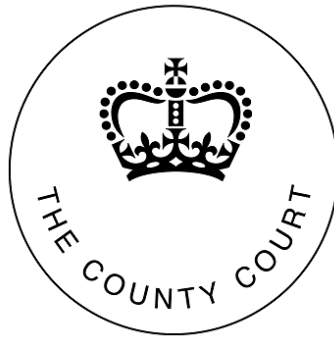


In the County Court sitting at Canterbury

Canterbury County Court



For Claimant
Clive Satchell
1st Witness Statement
Exhibits: CS/01 – CS/07
21 July 2022

BETWEEN:

THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE

Claimant

-and-

- (1) RICHARD WOOD
- (2) ALBERT AMOS MOBEY
- (3) AMOS BILL MOBEY
- (4) PERSONS UNKNOWN

Defendants

WITNESS STATEMENT OF CLIVE SATCHELL

I, CLIVE SATCHELL of Folkestone and Hythe District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent, CT20 2QY will say as follows-

1. I am employed by Folkestone and Hythe District Council ("The Council") as a Senior Planning Enforcement officer. I am responsible for investigating and enforcing against breaches of planning control within the Folkestone and Hythe district and have held this position since March 2019. I am duly authorised by the Council to provide this statement for use in any appropriate legal proceedings. What I state in this witness statement I state from my own knowledge save where I state that something is a matter of my belief.
2. I make this statement in support of the Council's application for an injunction to prevent any further development on land adjoining the Cottage, Canterbury Road, Selsted, Kent, also known as Plots 1 and 2, Brightmark Welding, Canterbury Road, Selsted, Dover, CT15 7HL "(the Land)".

3. On 30 July 2020, on the application of The District Council of Folkestone and Hythe, Deputy District Judge Lal sitting at Canterbury County Court granted an injunction preventing any further development the Land. The application of the Claimant is for a new injunction to be granted on the same terms but against new Defendants, with the exception of Amos Mobey who was a named Defendant previously.
4. The development that has taken place on the Land, without planning permission, and forming the basis of this, and the earlier application, is the laying of hardstanding and the installation of a static caravan and a touring caravan, seemingly in preparation for the residential use of the Land.
5. The Land is formed of two individual land parcels and registered at Her Majesty's Land Registry under title numbers TT75506 and TT80328. At the time the previous order was granted these land parcels were registered to Stephen Frederick Cork and Evelyn Althea Andrews who in defence of the application made submissions that they were not responsible for the unauthorised development of the Land, having sold it to Amos Mobey and James Ransley. They were waiting for the Land Registry formalities to be completed for the transfers of the land to have legal effect. These submissions were not disputed by the Claimant.
6. The order was made against Stephen Frederick Cork and Evelyn Althea Andrews, Amos Mobey and persons unknown. It was ordered that Amos Mobey pay the Claimant's costs of the application which remain being paid in instalments anticipated to be settled in full in December 2022. A copy of the order is exhibited as **CS/01**.
7. As of 2 July 2021 the freehold interest to title number TT75506 has been registered to Richard Wood of Kingsthorpe Farm, Magpie Hall Road, Stubbs Cross, Ashford, Kent TN26 1HG. Copies of the title register and plan are exhibited are **CS/02** and **CS/02A**.
8. As of 24 August 2020 the freehold interest to title number TT80328 has been registered to Albert Amos Mobey and Amos Bill Mobey of Woodlands, Coombe Walk, Yorkletts, Whitstable CT5 3AL. Copies of the title register and plan are exhibited are **CS/03** and **CS/03A**.
9. The Land is situated within the Kent Downs Area of Outstanding Natural Beauty (ANOB). A map showing the ANOB shaded in pink is exhibited as **CS/04**.

10. On 9 February 2021 the Council's Planning and Licensing Committee resolved to serve on all persons with an interest in the Land an Enforcement Notice under section 172 of the Town and Country Planning Act 1990.
11. Prior to the Enforcement notice being served, in February 2021 a full planning application (reference number 21/0290/FH) for the site was submitted for the 'Change of use of land as a residential caravan site for 4 gypsy families, each with two caravans, including no more than one static caravan/mobile home, together with laying of hardstanding, erection of 4 no amenity buildings, improvement of access and erection of fencing re-submission of 20/1105/FH'. An earlier planning application had been submitted under reference 20/1105/FH which could not be progressed as information required to validate the application was never produced by the applicant.
12. The Council decided to postpone serving any Enforcement Notice until such time as the planning application had been determined.
13. Application 21/0290/FH was refused planning permission on 1 April 2021. I produce as **Exhibit CS/05** a copy of the Decision Notice for that application. That decision is now the subject of Planning Appeal APP/L2250/W/21/3273843 which is yet to be determined by the Planning Inspectorate. This underlines the position that the council considers the site an intrinsically unsuitable and unacceptable location for residential development.
14. Following the determination of the planning application on 8 June 2021 the Enforcement Notice was served all persons with an interest in the Land and became effective on 12 July 2021. The following steps were required to be undertaken by those in control of the Land:
 - I. Cease the use of the Land for the stationing of caravans for residential purposes.
 - II. Remove all caravans and associated vehicles from the Land.
 - III. Remove all equipment and paraphernalia associated with the residential use from the Land.
 - IV. Take up the hardstanding and remove the resulting materials from the Land.
 - V. Remove the fencing, gates, posts and gravel boards and any associated concrete, post holders, rubble and debris from the Land.

