IN THE HIGH COURT OF JUSTICE **Claim No. QB-2019-002737**
KING'S BENCH DIVISION

B E T W E E N :

LONDON BOROUGH OF HAVERING

Claimant

-and-

(1) WILLIAM STOKES
(2)-(105) OTHER NAMED DEFENDANTS
(106) PERSONS UNKNOWN FORMING UNAUTHORISED ENCAMPMENTS WITHIN THE LONDON BOROUGH OF HAVERING

Defendants

CLAIMANT'S SKELETON ARGUMENT
for the Application hearing listed on 6 October 2025

Bundle references are in the format **[section/tab/page number]**

Suggested essential pre-reading:

- Fourth witness statement of Mandeep Mehat **[C/1/1-23]**
- *London Borough of Havering v Stokes & Ors* [2024] EWHC 2496 (KB) **[B/2/61-83]**
- *Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors* [2023] UKSC 47; [2024] 2 WLR 45 (specifically [167] and [188]-[237])
- Injunction Order of Eyre J dated 3 October 2024 **[B/1/1-7]**
- Draft Injunction Order **[A/2/6-9]**

INTRODUCTION

1. The Claimant has applied, pursuant to paragraph 12 of the Order of Eyre J dated 3 October 2024 **[B/1/1-60]**, for the renewal of the injunction order contained within that Order (the **'Injunction'**) for a further 12 months as against Persons Unknown. This hearing is listed pursuant to paragraph 13 of the same Order.

2. The Injunction binds 43 Named Defendants up to and including 19 October 2025, and is due to expire against those persons at 00:00 hrs on 20 October 2025. No Application is made in relation to the Named Defendants. The Injunction also binds a defined category of Persons Unknown (the 106th Defendant) up to an including 19 October 2025, and is due to expire against those persons at 00:00 hrs on 20 October 2025. This Application relates only to the defined category of Persons Unknown.

3. The Injunction is a so-called 'Traveller injunction', in that it prohibits unauthorised encampments and the depositing of waste. The Injunction is **not** borough-wide against Persons Unknown (and is in fact Borough-wide against only 19 of the Named Defendants). In relation to Persons Unknown, the Injunction applies to 306 specific sites (labelled in the Injunction as the **'Sensitive Sites'**) in the London Borough of Havering (the **'Borough'**), which equates to just under 23% of the land in the Borough.

Service

4. The Application has been served on both Persons Unknown, in accordance with paragraphs 12 and 9 of the Order of Eyre J dated 3 October 2024, and the three Appellants in the ***Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors*** **[2023] UKSC 47; [2024] 2 WLR 45 ('*Wolverhampton*')** appeal (those being London Gypsies and Travellers; Friends, Families and Travellers; and the Derbyshire Gypsy Liaison Group).

5. Certificates of service will be produced at the hearing. At the time of finalising this skeleton, it is possible that the Claimant will not pursue the continuation Application over a small selection of the Sensitive Sites for reasons that have become apparent during the course of the service exercise. Counsel will update the court accordingly at the hearing.

6. Following service of the Application, correspondence has been received from the London Gypsies and Travellers group. It is not yet known whether that group will seek to participate in the hearing on 6 October 2025 (and they have not filed or served any evidence upon which they may intend to rely in accordance with paragraph 14 of the Order of Eyre J **[B/1/6]**, the deadline for which was 22 September 2025). The correspondence was on an open basis and, in accordance with the Claimant's duty of full and frank disclosure, the correspondence shall be produced at the hearing.

7. The Claimants acknowledge that, following the Supreme Court's decision in ***Wolverhampton***, an injunction against newcomer Persons Unknown is technically always sought and granted on a without notice basis (see [139] and [143](ii) of ***Wolverhampton***). That said, there remains an obligation to take all reasonable steps to draw the Application to the attention of Persons Unknown (***Wolverhampton*** at [167(ii)] and [226-229]), which it is submitted has been met.

BACKGROUND

8. The background to these proceedings is set out in full in the fourth witness statement of Mandeep Mehat, at paragraphs 6 to 39 **[C/1/2-8]**. On 3 October 2024, and upon the Part 8 Claim made by the Claimant, the Injunction was granted against 43 Named Defendants (19 of which on a Borough-wide basis) and Persons Unknown up to and including 19 October 2025. The judgment can be found at **[2024] EWHC 2496 (KB)**. A power of arrest was attached to the prohibitions only in relation to two Named Defendants (D4 and D16); no power of arrest was granted in relation to Persons Unknown.

9. The Injunction (and the interim relief before it, as granted on 11 September 2019 by Pepperall J) prohibits the forming of unauthorised encampments and the depositing of controlled waste (ie. fly-tipping). As against Persons Unknown, the Injunction was sought and granted over 306 Sensitive Sites in the Borough, which equates to just under 23% of the land in the Borough.

10. Members of the Travelling community are not prohibited from entering the Sensitive Sites or encamping lawfully on those sites (including by way of a negotiated stopping agreement), nor are they in breach of the Injunction should they form an unauthorised encampment away from the Sensitive Sites. The 306 Sensitive Sites were carefully selected by reference to the Claimant's analysis of the sites that were frequently targeted by unauthorised encampments visiting the Borough, and contain sensitive and vulnerable sites (such as parks and open spaces, school grounds, retail sites and car parks) where greater harm is suffered by the inhabitants of the Borough when unauthorised encampments are formed there.

11. The Claimant sought the injunctive relief in the discharge of its public functions pursuant to s187B of the Town and Country Planning Act 1990 and s222 of the Local Government Act 1972 to restrain breaches of planning control, and to promote or protect the interests of the inhabitants of their administrative areas (including to restrain acts of trespass).[1] The Claimant is the local planning authority for the Borough, such that it has the administrative function of enforcing planning control within the Borough, and is also the local highway authority, in whom the adopted highways are vested.

