

WALTHAM FOREST LONDON BOROUGH COUNCIL v PERSONS UNKNOWN (2018)

QBD (Lang J) 12/01/2018

CIVIL PROCEDURE - PLANNING - LOCAL GOVERNMENT

FINAL INJUNCTIONS : INTERIM INJUNCTIONS : PLANNING CONTROL : PROPORTIONALITY : TRAVELLERS : URBAN GREEN SPACE

It was just and proportionate to grant a three-year final borough-wide injunction preventing travellers from encamping on any green spaces, and an interim injunction preventing the same from happening on industrial sites. The travellers' activities, which were in breach of planning control, were causing a nuisance and health risks and the local authority had already incurred considerable expense in cleaning up the sites.

The applicant local authority applied for a permanent injunction to prevent the respondent travellers from encamping on green spaces in the borough, and to extend the injunction to include industrial sites.

The local authority had been granted a borough-wide interim injunction in October 2017, and the instant hearing was the return date. The local authority owned the green spaces in the borough, including 129 parks and woodland areas. Travellers had been camping on them in large groups, using mobile home and caravans, in breach of planning control. Their activities were interfering with the safe use of the green spaces and were causing a nuisance. They were also creating health risks due to deposits of excrement, fire hazards and the fly-tipping of industrial waste such as asbestos. The local authority had already incurred considerable expense in cleaning up the sites. It sought a borough-wide injunction, as previous injunctions against specific sites had meant that the travellers had simply moved on to other green spaces in the borough. The travellers' activities had gone on for a number of years. The terms of the interim injunction had been posted at the sites, and had successfully reduced the planning control breaches. After the interim injunction had been granted, the travellers moved on to industrial estates, targeting unprotected sites. The local authority therefore also sought a borough-wide injunction to restrain encampments on industrial sites, including eight car parks and five industrial estates.

HELD: Green spaces - Any interference with an individual's right to respect for his or her home, even if in accordance with national law and directed to a legitimate aim, had to be proportionate, South Buckinghamshire DC v Porter (No.1) [2003] UKHL 26 followed. The court was satisfied that unless the

injunction was continued, the unauthorised use of green spaces would resume. A borough-wide approach had been successful in other areas, Harlow DC v McGinley [2017] EWHC 1851 (QB) applied. The green spaces were for the local residents to enjoy, and it was not a case where the travellers would be made homeless as a direct result of the order. Continuing the injunction was both just and proportionate. It was appropriate to grant the injunction for three years to protect the residents and to act as deterrence.

Industrial sites - The court was satisfied that the travellers were causing disruption and that the industrial sites were not being used for their intended purposes, creating health risks. The local authority would incur considerable expense cleaning the sites up. There was a serious issue to be tried and damages were not an adequate remedy. It was just and convenient in the circumstances to grant an interim injunction. However, it was not appropriate to grant a final injunction with regard to the industrial sites without giving the travellers an opportunity to respond at a return date.

Application granted

Counsel:

For the applicant: Steven Woolf

For the respondents: No appearance or representation