

Wit: R Copley
For: Claimant
No. 1
Date: 28/2/2019
Exh: RGC1-RGC7

IN THE HIGH COURT OF JUSTICE CLAIM No:
QUEEN'S BENCH DIVISION

In the matter of a Part 8 Claim and Application for an Injunction

And in the matter of:

- (1) Trespass To Land**
- (2) S.222 Local Government Act 1972**
- (3) S.187B Town & Country Planning Act 1990**
- (4) S.130 Of The Highways Act 1980**

BETWEEN

**THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF RICHMOND UPON THAMES CLAIMANT**

AND

- (1) PERSONS UNKNOWN POSSESSING OR OCCUPYING LAND**
- (2) PERSONS UNKNOWN DEPOSITING WASTE OR FLY-TIPPING ON
LAND**

DEFENDANTS

WITNESS STATEMENT OF ROLAND GEORGE COPLEY

**I ROLAND GEORGE COPLEY, Inspection & Enforcement Manager, of Civic
Centre, London Borough of Richmond upon Thames, TW1 3BZ will say as follows:**

Introduction

1. I am employed by the London Borough of Richmond upon Thames ('the Council') as the Inspection and Enforcement Manager. I have been employed by the Council for the last 17 years.

2. I am responsible for overseeing and supervising the day to day running of the Inspection and Enforcement Section. Responsible for ensuring inspection and enforcement on the public highway, the co-ordination of all activities on the highway including, waste management and enforcement, inspection and enforcement for all highway related inspections, enforcement monitoring, minor maintenance repairs within agreed target parameters in accordance with appropriate legislation including the New Roads and Street Works Act 1991, the Traffic Management Act 2004, the Control of Pollution Act 1974, the Refuse Disposal (Amenity) Act 1978, the London Local Authority Acts, the Environmental Protection Act 1990, The Highways Act 1980, the Clean Neighbourhood and Environment Act 1990, and Borough Byelaws.
3. Since 2013, I have been responsible for dealing with unauthorised / illegal encampments on council controlled land, and in some cases on privately owned land, using powers under section 77 of the Criminal Justice and Public Order Act 1994.
4. In conjunction with the Council's Legal Services provider, a procedure was adopted to ensure that these encampments were dealt with as effectively and quickly as possible, including conducting welfare checks, verbal notice for them to leave the land and if they fail to do so, follow the Council's procedure using section 77 of the Criminal Justice and Public Order Act 1994. I am one of the Council's responding officers and have personally have dealt with approximately 25 illegal encampments during this time.
5. I am duly authorised as the lead officer in undertaking the paperwork provided to this Honourable Court to make this statement in support of the Council's application for a High Court Injunction against persons unknown to prevent illegal / unauthorised encampments on its land and to prevent damage to the land by vehicles driving on and over it and by the deposit of waste and / or fly tipping by such persons.
6. The matters set out in this statement are within my personal knowledge, save where indicated to the contrary in which case the source of my information and belief is specifically set out.

The Borough

7. The London Borough of Richmond is a borough on the outskirts of south west London to the east of Wandsworth, south of Hounslow and north of east of Kingston. The borough covers an area of 5,095 hectares (14,591 acres) and is the only London Borough to span both sides of the River Thames. It has a population of 199,419. There are a dozen towns and villages in the borough with the largest being the main towns of Richmond and Twickenham.

The Application

8. I make this statement in support of the Council's application for an Injunction in the terms of the draft Order attached to the Claim Form, and in particular, an Injunction prohibiting persons unknown from occupying public land or driving on or over the land or depositing waste or fly-tipping on public land in the Borough.
9. This claim is made on the grounds of trespass to land and is brought under the common law and by virtue of the powers conferred on local authorities under the powers conferred by s.222 Local Government Act 1972, and under s178B of the Town & Country Planning Act 1990 and s.130 Highways Act 1980, the purpose being to protect public land within the Borough from unlawful occupation or encampment or damage.
10. In particular the Council seek an injunction to:
 - (a) Prohibit Persons Unknown from entering, occupying or setting up encampment for residential purposes (temporary or otherwise) (including with vehicles, caravans, mobile homes, or residential paraphernalia) on any parts of the land ("the Land") identified on **Maps 1-18 on sites numbered 1-131 on the Schedule** both of which are now produced and shown to me marked **Exhibit "RGC1"**, without prior written permission of the Council including, where necessary permission from the Local Planning Authority or planning permission by a Planning Inspector.