12. The Injunction was sought in response to the Borough experiencing a high volume of unauthorised encampments and resulting harm. Between 2014 and September 2019, 177 unauthorised encampments were formed in the Borough, many of which had aggravating features (Mehat WS4 para 54 **[C/1/10]**). An especially prevalent aggravating feature of the encampments was extensive fly-tipping; many encampments tipped waste, including hazardous waste in support of their commercial enterprises. Between 2016 and March 2019 alone, the Council removed 685.5 tons of fly-tipped waste (this does not include waste tipped on private land) at a cost of £162,467.30. Private landowners also incurred significant costs in waste removal, with the cumulative sum running into the hundreds of thousands of pounds. Other harms suffered by reason of the encampments included risks to public health (including by the depositing of untreated human waste), threats and intimidation to the inhabitants of the Borough, various nuisances and financial harm to the Claimant in seeking to deter, enforce against and clean up after encampments. A summary of the harms is set out in Ms Mehat's fourth witness statement at paragraphs 26 to 39 **[C/1/5-8]**.

13. After the grant of interim relief in September 2019, these proceedings caught within the *Barking & Dagenham* litigation from October 2020 onwards, which culminated in the appeal to the Supreme Court in ***Wolverhampton*** (handed down on 29 November 2023). The Claimant was a successful respondent in the appeal. However, the final hearing of the Claim had already been heard by Eyre J in October 2022 but, prior to judgment, the Claimant alerted the Judge that the appellant Traveller representative organisations had been granted permission to appeal to the Supreme Court. As the appeal was to determine

[1] Originally, relief was also sought under the Anti-Social Behaviour, Crime and Policing Act 2014, s1. That claim was not pursued at the final hearing.

the question of whether, and if so, when and subject to what safeguards, final injunctive relief could be granted against newcomer Persons Unknown, work was paused on the judgment pending the outcome of the appeal.

14. Following the Supreme Court's judgment in ***Wolverhampton***, Eyre J received further evidence and written submissions, and the Injunction was granted on 3 October 2024. In accordance with ***Wolverhampton***, the relief was final (albeit time-limited) as against the Named Defendants, with the relief against Persons Unknown being granted on a time-limited basis and subject to review.

15. Throughout the course of the interim relief, unauthorised encampments had continued to form in the Borough (on the Sensitive Sites), but had done so far less frequently, and were of a limited size and duration (Mehat WS4 paras 54-60 **[C/1/10-11]**). Accordingly, the harms suffered by the Claimant and the inhabitants of the Borough had also reduced, with costs associated with fly-tipping having reduced to nil (or were so negligible that they had not been recorded).

16. Since the grant of the Injunction in October 2024, three unauthorised encampments have formed in the Borough, each of which was formed on a Sensitive Site (see Eastaff WS2 **[C/13/127-130]**, Eastaff WS3 **[C/18/136-139]** and Routley WS **[19/140-143]**); the most recent forming on the weekend of 6 September 2025. One each occasion, the Injunction was served and relied upon to move the encampment from the land, following a short negotiated stop.

RELEVANT LEGAL PRINCIPLES

Test to apply on this Application

17. The Supreme Court, in ***Wolverhampton*** at [225], expressed that the temporal limitation and periodic review of newcomer injunctions:

> *give*[s] *all parties an opportunity to make full and complete disclosure to the court, supported by appropriate evidence, as to how effective the order has been; whether any reasons or grounds for its discharge have emerged; whether there is any proper*

justification for its continuance; and whether and on what basis a further order ought to be made.

18. Ritchie J, who was dealing with an application for the continuation of an interim injunction in ***High Speed Two (HS2) Ltd v Persons Unknown*** **[2024] EWHC 1277 (KB) (‘*HS2*’)**, considered how a review hearing should be approached:

> *32. Drawing these authorities together, on a review of an interim injunction against PUs and named Defendants, this Court is not starting de novo. The Judges who have previously made the interim injunctions have made findings justifying the interim injunctions. It is not the task of the Court on review to query or undermine those. However, it is vital to understand why they were made, to read and assimilate the findings, to understand the sub-strata of the quia timet, the reasons for the fear of unlawful direct action. Then it is necessary to determine, on the evidence, whether anything material has changed. If nothing material has changed, if the risk still exists as before and the claimant remains rightly and justifiably fearful of unlawful attacks, the extension may be granted so long as procedural and legal rigour has been observed and fulfilled.*
>
> *33. On the other hand, if material matters have changed, the Court is required to analyse the changes, based on the evidence before it, and in the full light of the past decisions, to determine anew, whether the scope, details and need for the full interim injunction should be altered. To do so, the original thresholds for granting the interim injunction still apply.*

19. Morris J took the same approach in ***Transport for London v Persons Unknown & Ors*** **[2025] EWHC 55 (KB) (‘*TfL*’),** specifically at [54]-[55]. At [55], his Lordship said:

> *In the present cases, TfL has already provided detailed evidence at a full trial and the Court has, on two occasions, already made a full determination of the issue of risk and the balance of interests. In my judgment, in those circumstances there needed to be some material change in order to justify a conclusion that the Final Injunctions should not continue. (For example, as in the HS2 case where Phase 2 of the HS project had subsequently been abandoned: see paragraph 40 above).*

20. This approach was approved and applied by Hill J in the annual review in ***Valero Energy Ltd v Persons Unknown*** **[2025] EWHC 207 (KB) (‘*Valero 2025*’).** [2]

[2] It would appear that the same approach was also adopted in ***Multiplex Construction Europe Ltd v Persons Unknown*** on 28 February 2025. No transcript or neutral citation is available for that judgment, but a summary can be found on Westlaw at [2025] 2 WLUK 578.

21. The question of the proper approach to a review hearing was again examined in a sequence of three cases throughout the spring of 2025: ***Basingstoke & Deane BC v Persons Unknown*** **[2025] EWHC 738** (28 March 2025) (**'*Basingstoke*'**), ***Test Valley BC v Persons Unknown*** **(KB)** (9 May 2025, unrep.)[3] and ***Rochdale MBC v Persons Unknown*** **[2025] EWHC 1314 (KB)** (28 May 2025) (**'*Rochdale*'**). Those three cases also concerned Traveller injunctions granted against newcomer persons unknown under the ***Wolverhampton*** jurisdiction, and these three sets of proceedings (among others) had been combined with the current proceedings and brought into the *Barking and Dagenham* litigation and ***Wolverhampton*** appeal.

