

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

IN THE MATTER OF PROCEEDINGS

B E T W E E N:-

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Claimant

And

**TOM PRICE (1)
ASHLEIGH PRICE (2)
JACOB LEVY (3)
FRANCES O'DONOGHUE (4)
TRISTIAN SMITH (5)
MICHEAL FLYNN (6)
MARK COOPER (7)
WILLIAM DOHERTY (8)
DOUGLAS WARD (9)
WILLIAM FAULKNER (10)
MAISIE CLARKE (11)
MARY DOHERTY (12)
GERRY CONNORS (13)
DREWEY AMBROSE PRICE (14)
PERSONS UNKNOWN(THOSE WITH AN INTEREST IN OR
INTENDING TO UNDERTAKE WORKS OR INTENDING TO
OCCUPY THE LAND KNOWN AS "LAND WEST OF MOOR DROVE,
HISTON/COTTENHAM, CAMBRIDGESHIRE AS SHOWN EDGED
RED ON THE PLAN ATTACHED TO THIS ORDER) (15)**

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 Stephen Kelly [WS/SK/X] and
Christopher Barnes [WS/CB/X] and to the bundle pages [CB/X]*

Essential Reading:

1. Application Notice
2. Draft Order
3. Witness Statement of Stephen Kelly
4. Witness Statement of Dr Martin Cahn

5. Witness Statement of Christopher Barnes
6. Witness Statement of Tanya Mutch

INTRODUCTION

1. South Cambridgeshire District Council (“the Claimant”) seeks the continuation of the interim injunction obtained on an urgent basis, out of hours, on Sunday 24th May on a without notice basis granted by Mr Justice Mansfield [CB/1] (sealed on 26th May 2026) (“the Order”) in relation to the land known as “Land West of Moor Drove, Histon/Cottenham, Cambridgeshire” (“the Land”) shown edged red on the plan attached to the draft order.
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 made the original application as there were breaches of planning control on the Land over the Bank Holiday week-end and the Land is in a sensitive location due to being within the Green Belt, in the open countryside, outside of any settlement. The Claimant makes the application for the continuation of the interim injunction as breaches of planning control have continued including breaches of the Order itself.
4. Due to technical issues at HM Land Registry over the Bank Holiday week-end, [CB/38] the Claimant was unable to identify any registered owners of the Land prior to the without notice application.

Defendants and the Claim Form

5. Investigating ownership has not been straightforward and was not clear when the Council sought to issue the claim form with the court.
6. The Claimant filed the Claim form and Out of Hours application form on the first court day after the bank holiday weekend (26th May 2026). At the time the Claim Form named a single defendant, i.e. Persons Unknown. On Friday afternoon, 29th May 2026, the Claimant became aware that a list of occupiers had been received (see CB8-CB9 at [CB/317-322]) which, had the claim been issued by court, would have necessitated the making of an application to join the additional occupiers as defendants. The Claimant was aware an application could only be made once a claim number was available and at that point the claim had not been issued.
7. On Monday, 1st June, when the Claim form had still not been issued, the KBD Issues and Enquiries team was contacted by telephone and asked to reject the original filed claim so as to enable new claim form to be filed on which all the new defendants were included. The new claim was filed (and application documents) at 12:49 on 1st June and immediately the KBD Issues and Enquiries team was contacted to expedite the issuing of the Claim form.

Persons Unknown

8. The 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”. Those on the Land have been unwilling to engage directly with officers from the Council and have refused to provide names or the names of landowners or details (WS/CB/24).

9. 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.
10. 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. There have been breaches of planning control and the Land does not benefit from any planning permission. The Land is sensitive due to its location within the Green Belt. This criterion includes consideration of the obligation/duty to provide sites for Gypsies and Travellers [190] (and, following occupation, the Council is aware that those on the Land are from the G&T community,) Needs assessments, planning policy, other statutory powers available and byelaws. However,

occupation has taken place very recently, no information has been provided by those on site, names have only been recently provided, no detailed personal circumstances have been given and it does not appear that the occupants are local. The Claimant does have an up to date GTANA finalised in September 2024. It accepts that it does have a long term need for pitches. However, for its Local Plan submission, it stated that its 5 year need was 43 pitches and it had a 6-year supply.

- 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 show that works were undertaken over the Bank Holiday week-end (WS/SK/11) and the lack of engagement when Dr Martin Cahn attempted to find out information led the Council to believe that further breaches were imminent prior to the hearing on 24th May 2026. In the event, the Claimant’s fears were justified as caravans have been brought on to the Land and works have continued. Mr Barnes, at para 9 sets out that on 26th May 2026 he saw 17 caravans on the Land when only 5 were on the Land at the time the interim injunction order was served.
- 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, 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 it will expire in 12 months;
- 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.

