

Neutral Citation Number: [2015] EWHC 1975 (QB)  
IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Case No: ATC/15/0293

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 10 July 2015

Before :

THE HONOURABLE MRS JUSTICE PATTERSON DBE

Between :

ST EDMUNDSBURY BOROUGH COUNCIL

Claimant

- and -

SOPHIE LOUISE OAKLEY  
(otherwise known as GASKIN)

Defendant

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Juan Lopez (instructed by LSR Solicitors & Planning Consultants) for the Claimant  
Rebecca Hawksley (Solicitor Advocate) for the Defendant

Hearing date: 24 June 2015  
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**Judgment**

**Mrs Justice Patterson:**

Introduction

1. This is an application for committal of Sophie Louise Oakley (otherwise known as Gaskin) for contempt of court by reason of breaches of an injunction granted on 17 December 2014 by Mark Ockelton QC sitting as a Deputy High Court Judge. The order was granted after an oral hearing under section 187B of the Town and Country Planning Act 1990 in relation to unauthorised use of land known as The Birches, Glassfield Road, Bardwell, Suffolk IP31 2DS (“the Land”).
2. Planning permission had been granted on 13 June 2013 for the Land after an appeal by the defendant against the refusal of planning permission by the claimant for the use of the Land for the stationing of caravans for residential purposes for one gypsy pitch and a three loose box stable block together with the formation of additional hard standing and a utility/day room ancillary to that use.
3. In the decision letter which allowed the appeal the inspector described the character and appearance of the area as follows:

“8. According to the Suffolk Landscape Character Assessment (2008) the appeal site and surrounding area fall within an area of Ancient Plateau Claylands. Key features include a flat or gently undulating arable landscape and substantial open areas...”

She continued:

“9. Although there is some vegetation around the perimeter of the larger field within which the pitch would sit, the appeal site is openly visible from Glassfield Road. In addition, I agree with the Council that the gently rolling landscape allows longer distance views towards the site, particularly from the eastern edge of Bardwell and along Stanton Road to the north. Whilst the stables and utility/dayroom would be similar in appearance to other agricultural buildings in the vicinity, it seems to me that the residential character of the use would be evident from the presence of caravans and vehicles on site and, at night in an unlit landscape, from any external lighting arrangements. In addition, the siting of the pitch – on open ground, towards the centre of the field and physically separate from other instances of built development – would be at odd with the larger scale and open character of the wider landscape. In the short term therefore, the proposal would have a significant adverse effect on the character and appearance of the surrounding countryside.

...

12. With that in mind, the proposal would fail to satisfy Core Strategy policy CS6(e) and Local Plan policy H8(c). It would

also conflict with Core Strategy policy CS3, to the extent that this policy also seeks to protect the landscape. Furthermore, whilst this landscape is not normally designated as being of value, the Landscape Character Assessment has identified certain elements which contribute to its character, including openness and historic field pattern. Since the proposal would cause some harm to the field pattern even in the longer term, it would also run counter to one of the core planning principles in the NPPF which expects, among other things, that planning should recognise the intrinsic character of the countryside.”

4. The inspector then considered the need and supply of gypsy pitches. On that, she recorded that the claimant had acknowledged that a need had been established for gypsy pitches so that the proposal accorded with Local Plan policy H8(a). Other factors which she considered to be in favour of the proposal were the lack of available alternative sites and the failure of policy. Her final conclusions were set out in [39]:

“The proposal would have some adverse effect on the character and appearance of the countryside, bringing it into conflict with those aspects of Core Strategy policies CS6 and Local Plan policy H8 which seek to prevent harm to the countryside. However, it is not in conflict with other aspects of those policies concerned with location and access and it would accord with policy H8 in respect of meeting an established need. On balance therefore, I consider that the proposal is in accordance with the development plan as a whole. In addition, whilst there would also be some conflict with national policy owing to its effect on the countryside, there would be significant benefits associated with meeting need in circumstances where no alternative sites have been shown to be available and where there are strong grounds to question whether existing need and future supply will be adequately addressed through the local plan process. All of these matters carry significant weight and, on balance, I consider that they outweigh the harm identified.”

5. The planning permission granted was conditional. Condition 9 related to the siting of the caravans and reads:

“No caravan shall be brought onto the site until details of its intended siting have been submitted to and approved by the local planning authority in writing. The caravans shall only be positioned in the approved locations, unless otherwise agreed in writing by the local planning authority.”

A plan was duly submitted and the location for the caravans was approved by the claimant.

6. On a site inspection on 27 November 2014 seven caravans were observed at the property together with about twelve vehicles consisting of cars, vans, motor homes and horseboxes. It appeared to the enforcement investigator that the land was being

occupied by four families in addition to the family occupying the permitted pitch. Hard standing and an approach path had been constructed on one of the extra plots without planning permission. The stable block referred to in the planning permission appeared to have been constructed as a single large room and the day room referred to in the permission formed a large kitchen adjoining the stable block. Again, that was unauthorised.