- (b) Prohibit Persons Unknown from bringing onto the said land or stationing on the land any caravans or mobile homes (other than driving through the London Borough of Richmond upon Thames, or in compliance with the Parking Orders regulating the use of car parks, or with the express written permission of the owners of the land).
 - (c) Prohibit Persons Unknown from depositing waste or other materials or fly-tipping on the said land or to bring any vehicle onto the land for such purpose (other than driving through the London Borough of Richmond upon Thames, or in compliance with the Parking Orders regulating the use of car parks, or with the express written permission of the owners of the land).
11. The sites numbered 1-131 listed in the said Schedule and identified on the Maps include the areas within the Council's ownership or management which are identified by the Council as requiring protection and include green spaces, ecological sites, cemeteries, council controlled car parks and a highway verge. These are to the best of my information and belief are within council ownership or are managed by the Council. The Council and its solicitors, the South London Legal Partnership, are currently in the process of obtaining full evidence of the title to the areas of Land identified in this application from Her Majesty's Land Registry. This has been a lengthy process which is continuing, and permission will be sought to file such evidence with the Court in advance of the final hearing of this Part 8 claim.

Evidence of Unlawful incursions

12. The incursions of the type which this application seeks to curtail have occurred regularly within the London Borough of Richmond upon Thames within the last few years, and I refer to a true copy of the Schedule of Incursions ('the incursions') now produced and shown to me marked **Exhibit "RGC2"** which sets out a summary of these events as follows:

- | | | |
|------|--------------------|--|
| (1) | 26-1-15 to 28-1-15 | Highway Verge, Ham St, near the Palm Centre |
| (2) | 5-2-15 to 8-2-15 | River Lane, Richmond |
| (3) | 30-5-16 to 31-5-16 | Pesthouse Common, Queens Road, Richmond |
| (4) | 4-7-16 to 10-7-16 | Highway Verge, Ham St, near the Palm Centre |
| (5) | 31-5-17 to 1-6-17 | Old Deer Park, A316, Richmond |
| (6) | 5-9-17 to 6-9-17 | Old Deer Park, A316, Richmond |
| (7) | 19-2-18 to 20-2-18 | RFU Land, Rosebine Car Park, A316, Twickenham |
| (8) | 16-4-18 to 9-6-18 | Ham Riverside Pitches, Ham St, Ham |
| (9) | 9-6-18 to 10-6-18 | Highway Verge, Ham St, near the Palm Centre |
| (10) | 19-7-18 to 20-7-18 | Ham Common, Upper Ham Road, Ham |
| (11) | 6-8-18 to 13-8-18 | Hamlands Jn of Riverside Drive and Ham St, |
| (12) | 21-8-18 to 31-8-18 | Heathfield Rec Ground, Powder Mill Lane,
Twickenham |
| (13) | 18-9-18 to 18-9-18 | Hamlands, near Burnell Avenue, Ham |
| (14) | 7-1-19 to 10-1-19 | Old Deer Park, A316, Richmond |

13. Photographic evidence of some of these incidents are now produced and shown to me marked **Exhibit "RGC 3"** in respect of which:

- 13 exhibits show the travellers on site at Old Deer Park during the incursion between 7th to 10th January 2019 and the waste and litter that was left behind when they left the site.
- 19 of these exhibits show the travellers on Hamlands during the incursion between 6th to 13th August 2018 and the waste and litter that was left behind when they left the site.
- 2 of the exhibits show the travellers in situ on Heathfield Recreation Ground during the incursion between 21st and 31st August 2018. 1 of these exhibits show the travellers in situ on Old Deer Park during the incursion between 31st May and 1st June 2017.

Problems associated with unlawful encampments and fly tipping

14. The arrival into the Borough of persons wanting to occupy land or set up unlawful encampments is not a new one, and throughout my time at the Council I have been concerned with and aware of the problem.
15. More often than not, such persons are members of the Traveller and Gipsy Community. Whilst the Council does not wish to single out or vilify such persons, it is fair to say that the arrival of such persons brings many issues and problems to the wider community of

the borough. These problems include the obvious damage which the encampments / occupation have on the green spaces and other sites and the costs of making them usable again.