22. In each of ***Basingstoke, Test Valley*** and ***Rochdale***, the relevant injunction had been granted against Persons Unknown for a year, with the claimants given express liberty to apply for the continuation of the order by a specified date (absent which the injunction would expire by the effluxion of time). The express liberty to apply in the Injunction is identical to the clause that appeared in the ***Basingstoke*** and ***Rochdale*** injunction orders, and materially the same as that which appeared in the ***Test Valley*** injunction (this counsel having represented the claimants in each of these cases).

23. Given (i) the subtle difference in the underlying orders sought to be continued in the three Traveller injunction cases as compared to the protest injunction cases (ie. they were not five years orders subject to review), (ii) a specific point arising from the underlying judgment in ***Basingstoke***, and (iii) the duty of full and frank disclosure on the claimants, counsel for the claimants raised the question of which is the correct test to apply; the options being a further full ***Wolverhampton*** assessment, or the ***HS2/TfL/Valero 2025*** approach. Only in ***Basingstoke*** did the court purport to undertake a full ***Wolverhampton*** assessment (although Garnham J in ***Rochdale*** indicated at [71]-[77] that, even had a full assessment been required, the relevant tests were met).

24. In ***Rochdale***, Garnham J summarised the case law (at [42]-[52]), noting that ***Basingstoke*** was an outlier (for good reason) in the approach that was taken. His Lordship held, at [51]:

> *In my judgment the correct approach is dictated by the Supreme Court's judgment in Wolverhampton and in particular [225]. This is not a "tick box" exercise, but the*

[3] Counsel can provide a note of the judgment if required.

matters on which evidence should be adduced and argument focussed are (i) how effective the order has been; (ii) whether any reasons or grounds for its discharge have emerged; (iii) whether there is any proper justification for its continuance; and (iv) whether and on what basis a further order ought to be made. The parties should give full disclosure, supported by appropriate evidence, directed towards those questions.

The Judge proceeded to test the continuation application by reference to those four criteria, and whether there had been a material change of circumstances.

25. The same appears to have been cited with approval, and applied, in ***Hanson Quarry Products Europe Ltd v Persons Unknown*** (6 June 2025, unrep.).[4]

26. On 24 June 2025, the Persons Unknown protest injunctions held by 10 (of 13) airports came before the court for their annual review: ***London City Airport Ltd & Ors v Persons Unknown*** **[2025] EWHC 2223 (KB)**[5] (the **'*Airports Review*'**). In that review, Bourne J cited with approval, and applied, ***HS2***. It does not appear from counsels' skeleton that the court was referred to ***Rochdale*** (or ***Basingstoke*** or ***Test Valley***).[6]

27. On 11 July 2025, Sweeting J gave judgment in the annual review in ***Esso Petroleum Company Ltd & Ors v Persons Unknown*** **[2025] EWHC 1768 (KB)** (**'*Esso*'**). Sweeting J, at [7]-[8] expressly approved of and applied the approach in ***Rochdale***, stating:

...this is the practical and proportionate way to approach a review ordered as part of the original grant or relief. Such a review is also an opportunity to make necessary adjustments in light of the experience of the practical operation of the injunction and changing circumstances. The Court should nevertheless be wary of embarking upon fundamental changes to the scope or nature of injunctive relief at a review hearing rather than requiring a further and full application to be made. I also bear in mind that there is no legal presumption of continuance.

28. ***Esso*** was approved of and applied in the annual review in ***Gatwick Airport Ltd v Persons Unknown*** **[2025] EWHC 2228 (KB)**, both ***Rochdale*** and ***Esso*** were cited with approval and applied in ***Arla Foods Limited & Anr v Persons Unknown*** (22 July 2025, unrep.),[7] and ***Rochdale*** (along with ***HS2*** and ***TfL***) was approved of and applied to the persons

[4] [2025] 6 WLUK 122.
[5] The judgment has been transcribed post-hearing, and is dated 26 August 2025.
[6] https://assets.ctfassets.net/lmkdg513arga/733EcaFfNBtr3pO3oLrEGZ/2ae78f04e1cdcab573567d5377d7f2ea/Airports_-_skeleton.pdf.
[7] [2025] 7 WLUK 442. Counsel can provide a note of the judgment if required.

unknown review in ***Teledyne UK Limited v Gao & Ors*** **[2025] EWHC 2050 (KB)**, expressly accepting that ***Basingstoke*** was an outlier (see [44]-[49]).

29. Therefore, it is submitted that, where there is no material change of circumstance necessitating a full ***Wolverhampton*** assessment, the ***Rochdale*** approach should be followed, with the same now being well-established in the case law. Only if there is a material change of circumstance, or some other exceptional factor (as there was in ***Basingstoke***), should a full ***Wolverhampton*** assessment be conducted. It is submitted that this Application falls into the former category, and ***Rochdale*** applies.

Power to grant injunctive relief

30. Strictly, in the circumstances of this Application, the Court need not trouble itself with the statutory framework behind the Injunction. The below is included only for context.

31. The court's power to grant injunctions is wide-ranging, and is derived from the **Senior Courts Act 1981, s37**, which provides:

> *(1) The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which is appears to the court to be just and convenient to do so.*

Town and Country Planning Act 1990, s187B

32. The **Town and Country Planning Act 1990, s187B** (**'s187B'** hereafter) provides:

> *(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 court for an injunction, whether or not they have exercised or are proposing to exercise any of their 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.*

33. The underlying cause of action in a claim brought under **s187B** is a breach of planning control.

Breach of planning control

34. Pursuant to the **Town and Country Planning Act 1990** (the **'TCPA 1990'**), **s57(1)**, planning permission is required for the carrying out of any development of land. 'Development' is defined to include the carrying out of any building operation on, over or under land or the making of any material change of use of land (**s55(1)**), and the depositing of refuse or waste materials on land (**s55(3)(b)**). Planning permission may be obtained by way of express grant, or by way of deemed grant through permitted development rights. Carrying out development without the required planning permission constitutes a breach of planning control (**s171A(1)**).

