. This application for an interim injunction seeks only to preserve the status quo at this point.

BREACHES OF PLANNING CONTROL

18. The evidence available to date clearly demonstrates that there have been breaches of planning control as summarised at WS/FW/§122:
- i. Large-scale excavation works to reprofile and level the land.
 - ii. Multiple HGVs delivering substantial quantities of aggregate, hardcore and tarmac and hardcore laid.
 - iii. 14 caravans stationed on the Land, together with two static mobile homes.
 - iv. A family appears to have taken up residential occupation;
 - v. Multiple new vehicular accesses created onto Reading Road.
19. These works have taken place or have continued to take place in breach of the TSN served on 4th November 2025 which sought to restrain the stationing of caravans or mobile homes for residential purposes, the stationing of eg portaloos, the laying of hardstanding, the creation of accesses, depositing of materials. Some of the most recent works are beyond the area of the TSN.
20. There has been a flagrant disregard for planning control and for the issued Temporary Stop Notice.

Consequences of the breaches

21. These breaches do not just cause in principle planning harm. The Council has serious concerns as to safety of the occupants, the potential occupants and the wider public. The Planning Assessment (para 1.2) sets out that there are two main issues which give rise to the need for an injunction:

- a. The impact on the AWE Off-Site Emergency Plan (OSEP)
 - b. The impact on highway safety
- 22. There are numerous other planning harms as summarised at para 13.8 of the Planning Assessment: loss of green infrastructure, ecological harm, landscape harm, drainage, intentional unauthorised development, overall conflict with the development plan as a whole.
- 23. However, occupation of the Site will have public safety impacts and this is the main reason for seeking an injunction to bring a stop to the works. Carolyn Richardson is the Service Manager for the Joint Emergency Planning Unit and has 19 years of experience as an emergency planning professional. She sets out at para 39:
 - i. The site is directly opposite the main gate to AWE Aldermaston and within the DEPZ. The proximity is relevant by the nature of the radioactive material on the AWE Aldermaston site the contamination is likely to be higher and greater risk to those on the Land (subject to a number of variables);
 - ii. The time for radiation contamination to reach the site will be shorter than the time available to alert the community of the nuclear emergency thus placing the occupants of the Land at more risk. This risk cannot be overcome as an incident at AWE Aldermaston would be a “no notice nuclear emergency”;
 - iii. Caravans and mobile homes are structures that do not provide adequate shelter should there be a nuclear emergency at the AWE site and the occupants would be considered vulnerable priorities adding to the impact on responders;

- iv. Based on the Planning Application numbers, there are likely to be 31 additional people within the DEPZ (although it is clear that there are more potential future occupiers) in an area that is already densely populated.
 - v. The Site is on the access and egress main route for emergency responders going to or from AWE Aldermaston and between the two AWE sites and any additional traffic for any reason is likely to have an impact on those responders.
24. At para 40 she sets out the additional activities that the responding agencies would need to consider:
- i. Early relocation due to proximity of the site and unsuitable nature of the structures beyond 48 hours;
 - ii. Additional time to undertake radiation assurance monitoring of people
 - iii. Additional impact on rest centres
 - iv. Additional resources in relation to recovery.
25. Ms Richardson sets out at §48 that *“the site poses an unacceptable risk and would impact the adequacy of the AWE OSEP and therefore place the health, safety and wellbeing of those on the land and the existing community at risk and would strongly advise against this proposal”*.
26. The Planning Assessment at section 9 sets out the Impact on the DEPZ. It concludes that the development “would significantly challenge the plan for AWE Aldermaston. Therefore, there would be a risk to public safety” (para 9.39). And that due to the status of occupants as vulnerable

priorities this would “place a burden of finite responders in the event of an emergency” with the following consequences:

