

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

B E T W E E N:

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Claimant

and

PERSONS UNKNOWN

being persons entering, occupying, residing on, bringing caravans/mobile homes onto, or carrying out development on land known as West of Moor Drove, Histon/Cottenham, Cambridgeshire

Defendants

NOTE OF HEARING

Before Mr Justice Mansfield (“JM”)

At 19:35 on 24 May 2026

For the Claimant: Emmaline Lambert (“EL”)

Also in attendance: Izindi Visagie from Ivy Legal

EL explains that this is a Without Notice application against Persons Unknown. The reasons for making the application Without Notice is dealt with in Stephen Kelly’s (“SK”) witness statement who explains that giving notice would defeat the purpose of the application as it would be easy to bring caravans onto the land. Once the site is occupied, it is difficult to enforce proper planning control.

JM noted that there are additional practical difficulties considering the facts of the case in that says even if you wanted to give notice, you don't know who you are giving it to. EL says that in this case the Council tried to find land registry details but due to Land Registry difficulties were unable to do so.

JM noted that the category of Persons Unknown may include property owners but they may not.

EL explains that often transfers of land occur which are not registered on Land Registry records for a number of reasons including delays and informality of sale arrangements.

EL explains that the basis of the Injunction application is that there are suspicions that further works may take place and that the land may be occupied for residential use. The extent of the works that have taken place on a bank holiday weekend is unusual for building works. EL also explains that the Council's experience is that these kind of works and preparation for residential use for a site often occur when Council offices are closed.

JM says he read the witness statements and have seen the photographs taken.

EL explains that it is common at this time of year for works such as these to be carried out. She explains further that SK statement says 'development' has taken place for which PP should have been sought under s.55 of the TCPA 1990. The basis of the injunction application is that the Council wishes to hold the ring and prevent further works. Planning applications may come forward in due course.

JM indicated that he is prepared to make the injunction for the reasons to be set out but first he wanted to work through the terms of the draft order.

EL submitted that the description for 'Persons Unknown' is in as much detail as possible.

EL noted that the Injunction is effective from the Alternative Service date. Its terms are to prevent anticipated planning breaches apart from further hardcore and further engineering operations. EL noted the 'Catch all' of s55 and EL explained that the order was not limiting statutory rights like permitted development order. JM noted that the Order did not expressly reference permitted development and EL said this would be added in.

JM asks about term 1.ix and expressed a concern that there isn't necessarily a wider understanding of what 'development' is and what it isn't. EL says that given the calculated nature of the works having been undertaken on a BH holiday weekend, site occupiers/owners are likely to have a fairly good idea of what is development. If this is wrong, this order will give them notice that they need to seek advice from a consultant or the LPA.

JM asks whether it is correct to say the land isn't the sort of land where there are shades of grey? EL says Green Belt is highly protected and that the only development you would be permitted to do is permitted development rights arising from agricultural use.

JM expresses doubt that anybody is going to be making agricultural use of the land if there is hardstanding. JM says he is satisfied with order 1.ix on the basis it is a short term injunction until a short order return date and that the matter can be further considered at the return date.

JM raised an issue about the draft order's provision for Alternative Service, noting that the issue is that a sealed order should be provided and that a sealed order cannot be provided tonight. This needs to change to unsealed order because he did not want service to be an obstacle to the effectiveness of the order. EL anticipates that an undertaking could be provided that a sealed order will be served as it becomes available.

JM makes clear that there should be two additional undertakings, 1. To serve a note of hearing; and 2. To serve a sealed copy of the order when it becomes available.

JM then provided the reasons for judgment:

This is an application for an injunction under s187B of the Town and Country Planning Act 1990 to restrain breaches of planning control. The application is made on an Urgent basis out of hours and without notice and is conducted by means of a remote hearing on Sunday of a Bank Holiday weekend, 24 May 2026. The council is represented by Ms Lambert. The application concerns land West of Moor Drove. I am told it is Green Belt land and agricultural. There is a permitted Gypsy and Traveller site close by but not contiguous. The land under consideration is not permitted by those permissions.

Yesterday Saturday, 23 May 2026 reports were made to the Claimant Council and Cllr Cahn from the Claimant Council visited the site. He took photographs showing the extent of works. He observed that fencing had been erected, there were 3 diggers and a dozen or so people. Cllr Cahn spoke to a man with a white shirt who said he didn't know anything about the works. SK explains in his witness statement that the site is within the Green Belt and also the site's planning context. He goes on to explain that local residents reported HGV deliveries and machinery. The Council doesn't know who the owner is due to Land Registry problems nor does it know the individuals or anybody intending to occupy or purchase the site. SK fears more buildings works and caravans are imminent. At the moment there are no caravans on site but SK infers that the purpose of the works is to convert the site to use as a gypsy and traveller site. SK believes works are being done over the weekend because offices are shut.

Given the hour and urgency, my conclusions, having read both statements, the skeleton argument and having heard from EL, I have no doubt that the application is urgent and appropriate to be heard out of hours. The Council only learnt of the development yesterday and put together the application over the course of the weekend. There is good reason to fear further works.

I am satisfied that it is appropriate to grant an injunction without notice for 2 reasons:

- 1. It would defeat the purpose of the Order if notice had been given, given the position on development of the land and the ease with which caravans could be brought on. It is harder and more time consuming if this takes place. In my judgement there are reasonable grounds to suspect units will be brought onto the land; and*
- 2. The practicalities of not being able to serve individuals who are carrying out the works as their identities cannot be ascertained at a time when there is an already urgent problem.*

I am also satisfied, having considered the case of Wolverhampton City Council and Others v London Gypsies and Travellers and Others [2023] UKSC47 that is appropriate to make an order against Persons Unknown. The definition is sufficiently clear and narrow.

I am also satisfied regarding alternative service that anyone coming on to the land will be aware of the order and that by means of the wording of the order there are mechanisms in place to protect those affected by the order to apply to become named Defendants.

I have no doubt there is a serious issue to be tried. There is development going on that is in breach of planning control without a planning application having been made. I have considered the point as to interference with Article 8 rights but those are not such to outweigh the reasons to grant the order. I consider it appropriate to restrain.

I am satisfied that damages would not be adequate for the Council and its residents but that it would be for the Defendants if it turns out the injunction is inappropriate.

On the balance of convenience I am satisfied that it is appropriate to grant a prohibitory, short term injunction with a return date of 3 June. Such an order would essentially preserve the status quo as it was before Bank Holiday weekend. If works go ahead there is prospect of further harm. If works are stopped, delay is the only consequence.

I grant the injunction sought. EL has taken me through the order and I have suggested small revisions and tidying to be submitted to me for approval this evening.

The hearing was concluded at 20:01

Note prepared by Izindi Visagie, Ivy Legal Limited