35. The breaches of planning control complained of are primarily the material change in the use of the relevant land to a temporary Traveller site, and by the depositing of refuse or waste materials, without the requisite planning permission.

36. Unusually, the cause of action that underlies a claim brought pursuant to **s187B** is not one upon which the court can adjudicate; the court is not entitled to reach its own independent view on the planning merits of the case. The decision as to whether something is or is not a breach of planning control is a matter for the local planning authority, or the Secretary of State on appeal, and not the court (***South Buckinghamshire District Council v Porter & Anr*** **[2003] UKHL 26; [2003] 2 AC 558** (**'*Porter*'**) at [11], [20], [29] and [30]).

37. That said, the court's power to grant an injunction under **s187B** remains a discretionary one, albeit that discretion is not unfettered (see ***Porter*** [28]-[29]). The discretion must be exercised judicially meaning, in this context:

> *...that the power must be exercised with due regard to the purpose for which it was conferred: to restrain actual and threatened breaches of planning control. The power exists above all to permit abuses to be curbed and urgent solutions provided where these are called for.* (***Porter*** at **[29]** per Lord Bingham).

Local Government Act 1972, s222

38. The **Local Government Act 1972, s222** (**'s222'** hereafter) provides:

> *1. Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area –*
>
> *a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and*
>
> *b) they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.*

39. Accordingly, **s222** does not create a cause of action. Rather, it confers on local authorities the power to bring proceedings to enforce obedience with public law, without the involvement of the Attorney General (***Stoke-on-Trent City Council v B&Q (Retail) Ltd*** **[1984] AC 754**).

40. The guiding principles as to the exercise of the court's discretion under **s222** are identified in ***City of London Corporation v Bovis Construction Ltd*** **[1992] 3 All ER 697** at 714 (per Bingham LJ), and include:

> *…the essential foundation for the exercise of the court's discretion to grant an injunction is not that the offender is deliberately and flagrantly flouting the law but the need to draw the inference that the defendant's unlawful operations will continue unless and until effectively restrained by the law and that nothing short of an injunction will be effective to restrain them: see Wychavon DC v Midland Enterprises (Special Events) Ltd (1986) 86 LGR 83 at 89.*

Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors

41. Whilst the Court is not performing a full ***Wolverhampton*** assessment, the Claimant accepts that the Court may benefit from being appraised of the pertinent aspects of ***Wolverhampton*** to assist in the consideration of the question of whether all legal and procedural rigour has been followed.

42. The Supreme Court, in ***Wolverhampton***, considered many issues relating to so-called Traveller injunctions against newcomer Persons Unknown. The Supreme Court dismissed

the appeal and found that injunctive relief can be granted against newcomer Persons Unknown, albeit the Court held that such an injunction, in its operation against newcomers, is neither interim nor final, and is instead a form of without notice relief ([139]).

43. Throughout the course of its judgment, the Supreme Court examined the distinguishing features of such injunctions and, of particular importance, the principles that govern when such relief can and should be granted (ie. when it would be just and convenient to grant such relief). Specifically, at [167] the Supreme Court set out the following.

> *These considerations lead us to the conclusion that, although the attempts thus far to justify them are in many respects unsatisfactory, there is no immoveable obstacle in the way of granting injunctions against newcomer Travellers, on an essentially without notice basis, regardless of whether in form interim or final, either in terms of jurisdiction or principle. But this by no means leads straight to the conclusion that they ought to be granted, either generally or on the facts of any particular case. They are only likely to be justified as a novel exercise of an equitable discretionary power if:*
>
> *i. There is a compelling need, sufficiently demonstrated by the evidence, for the protection of civil rights (or, as the case may be, the enforcement of planning control, the prevention of anti-social behaviour, or such other statutory objective as may be relied upon) in the locality which is not adequately met by any other measures available to the applicant local authorities (including the making of byelaws). This is a condition which would need to be met on the particular facts about unlawful Traveller activity within the applicant local authority's boundaries.*
>
> *ii. There is procedural protection for the rights (including Convention rights) of the affected newcomers, sufficient to overcome the strong prima facie objection of subjecting them to a without notice injunction otherwise than as an emergency measure to hold the ring. This will need to include an obligation to take all reasonable steps to draw the application and any order made to the attention of all those likely to be affected by it (see paras 226-231 below); and the most generous provision for liberty (ie permission) to apply to have the injunction varied or set aside, and on terms that the grant of the injunction in the meantime does not foreclose any objection of law, practice, justice or convenience which the newcomer so applying might wish to raise.*
>
> *iii. Applicant local authorities can be seen and trusted to comply with the most stringent form of disclosure duty on making an application, so as both to research for and then present to the court everything that might have been said by the targeted newcomers against the grant of injunctive relief.*
>
> *iv. The injunctions are constrained by both territorial and temporal limitations so as to ensure, as far as practicable, that they neither outflank nor outlast the compelling circumstances relied upon.*

v. *It is, on the particular facts, just and convenient that such an injunction be granted. It might well not for example be just to grant an injunction restraining Travellers from using some sites as short-term transit camps if the applicant local authority has failed to exercise its power or, as the case may be, discharge its duty to provide authorised sites for that purpose within its boundaries.*

44. The practical application of the principles affecting an application for a newcomer injunction, and the safeguards that should accompany the making of such an order, were considered in detail at [188]-[237]. The same shall not be extracted in full here, and the court is respectfully asked to read and consider the same, with the relevant parts being referred to below in submissions.