- Ensuring those on site are aware of an emergency in no more than 15 minutes from the start of an incident,
 - Supporting early displacement of the additional households to a rest centre of similar location in 48 hours,
 - An estimated additional 10 hours to undertake radiation assurance monitoring for potentially 31 people on site (approximately number based on 13 pitches as per invalid planning application),
 - Impacts on rest centres and finding suitable longer-term accommodation (weeks, months or years depending on the situation).
27. There is an adverse impact to emergency services and a risk to public safety with no mitigation provided and it is unlikely suitable mitigation could be found (para 9.34)
28. It is concluded that the proposal conflicts with the requirements of Policy SP4 of the Development Plan and para 102 of the National Planning Policy Framework.
29. In relation to highway safety, the Planning Assessment summarises the consultation response of the Highway Authority who have three immediate concerns: inadequate visibility splays, inadequate width of accesses and impacts on the highways from construction activities with loose material already witnessed on the highway from the work. The Planning Assessment concludes conflict with Policies SP19, DM20, DM42, DM44, DM45 of the Development Plan.

THE NEED FOR AN INJUNCTION

30. At WS para 103, Ms Woods sets out why other enforcement options are not appropriate in this case. Firstly, an Enforcement Notice cannot attack an anticipated breach of planning control of which further breaches are expected. Secondly, the process is lengthy. Thirdly, the ultimate sanction

for breaching an enforcement notice or a stop notice is criminal proceedings but the penalty is a fine and proceedings are lengthy. By the time the Council waits for further breaches to take place, even more harm will have been caused. Furthermore, if residential occupation is the goal of those doing the works, it can be taken up very quickly and once occupants are on site it is a very lengthy process to remove them.

31. Applying the approach in *American Cyanamid* the Claimant submits that:
 - i. There is a compelling case that works which have taken place will lead to further breaches of planning control and the TSN on the Land. Those breaches make it more likely that there will be similar breaches of planning control on undeveloped land. In other words, there is a serious question to be tried; and
 - ii. The Local Planning Authority cannot adequately be compensated in damages for a breach of planning control.
32. In the premises, the balance of convenience lies in preserving the lawful use of the land and enforcing proper planning control in the public interest.

FULL AND FRANK DISCLOSURE

33. The Council has considered arguments that might be made in response to this application had notice been given in order to comply with its duty to provide full and frank disclosure.

There are existing caravan sites within the DEPZ

Ravenswing

34. The Planning Assessment (drafted by the Development Control Manager for the Council and provided by Ms Woods) at paras 9.34 and 9.35 sets out that planning permission for this site was obtained in the 1960s. Therefore these occupants are already accounted for within the DEPZ. By virtue of a planning application in 2016 to relocate 8 of the units, a condition was applied to ensure that the entire site does not exceed 150 park homes. The reason was to ensure that there would not be an additional burden on emergency services within the DEPZ.

Old Stocks Farm and New Stocks Farm

35. The Planning Assessment sets out at 9.28-9.30 the background to these planning permissions which date from the 1990s with an increase at Old Stocks Farm being allowed on appeal in 2002. The recent allocation for 8 permanent pitches at New Stocks Farm was actually to replace 8 existing transit pitches. The change from transit to permanent would not increase the population and the site is therefore already accommodated in the OSEP.

Four Houses Corner

36. The history of this site is set out at para 9.31-9.33 of the Planning Assessment. Planning permission was originally obtained in 1980. Planning permission for a redesign was granted in 2024. There was no objection in relation to the DEPZ as the pitches were already accommodated in the OSEP. Planning conditions were imposed to

require the applicant to provide AWE Emergency Plans for the construction and occupation stages.

There are appeal decisions granting planning permission within the DEPZ

37. The Planning Assessment sets out a detailed history of all relevant appeal decisions involving development within the DEPZ (para 9.13-9.25). Only two appeal decisions have been allowed where the impact on the DEPZ was a relevant consideration. Those are distinguished at para 9.19 of the Planning Assessment:

- i. In relation to Kingfisher Grove, the Council's Emergency Planning Service, the ONR and the AWE were not represented;
- ii. In relation to the Hollies nursing home, this was an allocated site for development prior to the DEPZ being expanded. Those unique circumstances were recognised by the Inspector in the decision letter (para 31).