VI. Upon completion of steps IV and V, restore the Land to the condition it was in before the breach of planning control took place.

15. Steps I to V were required to be completed within nine months from the date of the notice and Step VI was required to be completed within fifteen months from the date of the notice. However, the Enforcement Notice is now subject to Planning Appeal APP/L2250/C/21/3278430 which is yet to be determined by the Planning Inspectorate and therefore the Notice cannot be enforced at this time. A copy of the Enforcement Notice is exhibited as **CS/06**.

16. On 14 July 2022, I visited the property with a colleague and noted the static caravan, hardstanding and touring caravan remain in place and that one car and 5 vans or small trucks were parked at the property. No further caravans have been added nor does it appear that the hardstanding area has been extended. The absence of further caravans or the extension of the hardstanding indicates that the part of the Injunction Order pertaining to these matters has been complied with. Photographs I took during my visit of 14 July 2022 are exhibited as **CS/07**. The existing order has proved effective and successfully maintained the status quo

Proportionality

17. The Council is satisfied that the existing Order has had the effect of deterring the landowners from undertaking any further breaches of development control. At the appeal before the Planning Inspector the site owners and occupiers will be able to present all the evidence they wish in respect of their personal circumstances, specific vulnerabilities and accommodation needs. The Inspector will be obliged to consider their human rights (including article VIII) and the duties owed to them under the Equality Act as gypsy traveller possess a protected characteristic. Granting a further injunction will not prejudice or in any way affect the outcome of that appeal. Indeed, para 1 of the injunction expressly provides that planning permission could be forthcoming.

18. The subsequent submission of planning application 21/0290/FH for the residential use and the stationing of a number of further static caravans clearly indicates that the intention of the landowners is to extend the use of the Land. The Council remains firmly of the view that the overall balance of risk and harms remains in favour of keeping

the injunction in place. The risk of further unauthorised activity and the degree of harm should this come about have not diminished.

19. The Council is satisfied that a further order is a proportionate and effective means of protecting the the Land from further breaches of development control should the outstanding appeals against planning application refusal and Enforcement Notice be dismissed.

20. The Council seeks a further order be granted for a period of two years or until such time as the outstanding appeals of the refused planning permission and Enforcement Notice are determined in favour of the Defendants.

Persons Unknown

21. I am told that the legal test for an injunction against PU is articulated in **INEOS Upstream Ltd & Ors v Persons Unknown [2017] EWHC 2945 (Ch)**. In it, Longmore LJ helpfully confirmed the lawfulness of making injunctions against persons unknown and “tentatively” set out the requirements to be considered when making injunctions of this type:

- I. There must be a sufficiently real and imminent risk of a tort being committed to justify **quia timet** relief (that is, an injunction restraining wrongful acts which are threatened or imminent but have not yet commenced).*

The Council is satisfied, based on the development history of the Land, that further unauthorised development is a real and imminent risk on expiry of the existing injunction.

- II. It is impossible to name the persons who are likely to commit the tort unless restrained.*

Whilst the Council has established who holds the legal freehold interest in the Land it cannot be satisfied that only those named Defendants are likely to undertake further unauthorised development.

- III. It is possible to give effective notice of the injunction and for the method of such notice to be set out in the order.*

As with the earlier order the Council intends to effect service on Persons Unknown by attaching a copy of it to any caravans present on the Land and affixing a copy of it contained in a transparent waterproof envelope in a prominent position at the entrance of the Land so that it comes to the attention of any visitors.

- IV. *The terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit lawful conduct.*

The terms of the injunction shall correspond only with the threatened unauthorised development of the Land and will not be so wide that they prohibit lawful development.

- V. *The terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do.*

The terms of the injunction will be sufficiently clear and precise, prohibiting any further development of the Land as defined by section 55 of The Town and Country Planning Act 1990 without the grant of planning permission or the written consent of the Claimants solicitor. The Defendants will be forbidden from stationing any more caravans / mobile homes on the Land, erecting any structure / building, importing or depositing any material (including hardcore) or excavating / digging up the Land or undertaking any engineering works. If a caravan is removed from the Land the Defendants will be prohibited from replacing it with a different one.

- VI. *The injunction should have clear geographical and temporal limits.*

A plan delineating the Land subject the order shall be annexed to it.

I believe the that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Name: Clive Satchell

Signed: 

Date: 21 July 2022.