Precautionary relief

45. The Claimant seeks precautionary relief (although the relief is not 'pure' precautionary relief, as the apprehended wrongs and resulting harms have already been suffered). Ordinarily, the Court should therefore have regard to the test set out by Marcus Smith J in ***Vastint Leeds BV v Persons Unknown*** **[2019] 4 WLR 2 ('*Vastint*')**, as approved by Vos MR in ***London Borough of Barking and Dagenham & Ors v Persons Unknown & Ors*** **[2022] EWCA Civ 13; [2023] QB 295** (**'*Barking & Dagenham'***) at [83]. At [31] of ***Vastint***, Marcus Smith J set out that the following two questions must be answered in the affirmative for injunctive relief to be granted:

i. First, is there a strong possibility that, unless restrained by an injunction, the defendant will act in breach of the claimant's rights?; and

ii. Secondly, if the defendant did act in contravention of the claimant's rights, would the resulting harm be so grave and irreparable that, notwithstanding the grant of an immediate interlocutory injunction (at the time of the actual infringement of the claimant's rights) to restrain further occurrence of the acts complained of, a remedy of damages would be inadequate.

46. Marcus Smith J, still at [31], proceeded to then set out multiple factors relevant to the assessment of each of those questions:

i. In relation to the first question: if the infringement is purely anticipatory, what steps has the claimant taken to ensure that the infringement does not occur; the attitude of the defendants; where infringements have already been committed, it may be that the defendant's intentions are less significant than the natural and probable consequences of his or her act; the time frame between the application for relief and the threatened infringement may be relevant (the courts often use the language of imminence, meaning that the remedy sought must not be premature);

ii. In relation to question two: how easily can the harm of the infringement be undone by ex post rather than ex ante intervention; the gravity of the anticipated harm.

47. Following ***Wolverhampton***, the conventional approach is now to apply the test from the Supreme Court in relation to newcomer Persons Unknown,[8] with ***Vastint*** (and indeed ***American Cyanamid***) being reserved for named defendants only; the ***Vastint*** requirements are essentially built-into the ***Wolverhampton*** test. That said, the court may choose to have regard to the ***Vastint*** multi-factorial test, as it did in ***Basingstoke*** (in 2024 and 2025), and as Butcher J did in ***Rochdale*** in 2024.

48. The court in ***Test Valley*** took the view that the ***Vastint*** test had been subsumed into the ***Wolverhampton*** framework. Garnham J also accepted that submission at [78] of ***Rochdale***, but also found that the ***Vastint*** test provided a useful '*double check*'.

SUBMISSIONS

49. There has been no material change of circumstance since the grant of the Injunction on 3 October 2024. Accordingly, the court should adopt the ***Rochdale*** approach at this hearing.

Efficacy of the Injunction

50. Ms Mehat confirms in her fourth witness statement that the Injunction (and the interim relief before it) has been effective (paras 54-57 **[C/1/10-11]**). Unauthorised encampment

[8] The majority of cases since ***Wolverhampton*** have concerned protest injunctions, in which a settled framework based on the ***Wolverhampton*** guidance has now been developed.

numbers fell from 177 in the period 2014 to 11 September 2019, to three in the period 11 September 2019 to 24 May 2021 (when a power of arrest was in force against Persons Unknown), seven in the period 24 May 2021 to 3 October 2024 (when a power of arrest was not in force against Persons Unknown) and three since the grant of the Injunction on 3 October 2024. Alongside the reduced frequency of unauthorised encampments, the duration of the encampments that have formed has also reduced, with most moving on within a 24-hour period with the assistance of the Injunction (although there is flexibility to negotiate a longer stay if circumstances and welfare needs require the same).

51. The harms suffered by the Claimant and the inhabitants of the Borough have reduced commensurately (Mehat WS4 paras 58-60 **[C/1/11]**). Most notably, the costs incurred by the Claimant in the clearance of fly-tipped waste have reduced to nil (or such a negligible amount that they did not warrant recording). That is a significant reduction from the sum of £162,467.30 in the period 2016 to March 2019 (which costs do not reflect the additional hundreds of thousands of pounds also incurred by private landowners).

52. It is submitted that the greatly reduced number of unauthorised encampments in the Borough (and on the Sensitive Sites specifically) is not evidence that the threat has dissipated, but evidence that the injunction is having its intended effect (***Valero 2025*** at [34]; ***Rochdale*** at [57]).

Are there grounds for discharge?

53. There is a significant overlap between this consideration and the following consideration. It is submitted that no grounds for discharge have emerged; unauthorised encampments continue to form in the Borough (albeit with a significantly reduced frequency), as well as in neighbouring administrative areas.

Is there a proper justification for continuation?

54. There is a proper justification for the continuation of the Injunction:

i. the Borough, and the Sensitive Sites specifically, remain a target for unauthorised encampments. The same is evidenced by the formation of three encampments since the grant of the Injunction on 3 October 2024, all of which were on Sensitive Sites;

ii. neighbouring and proximate administrative areas that do not have the benefit of similar injunctive relief are experiencing unauthorised encampments with greater frequency than the Borough (Mehat WS4 paras 65-69 **[C/1/12-15]**). It is clear that unauthorised encampments still frequent the geographical area generally. The Claimant apprehends that, if the Injunction was not continued, encampment numbers in the Borough would again increase (especially as the discharge of the Injunction would mean that only one administrative area in the immediate geographical area would be left with relief of the same nature).

Whether and on what basis a further order should be made

55. It is submitted that the Injunction should be continued for a further 12 months without any substantial or material modification, upon which it should expire by the effluxion of time, but with liberty to apply for continuation (in accordance with [225] of ***Wolverhampton***).

56. A draft order is produced at **[A/2/6-57]**. A few small typographical and stylistic amendments have been made, with the alternative service clause amended to reflect that this Order is now against Persons Unknown only. The prohibitions are unaltered, save for typographical and stylistic amendments, the conversion of 'Written Permission from the Local Planning Authority' into a defined term to assist with clarity and cohesion between this Order and other Traveller injunctions, and the addition of further clarification in the definition of 'Encampment'.

The *Wolverhampton* requirements

57. The Claimant maintains that a full ***Wolverhampton*** assessment is not necessary. The submissions below are intended to assist the court when considering whether all procedural and legal rigour has been followed.