16. Often the first damage which occurs is to the locks. Gates and fences when the first entry takes place, often during the night when these areas are closed. Obviously, parks and recreation grounds are not usually driven on with heavy vehicles and the damage to the ground and the grass can be significant, particularly in carefully laid out sports grounds and especially if the ground is wet.
17. Upon entry, problems associated with all sorts of litter commences and it is the litter which often causes the greater problem, although this is not to understate the damage to the environment, loss of amenity and the effect on community relations which is significant, and it is not uncommon for the local residents and businesses to complain to the Council and to their Councillors demanding the Council urgently address the problems.
18. Litter takes many forms. Litter is a significant nuisance especially as this may include incidents of faeces being left in parks and recreation grounds, which is a significant health hazard, especially in areas where children may play. Domestic litter of this type usually deposited in black bin bags, such as empty food packaging, can often become strewn across the site, but may also include dangerous items such as broken glass or other hazardous material. In some cases, building material or waste of an industrial nature has been dumped on a large scale, as evidenced in some of the photographs to which I have referred in Exhibit "RGC 3" above. This may give the Court a shocking flavour of the type of problems which have occurred within the borough, with which Council officers regularly have to deal, and which give rise to this application.
19. The Council officers, when attending to encampments without close police support have been threatened and intimidated by persons unknown. I was personally assaulted by 4 or 5 teenage boys associated with the illegal encampment on Old Deer Park that arrived on 31st May 2017. The Police decided to use their powers under section 61 of the Criminal Justice and Public Order Act 1994 because of their anti social behaviour and threatening demeanour.

20. It is imperative that the Court is fully aware of the considerable adverse effects that such unlawful occupation and fly tipping have on the borough and the residents and the Council's concerns.
21. These include the complete disregard for the Council's Public Spaces Protection Order which seeks to regulate use of the open spaces within the Council's area. They are also gross and largescale acts of trespass and nuisance. There is now produced and shown to me marked **Exhibit "RGC 4"** a true copy of the Council's Public Space Protection Order 2017 (Antisocial Behaviour) and the Schedule thereto. Article 20 makes it a criminal offence to take a motor vehicle, including a caravan or trailer on to a Council open space. This offence that carries a maximum penalty of a £1000 per contravention.
22. Further, there are other acts which involve civil wrongs under the common law, such as trespass and nuisance, and regardless of the inherent breaches of the planning, the very existence of vehicles, caravans and motorhomes on the council's public land amount to a trespass on such land which is owned by the council for the greater good of all the inhabitants of the borough, who are subjected to acts of public nuisance. This equally applies to cemeteries, public car parks and highway verges.
23. In addition, the interference and danger caused by impromptu encampments set up on the highway will be obvious to the Court. As the Highway Authority, the Council is obliged by law to keep the highway safe, and it is extremely difficult to do so when vehicles are unlawfully encamped. It is estimated that the Council has spent since 2015 almost **£40 000** for the costs of repairs, security, officer time and cleansing of sites following illegal / unauthorised encampments.

24. Further, at a time of austerity, it will be appreciated by this Honourable Court that these events cause an obvious drain on scarce resources which the council considers especially egregious as such unlawful occupiers contribute nothing towards Council Tax, or the Council's resources generally.
25. In addition, the London Borough of Richmond Upon Thames, in conjunction with various law enforcement agencies, is responsible for public order, good neighbourliness and responding to antisocial behaviour. The Police work with the Council representative and accompany council officers on every occasion where there is interaction with travellers, including when a welfare assessment is carried out. This takes Police officers and council officers away from other pressing problems within the Borough.
26. Finally, the arrival into a community of persons occupying or encamping on public land and dumping waste and destroying the environment causes significant community tensions, including with local residents, leisure, recreational and sports users, and local businesses. In particular, public amenities are significantly impacted because such areas effectively become 'no-go' areas for the local community, including children who are deprived of such recreational areas.
27. There is now produced and shown to me marked **Exhibit "RGC 5"** is a list of community events and activities for 2019. The first is a list of community events and activities that took place in 2018. It should be appreciated that the list of events does not include the events planned by Football, Rugby and Sports Clubs which use the parks and open spaces on daily and weekend basis for training and club matches.
28. As I have explained, I have been involved in numerous incidents of unlawful occupation and encampment involving travellers for the last 5 years. It is not just me, but other council officers, and the police officers deployed to the scene whose time is taken up dealing with these incidents. Invariably these incidents take up considerable time and resources of the Council, not only in relation to visiting the sites, carrying out welfare assessments, but dealing with complaints and reporting in accordance with the Council's governance