38. A very recent appeal decision following a public inquiry in relation to a single gypsy and traveller pitch within the DEPZ was dismissed and the Inspector appointed by the Secretary of State to determine the appeal noted as follows:

53. ... More specifically, it would add to the population of vulnerable persons inside the DEPZ, as residents inside caravans and mobile homes are treated as vulnerable in accordance with REPP19 and the Approved Code of Practice

55. In emergency planning terms, the appeal site is relatively isolated. A dayroom is proposed. This would need to be adequate to accommodate the intended occupants for 48 hours while radiation monitoring takes place. The submitted plan shows that this would be brick built and contain toilet and washing facilities. The submitted layout does not, however, show any sleeping or cooking facilities or provision of a

landline. *A planning condition is suggested to secure these details, but I am not satisfied that the size and layout of the proposed dayroom could accommodate sleeping and cooking facilities for each of the intended occupants as the available space is modest and affected by opening doors.* Unlike in the Pelican Road decision⁴, the suggested planning condition would not therefore secure an adequate shelter on the appeal site.

56. The mobile home on the appeal site would not provide adequate shelter for the occupants⁵ either.”

57. ... The proposal’s quantifiable effect on those resources would be limited and is unlikely to materially impact the effectiveness of the OSEP. *However, I consider the OSEP is not infinitely scalable and that incremental, unplanned development could, over time, erode the effective management of the land use planning consultation zones and be detrimental to public safety.* My findings here are consistent with the views reached in the decisions at the Hollies Nursing Home, Shyshack Lane, Benham’s Farm and 132 Recreation Road

39. The Council submits that this appeal decision is highly relevant.

There is a need for such sites

40. The Council accepts that there is a need for Gypsy and Traveller sites and within the Planning Assessment, this has been given positive weight. However, the Council does have a 5 year supply of sites and does have a specific criteria-based policy for such applications.

The Defendants have nowhere else to go

41. The Defendants may say that they have nowhere else to go. The Council has attempted to gain information from those on the Land but those spoken to have been reluctant to provide information. Aside from one family who have said an operation is needed and they have nowhere else to go, the Council has no further information regarding potential occupants. That family is not required to move as a result of the order sought.

CONCLUSIONS

42. In the circumstances of the present case, the Claimant submits that an injunction in the terms sought will not involve an interference with the Defendants' Human Rights (as no occupation has yet been taken up save for one family and the injunction does not seek their removal) or, alternatively, any such interference is necessary and proportionate having regard to all the circumstances known to the Claimant at present and the public interest in protecting the environs.
43. The Council has considered the best interests of children. It is not known how many children may potentially move to the Land but the planning assessment conclusion is that it is not in the best interests of children to live on this Land in caravans within the DEPZ.
44. The Defendants can continue to use their land without breaching planning control and can apply for planning permission in the usual way for works that require consent. Indeed one planning application, although currently invalid, has been made. The Defendants involved in that planning application can wait for the LPA's decision.
45. In the premises, the Claimant submits that it is appropriate for an injunction to be granted in the terms of the draft Order. There are serious concerns for public safety as a result of further development of the Land.
46. The Claimant also seeks an Order for alternative service of any injunction order granted to ensure the earliest possible compliance with proper planning control. In the circumstances, the Court can be satisfied that service by way of the alternative method proposed will come to the

attention of the Defendants and will assist in preserving the lawful use of the Land.

47. The Claimant is willing to give the undertakings listed in the draft Order. There is no undertaking as to damages. From *Kirklees MBC v Wickes Building Supplies Ltd* [1993] A.C. 227, the court may exercise its discretion not to require such an undertaking, taking into account the circumstances of the case and that the Claimant is a local authority with the function of enforcing the law in its district in the public interest. This has more recently been considered in the context of s.187B in the cases of *Basingstoke & Deane BC v Loveridge* [2018] EWHC 2228 (QB) [16] and *South Downs National Park Authority v Daroubaix* [2018] EWHC 1903 (QB) [16].

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