Compelling justification for the remedy

58. The guidance at [167(i)] of ***Wolverhampton*** requires there to be a compelling need, sufficiently demonstrated by the evidence, for the remedy that is sought, which is not adequately met by other measures available to the Claimants. At [188], the compelling need is described as the '*overarching principle that must guide the court at all stages of its consideration'*. At [218] the Supreme Court also held that there '*must be a strong probability that a tort or breach of planning control or other aspect of public law is to be committed and that this will cause real harm*'.

59. It is submitted that the Claimant has given clear and comprehensive evidence of wrongful conduct requiring of a remedy (both in the Claim, and this Application). Given historical experiences, and continuing experience since the grant of injunctive relief, there is a strong probability that further breaches of planning control and trespasses will occur.

60. Further, the guidance at [188]-[217] of ***Wolverhampton*** must be considered when the court is assessing whether there is a compelling justification for the injunctive relief sought. At [189], the Supreme Court set out three preliminary questions:

    i. whether the local authority has complied with its obligations to consider and provide lawful stopping places for Gypsies and Travellers;

    ii. whether the local authority has exhausted all reasonable alternatives, including whether it has engaged in dialogue with the Gypsy and Traveller community to try and find a way to accommodate their nomadic way of life by giving them time and assistance to find alternative or transit sites, or permanent accommodation;

    iii. whether the local authority has taken steps to control or prohibit unauthorised encampments and related activities by using other measures and powers at its disposal.

61. Paragraphs [190]-[217] then go on to further dissect each of the three preliminary questions.

The three preliminary questions: (1) the obligation to consider and provide lawful stopping places

62. The relevant guidance in ***Wolverhampton*** can be found at [190]-[202].

63. Ms Mehat explains that the Claimant operates a negotiated stopping policy, which has been in place since 2019, and that all negotiations in relation to stopping are treated as if they were being conducted under that policy, even though an approach (or agreement) under the policy has never in fact been made (Mehat WS4 paras 70-74 **[C/1/15-16]**). Eyre J was satisfied with that policy when granting the Injunction (see **[2024] EWHC 2496 (KB)** at [15], [21] and [67]). Ms Mehat also explains that the Claimant in any event intends to update the policy, and is willing to elevate to it to the status of a formal policy if required.

64. It is accepted that the Claimant does not operate a transit site; the same is dealt with by Ms Mehat (WS4 paras 75-77 **[C/1/16]**) and Ms Warren (Warren WS para 13 **[C/20/146]**) in their evidence. As Ms Warren explains, no new transit pitches or emergency stopping places were considered necessary in the local plan period, as encampments were increasingly being associated with the dumping of waste, and a transit site would not alleviate the fly-tipping issue (ie. waste was not being dumped on sites because an encampment had nowhere else to form).

65. Ms Mehat further explains that:

    i. the Claimant has a power to provide a transit site, but not an obligation to do so. In this regard, Ms Mehat is referring to the **Criminal Justice and Public Order Act 1994, s80** and the **Caravan Sites and Control of Development Act 1960, s24**;

    ii. the Borough did not have a transit site when Eyre J granted the Injunction; and

    iii. a negotiated stopping policy is more flexible and of greater utility to the Gypsy and Traveller community.

66. Therefore, it is submitted that the absence of a transit site in the Borough should not preclude the continuation of the Injunction.

The three preliminary questions: (2) exhaustion of all reasonable alternatives

67. As is set out below, the Claimant submits that it has explored and exhausted all reasonable prohibitory and enforcement action prior to seeking injunctive relief. However, [189] and [203] of ***Wolverhampton*** also raises the consideration that local authorities should seek to engage with Gypsy and Traveller communities in an attempt to encourage dialogue and co-operation, and better understand the needs of the respective parties.

68. To that end, this Application has been served on the Appellants in the Supreme Court proceedings in ***Wolverhampton***.

69. Further, as both Ms Mehat explains (Mehat WS4 paras 46-47 **[C/1/9]** and para 80 **[C/1/17]**), the Claimant endeavours to engage constructively with those forming unauthorised encampments to understand their needs (and specifically any welfare needs), and has adopted a flexible policy of toleration on a case-by-case basis, where appropriate.

70. Further, Ms Warren explains that the Claimant's 2019 Gypsy and Traveller Accommodation Assessment is currently being updated, which process includes interviews with Gypsy and Traveller families that reside in the Borough to understand their needs (Warren WS paras 24-28 **[C/20/148]** and Mehat WS4 para 79 **[C/1/17]**).

The three preliminary questions: (3) steps to control or prohibit unauthorised encampments by other measures and powers

71. The Claimant has considered, and used, other measures and powers in an attempt to control and prohibit unauthorised encampments (including those discussed at [204]-[216] of ***Wolverhampton***). Ms Mehat (Mehat WS4 paras 91-111 **[C/1/19-23]**) and Ms Eastaff (Eastaff WS2 paras 18-22 **[C/13/129-130]**) explain and discuss the same in their witness statements.

72. In particular, the Claimant has relied on the powers in the **Criminal Justice and Public Order Act 1994 ('CJPO 1994'), ss77-78**, which have proved an ineffective and inefficient

way of controlling the formation of, and enforcing against, unauthorised encampments. In particular:

i. it can be very easy for an encampment to thwart enforcement attempts under **ss77-78**. Encampments will often wait to be served with **s77** directions, then move a short distance to a new site prior to an order being sought, necessitating the process to be started again, and causing a 'cat and mouse' cycle of enforcement throughout the Borough. Further, **s77** directions last only for 3 months, and the penalty for non-compliance is a fine (**s77(3)**);

ii. the Injunction provides a much more cost-efficient and timely resolution to the formation of unauthorised encampments, as compared to the use of **ss77-78**. Swift enforcement is especially important to reduce the harm that may be suffered by reason of the unauthorised encampments. The longer an encampment is in situ, the more likely it is that significant harm, will be suffered.

73. The Police also have powers under **s61** and **s60C** of the **CJPO 1994,** but for the reasons set out in the Claimant's evidence these have also proven ineffective at reducing the formation of and harm caused by unauthorised encampments, and are police-led and therefore require police resource, which is not always available.