7. That was the background to the claimant commencing injunction proceedings which resulted in the court order of 17 December 2014. The order granted by Mr Ockelton QC is attached as Annex A to this judgment.
8. On 12 January 2015 a planning application was submitted by the defendant which sought to regularise the position on the site. That was refused on 17 March 2015. That refusal has not been appealed. The claimant notified the defendant that, if the planning application was refused, the terms of the order would need to be fully complied with.

#### Unauthorised Development

9. On 14 May 2015 a Planning Enforcement Officer, Adam Ford, visited the site and observed multiple breaches of the order as follows:
  - i) The stationing of a touring caravan in an unauthorised location;
  - ii) Use for residential purposes of the touring caravan;
  - iii) Use of the stable block for residential purposes;
  - iv) Use of the land for stationing, parking or storage of vehicles comprising a metal trailer, a silver Peugeot car and two white vans;
  - v) Use and/or permitting others to use the land for the unauthorised storage of residential paraphernalia comprising a washing line, lawn mower and trampoline;
  - vi) Use or permitting others to use the land for the unauthorised storage of a dog kennel;
  - vii) Allowing an unauthorised shed to be erected without planning permission and/or used for the storage of residential paraphernalia.
10. The same use of land in breach of the order had been observed on 30 April.

#### Evidence

11. The claimant filed witness statements before the hearing and called Adam Ford to give oral evidence. He confirmed his observations on the two occasions relied upon, as set out above.
12. The defendant gave oral evidence to the court. But during the course of that she accepted all of the allegations of contempt and apologised to the court for her mistakes. She admitted that she had done wrong and said that she was doing her

hardest to sort the area out. She had not made any application to vary the injunction and had only instructed her solicitor again on the Monday of the week of the injunction hearing. She did not disagree with the factual findings of Mr Ford (set out above).

### Conclusions

13. At the end of the evidence it was apparent that the differences between the parties were slender. The claimant accepted that in the light of the evidence of the defendant and her apology given to the court, despite the harm to amenity as a result of the breaches of planning control and the unwillingness on the part of the defendant to heed explicit warnings about those breaches before the institution of committal proceedings, that the correct course for sentencing, although at the higher end of the sentencing spectrum would be a suspended custodial sentence.
14. The defendant, in closing submissions on her behalf, accepted that there had been a breach in all counts. She was a lady with a young dependant child (seven months old). She was prepared to give undertakings and accepted that a suspended sentence of imprisonment was the most appropriate sentencing course.
15. On that basis I indicated that I would not impose a sentence of immediate imprisonment upon the defendant and asked the parties to see if they could draw up an agreed order with undertakings. If it was not possible to agree the full terms then I would determine what the order should be where there was a dispute between the two sides.
16. I have done that in the undertakings and order which accompany this short judgment. Such amendments as have been made are to reflect the extant planning permission granted on 13 June 2013 and the wording of the order of the court made on 17 December 2014.
17. In the circumstances that I have set out I have to conclude that the order of the court was flouted by the defendant. Her persistent failure to comply with its requirements aggravates the gravity of her conduct. There has been no prompt and full compliance and, until the court hearing, there was no acknowledgment of fault or apology for her conduct.
18. I take into account that the defendant has taken steps, albeit belatedly, and has financial pressures that may have impeded her compliance with the order. But I have to take into account the fact that court orders have to be respected and the authority of the court would be undermined if the defendant were permitted to breach a court order indefinitely.
19. I take into account also the fact that there are two elements of a committal sentence, namely a punitive element and a coercive element. I conclude that both parties were realistic in their submissions that a sentence of imprisonment is inevitable as a result of the breaches which have occurred here. The hardcore remained on site as did the wrongly positioned touring caravan when proceedings were brought. In the circumstances, in my judgment, the appropriate sentence is one of four months imprisonment but, as I indicated at the court hearing, that will be suspended provided

the defendant adheres to the timings set out in the undertakings which the court accepts and the order that the court makes.

20. In what I hope is the unlikely event that the agreed timescales and order is not complied with so that there is a further application to the court, the defendant needs to be aware that any future judge considering the position may well be less sympathetic. As Mummery LJ said in **Mid Bedfordshire District Council v Brown** [2004] EWCA Civ 1709:

“26. The practical effect of suspending the injunction has been to allow the defendants to change the use of the land and to retain the benefit of occupation of the land with caravans for residential purposes. This was in defiance of a court order properly served on them and correctly explained to them. In those circumstances there is a real risk that the suspension of the injunction would be perceived as condoning the breach. This would send out the wrong signal, both to others tempted to do the same and to law-abiding members of the public. The message would be that the court is prepared to tolerate contempt of its orders and to permit those who break them to profit from their contempt.

27. The effect of that message would be to diminish respect for court orders, to undermine the authority of the court and to subvert the rule of law. In our judgment, those overarching public interest considerations far outweigh the factors which favour a suspension of the injunction so as to allow the defendants to keep their caravans on the land and to continue to reside there in breach of planning control.”

21. The defendant should be in no doubt, therefore, as to the possible sanction on the part of the court should the order and undertakings not be complied with.
22. I should record that after the court hearing the site was further inspected by Mr Ford who has sworn a further Affidavit on the 1<sup>st</sup> July of what he observed on the Land which indicated that breaches were continuing. Those will need to be remedied in accordance with the Court Order.