Service

- 11. Service of the Interim injunction order is dealt with at para 6 of Mr Barnes's witness statement and in the witness statement of the process server, Mr Phil Rands [CB/241-242]. As the Order was only in relation to Persons Unknown, service was effected in accordance with the Alternative Service provisions in the order on 25th May 2026. The Claimant has also ensured that all details and documents are available on its website [CB/307].

12. All further documentation was served on the Land on 2nd June 2026. It was not possible to do this earlier as police presence was required.
13. The date of the hearing of 3rd June 2026 was included on the Order so sufficient notice of the hearing itself has been provided.

THE POWER TO GRANT AN INJUNCTION

14. 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."*

15. 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.
16. 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].

17. 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.

18. 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).
19. 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

20. The evidence available to date clearly demonstrates that there have been breaches of planning control as summarised at WS/SK/11-13 [CB/25] and WS/CB/9 [CB/289] and WS/CB/17 [CB/291]:
 - i. Operational development including the clearance of land and laying of significant hardstanding;
 - ii. 17 caravans on the Land;
 - iii. Amenity facilities.
21. Photographs taken by Dr Cahn show that no caravans were on the Land on Sunday 24th May 2026 [CB/239-240]. By the time of service on 25th May 2026, there were 5 caravans on the Land [CB/255-258]. Drone footage shows that between 25th May and 26th May, fencing was completed, additional very large and newer caravans were brought on to the Land, modern and habitable touring caravans were brought on to the

Land, toilet blocks were introduced and groundworks consistent with septic tank installation had taken place (see WS/TM/13) [CB/329]. When officers visited on 26th May, there were 17 caravans on the Land [CB/300]. There has been a disregard for planning control and the Interim injunction order as at least 12 caravans were brought on to the Land after the order was served.

Consequences of the breaches

22. These breaches lead to planning harm in relation to harm to the Green belt (WS/SK/19), [CB/27] (WS/CB/22) [CB/28] harm to character and appearance of the area (WS/SK/20) [CB/27], possible contamination of groundwater sources (WS/SK/22) [CB/28], and it is not clear whether the development would be subject to the requirement for biodiversity net gain (WS/SK/22) [CB/28].
23. Green Belt is highly protected in national and local planning policy and there is a presumption against development unless very special circumstances can be demonstrated. Such development requires full consideration. As Mr Barnes sets out (WS/CB/23) [CB/293], whilst the Claimant has been told a planning application has been submitted, a planning application was not received by the date of his witness statement. It seems one was received on 2nd June 2026 but it has not yet been validated. The works have taken place by those who (a) know that planning permission is required and (b) have undertaken the work in advance of any planning application being validated and (c) in advance of planning permission being granted.

24. 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.

THE NEED FOR AN INJUNCTION

25. At WS para 30 [CB/30], Mr Kelly sets out why other enforcement options are not appropriate in this case. An Enforcement Notice cannot attack an anticipated breach of planning control of which further breaches are expected. The process is lengthy. 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, as has been demonstrated, 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.
26. The Order has not restrained further planning breaches completely but it is hoped that planning breaches will cease. If the Order is not continued, the Claimant fears that the full scale of intended works on the Land will materialise and escalate quickly.
27. Furthermore, the evasiveness of those on the Land and the lack of engagement heightens the Claimant's suspicions that further breaches will continue if not restrained (WS/CB/24) [CB/293].
28. 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. 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.
29. 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.

CONCLUSIONS

30. The Claimant has considered Article 8 and Article 1 rights and the Equality Act and the Best interests of the child (WS/CB/25-26). The Claimant has attempted to undertake welfare checks but information has not been forthcoming (WS/CB/26) [CB/293] and the Claimant's position is that those now occupying the Land have done so in breach of the Order.
31. The Claimant seeks a status quo injunction in relation to the caravans on the Land prior to service of the injunction order.
32. However, those who have taken up occupation after service of the Order have not applied for a variation of the Order and are in breach of it. In the circumstances of the present case, the Claimant submits that an injunction in the terms sought is necessary and proportionate having regard to all the circumstances known to the Claimant at present and the public interest in protecting the environs.

33. 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.
34. In the premises, the Claimant submits that it is appropriate for an injunction to be granted in the terms of the draft Order.
35. 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.
36. 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].

EMMALINE LAMBERT
CORNERSTONE BARRISTERS
2-3 GRAY'S INN SQUARE
LONDON
2nd June 2026