Procedural protections

74. Paragraph [167(ii)] of ***Wolverhampton*** requires there to be procedural protections for the rights of newcomers to overcome the strong prima facie objection of subjecting them to a without notice injunction. Those protections should include generous liberty to apply provisions, and an obligation to take all reasonable steps to bring the application and any order to the attention of those who may be affected. These are expanded upon in [226]-[232].

75. To that end, the Injunction, and the draft Order continuing the Injunction, both include a liberty to apply, and make provision for (alternative) service (or, more accurately post-***Wolverhampton***, 'notification') of the Order and any subsequent continuation Application.

Territorial and temporal limitations

76. Paragraph [167(iv)] repeats guidance from earlier case law and requires newcomer injunctions to be constrained by territorial and temporal limitations to ensure, as far as is practicable, that they neither '*outflank nor outlast the compelling circumstances relied upon*'. That guidance is expanded upon in [225].

Territorial limits of the Injunction

77. The Injunction is **not** borough-wide against Persons Unknown, nor has it or the interim relief ever been. The Injunction is appropriately limited.

78. As explained by Ms Mehat (Mehat WS4 paras 14-19 **[C/1/3-4]**), the 306 Sensitive Sites equate to just under 23% of the Borough. The sites have been carefully selected and include sensitive sites such as schools, recreational areas, green spaces and retail sites, on which the formation of unauthorised encampments is especially harmful. The selected sites are sites that were either targeted frequently prior to the grant of injunctive relief, or are of the same nature as those sites that were frequently targeted. The Claimant has considered whether the 306 Sensitive Sites should be increased or decreased in number when making this continuation Application; counsel will update further in this regard at the hearing.

79. 23% of the Borough is a larger percentage of the Borough than is covered by equivalent injunctions in ***Basingstoke***, ***Test Valley*** and ***Rochdale***. However, that is reflective of the large number of sensitive spaces in the Borough, and especially the large areas of sensitive greenspaces that the Borough enjoys (Mehat WS4 para 15 **[C/1/3]**). 77% of the Borough still remains available for the formation of unauthorised encampments without breaching the Injunction.

Temporal limits of the Injunction

80. In accordance with the ***Wolverhampton*** guidance, the Claimant seeks a one-year order, with the possibility of continuation upon review. If no further application is made, the Order will expire by the effluxion of time.

It is just and convenient to grant the injunctive relief sought

81. Paragraph [167(v)] of ***Wolverhampton*** repeats the requirement of the **Senior Courts Act 1981** that it must be just and convenient to grant the injunction.

82. There are also several other miscellaneous points of guidance set out between [188]-[237] that do not obviously fall within any of the other subsections of [167], and which should therefore be considered in the general assessment of whether the relief is just and convenient. Those considerations include:

    i. that the intended respondents to an application must be defined as precisely as possible, identified and enjoined where possible and, if the order is sought against newcomers, the possibility of defining the class of persons by reference to conduct and/or intention should be explored and adopted if possible [221];

    ii. the injunction should be clear and precise, and use everyday terms, when setting out the acts that it prohibits. The prohibited acts must correspond as closely as possible to the actual or threatened unlawful conduct, and extend no further than the minimum necessary to achieve the purpose for which it was granted [222]-[224];

    iii. the order is not an interim order, in the sense that it is holding the ring until the final determination of the merits at trial, and where an application is a public body acting pursuance of public duty, an undertaking in damages may not be appropriate. That said, there are some instances in which a cross undertaking may be considered appropriate. The matter should be considered on a case-by-case basis, and an applicant must equip the court with the most up-to-date guidance [234].

83. As to (i) and (ii) above, it is submitted that these requirements are met, and Eyre J must have been satisfied of the same when granting the Injunction (indeed, the wording of the order was considered at the hearing and amendments made – see [85] of the judgment at **[B/2/83]**).

84. As to (iii), it is accepted that Eyre J did not expressly set out his reasons for not requiring an undertaking in damages. However, the Claimant submits that there is no reason to now require an undertaking in damages, which has not been required at any stage of these proceedings to date. Further, no other Traveller injunction that has been granted has required an undertaking in damages to be given.

Undertaking in damages

85. As the issue was not explored in full before Eyre J, the Claimant makes the below submissions.

86. It is ordinary, in injunction proceedings brought by a local authority exercising a law enforcement function in the public interest, for the court not to require an undertaking in damages: ***Kirklees Metropolitan BC v Wickes Building Supplies Ltd*** **[1993] AC 227** are **p274B-E** and **p275C-D**.

87. The relief sought in this Application is not 'interim'. However, the Claimant accepts that any injunction granted could be reviewed following the activation of the liberty to apply clause, such that it is possible that a future court may conclude, at least in relation to the person who made the relevant application, that an award of damages should be made.

88. In ***FSA v Sinaloa Gold plc & Ors*** **[2013] UKSC 11; [2013] 2 AC 28** (**'*FSA*'**), Lord Mance (delivering the unanimous judgment of the Court) held:

> *Different considerations arise in relation to law enforcement action, where a public authority is seeking to enforce the law in the interests of the public generally, often in pursuance of a public duty to do so, and enjoys only the resources which have been assigned to it for its functions. Other than in cases of misfeasance in public office, which require malice, and cases of breach of the Convention rights within section 6(1) of the Human Rights Act 1998, it remains the case that English law does not confer a general remedy for loss suffered by administrative law action. That is so, even though it involves breach of a public law duty. In the present context, the fact that an injunction is discharged, or that the court concludes after hearing extended argument that it ought not in the first place to have been granted, by no means signifies that there was any breach of duty on the public authority's part in seeking it.*

89. Therefore, unless the Claimant has acted in misfeasance of public office, or in breach of the hypothetical applicant's Convention rights, which is denied, no remedy in damages would in any event be forthcoming, such that an undertaking for the same is not needed.

90. It is often argued that injunctive relief of the kind sought by the Claimant interferes with the Article 8 rights of Gypsies and Travellers. However, that argument is made on a false premise. Sir Geoffrey Vos MR, when delivering the judgment of the Court of Appeal in ***Barking & Dagenham*** held at [104]-[105] that members of the Gypsy and Traveller community cannot rely on an Article 8 right to respect for their home, because they have no home on land that they do not own. Therefore, where a person has formed an encampment on land without the permission of the owner and/or in contravention of public (or criminal) law, there can be no question of interference with Article 8 rights, and therefore no suggestion that compensation might be payable by the Claimants for a breach of those rights.

91. The Master of the Rolls at [105] acknowledged that members of the Gypsy and Traveller community could rely on an Article 8 private and family life claim to pursue a nomadic lifestyle. However, the **Human Rights Act 1998** (and **s6(1)**) is individualised, in that a public authority must not act incompatibly with the Convention rights of a particular person. The exact circumstances of any particular newcomer to the injunction cannot be known unless and until they make themselves known in the proceedings (by, for example, activating the liberty to apply clause, or by coming forward prior to the grant of the order). The court can therefore only consider (but in any event must still consider) the rights of newcomers in the abstract. In those circumstances, there can again be no question of interference with Article 8 rights of specific newcomers, and therefore no question of compensation in relation to the same.

92. In any event, Article 8 is a qualified and not an absolute right, and must be balanced against competing rights (including, but not limited to, the rights of the inhabitants of the Borough and the Convention rights of landowners under A1P1).

93. Nonetheless, and as observed by the Supreme Court in ***Wolverhampton***, there are some instances in which an undertaking in damages may be required from a claimant local authority, citing ***Birmingham City Council v Afsar*** **[2019] EWHC 1619 (QB)** (**'*Afsar*'**).

In that case, Warby J noted that an undertaking in damages *may* be required, but that should not be done as a matter of course; it was a matter of discretion for the court in the particular circumstances of the case, and what the court considers to be fair in those circumstances (at [3(3)]).

94. Warby J considered circumstances that may be material to the exercise of that discretion, including whether the public authority was acting pursuant to a statutory duty in seeking relief, the fact that a public authority has limited resources to fulfil its functions, whether some other person or body would be able to (and would) act if the public authority did not, and the undesirability of deterring a public authority from acting in the public interest. In the circumstances, Warby J did require an undertaking from the claimant local authority, the reasons for which are set out at [5] of the judgment.

95. It is submitted that there is no reason to depart from the ordinary position and require the Claimant to give an undertaking in damages in this Application (remembering that no undertaking in damages has been required in these proceedings prior to this Application).

96. When considering the exercise of the discretion, the Claimant respectfully reminds the court that:

    i. it is responsible for the enforcement of planning control in the Borough. In the absence of the Claimant taking action, no other person can or would take action to enforce against the breaches of planning control that have occurred, and which are threatened;

    ii. the Claimant acts for the inhabitants of its administrative areas generally;

    iii. for the reasons set out above, it is denied that the Claimant is interfering with the Article 8 rights to a home of any member of the Gypsy and Traveller community.

97. In any event, if a successful application for discharge or variation is made following the continuation of the Injunction, the Court has the power to make an award in damages, with which the Claimant must comply. Not requiring an undertaking in damages now does not shut the door on an order for damages being made at the point of variation or discharge.

Full and frank disclosure

98. Since the grant of the Injunction, Nicklin J has handed down judgment in ***MBR Acres Limited & Ors v Curtin & Persons Unknown*** **[2025] EWHC 331 (KB)** (**'*MBR Acres*'**). That case concerned a protestor injunction and not a Traveller injunction, although the injunctive relief is still grounded in the ***Wolverhampton*** jurisdiction. For the purposes of full and frank disclosure, that judgment is notable for two reasons:

    i. Nicklin J granted a true *contra mundum* order, and found that Persons Unknown did not need to be, and ought not to be, defined in any way (see [356] and [362] of the judgment); and

    ii. Nicklin J included within the *contra mundum* order a requirement that the court's permission must be obtained before a contempt application could be made (see [390] of the judgment).

99. As to (i), it is submitted that no variation should be made to the injunction in these proceedings to make it a true *contra mundum* order. That approach is at odds with all other High Court Persons Unknown cases decided since ***Wolverhampton***, only one of which (***Valero***) was referred to in the judgment. On one occasion, a High Court Judge on the first hearing of a without notice application followed the approach of Nicklin J (***The Chancellor, Master and Scholars of the University of Cambridge v Persons Unknown*** **[2025] EWHC 454 (KB)**), but that approach was rejected by the Judge at the return date, who preferred and retained the 'conventional' approach (**[2025] EWHC 724 (KB)**). Further, modifying the injunction to make it a true *contra mundum* order expands significantly the scope of reach of the order, for which there is no justification.

100. As to (ii), it is submitted that no variation should be made to the injunction to include such a requirement. In ***MBR Acres***, Nicklin J was responding to the specific circumstances of that case (and in particular an earlier contempt application against a former person unknown, which he considered to be totally without merit) Those circumstances do not arise in these proceedings. Whilst a handful of other protest injunctions have since adopted this requirement (see **[2025] EWHC 724 (KB)** above and ***Trinity College Cambridge v***

Persons Unknown and ***St John's College Cambridge v Persons Unknown*** **[2025] EWHC 1577 (Ch)**, for example), it is submitted that the approach should not be followed here. The ordinary position is that a claimant who makes a contempt application does so at their own risk, including as to costs (***PJSC Vseukrainskyi Aktsionernyi Bank v Maksimov*** **[2014] EWHC 4370 (Comm)** at [21]-[22]). Further, there is no reason to suspect, in this case, that the Claimant will seek to bring vexatious or ill-founded contempt applications, especially as it has never in fact sought to enforce by way of contempt proceedings or by exercising the power of arrest (when it was available). Bourne J, in the ***Airports Review***, rejected the need for a permission requirement for these reasons (see [23]), as did Sweeting J in ***Esso*** (see [29]), among others.

CONCLUSION

101. For the reasons set out in this skeleton, the Claimant seeks a one-year continuation of the Injunction as against the 106th Defendant, Persons Unknown.

Natalie Pratt
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30 September 2025