procedures, but also, where appropriate, preparation of court papers for issue and service and subsequent enforcement procedures under S.77 of the Criminal Justice and Public Order Act 1994, which can be a very expensive process as even where a court order is obtained, a private third party bailiff firm has to be instructed to take action to enforce the removal order. As mentioned above I was actually assaulted by a group of teenaged boys associated with an encampment on Old Deer Park whilst trying to undertake a welfare assessment. I was accompanied by the Police but I had strayed too far away from them.

29. Although there are other powers conferred upon the Police by S. 61 of the Criminal Justice and Public Order Act 1994, which allows them to direct occupiers to leave if they are trespassing with the intention of residing on the land these powers have limited use and effectiveness. They involve gathering evidence of the intention to reside, and in any event, such directions are only effective for a limited period of 3 months. In addition, even if such a direction were issued, then it does not prevent persons simply moving onto another nearby site. Furthermore, without any criticism of the Police, it is true to say that the Police are often reluctant to use their S. 61 powers which can be resource intensive, due to the costs of doing so at a time of limited resources and other pressing matters taking up Police time.
30. Of course, even if such powers were to have greater effectiveness, the inherent problem is that it only comes into effect once an encampment has been fully established. By the time that this has happened, many of the problems which I have identified in this statement will already have occurred, including damage to the green spaces and other land, and the depositing of waste. The Council therefore pursues this application in order to prevent this problem occurring in the first place.

Official

31. In addition, the Council is aware that a number of London Boroughs have sought and obtained injunctions in similar terms, including the nearby boroughs of Sutton, Merton and Kingston, and is highly concerned that the effect of this will be to substantially heighten the risk of the past unlawful behaviour being repeated and / or increasing within the London Borough of Richmond upon Thames, which is a very attractive green borough.

Persons Unknown

32. As this Honourable Court will note, the Council seeks this Injunction Order against the defendants described as 'Persons Unknown' either Occupying Land or Depositing Waste / Fly tipping on Land. I am advised that this is appropriate to refer to the defendants in this way as although the Council is aware of the names of some persons who have previously established unlawful encampments or have been responsible for the depositing of waste, the Council does not have reliable information as to the firm identity of such persons. Furthermore, the Council does not consider that it is appropriate to single out any named individuals or groups of persons, including the traveller and gipsy community. The Council therefore seeks the Injunction Order against anyone who is seeking to unlawfully occupy land or establish encampments, or depositing waste or fly tipping on the public land identified, regardless of their background.

Gipsy and traveller Assessment and Equality Impact Assessment

33. The Council is aware that notwithstanding the matters set out in paragraph 31 above, this Injunction may have a particular effect upon the Gipsy and Traveller community.
34. The Council's Planning Department undertook detailed research on Gipsies and Travellers in the London Borough of Richmond upon Thames in June 2016 in accordance with the Housing Act 1985, the National Planning Policy Framework (NPPF), Planning Practice Guidance 2014 (PPG), Planning Policy for Traveller Sites (PPTS), and the Housing and Planning Act 2016, and a true copy of such Analysis is now produced and shown to me marked **Exhibit "RGC 6"**. This concluded (see paragraph 3.16) that there is currently no need for transit sites

within the Borough. The Council will also consider appropriate stopping arrangements, where necessary, by advance negotiation, in which case prior written permission by the Council for a limited period will ensure that there is no unintended breach of the Injunction order sought. However, it is the Council's clear view that negotiated stopping has not been effective in the past to prevent the unlawful incursions as described earlier in the statement and in exhibit RGC 2, and this is not a solution to the problem in its own right.

Equality Impact Assessment

35. In light of the above matters, the Council has also carefully considered and had due regard to its duties under the Equality Act 2010 and, in particular, its Public Sector Equality Duty and has conducted a thorough Equality Impact and Needs Analysis. I refer to a true copy of this Assessment marked as **Exhibit "RGC 7"**. The Council has concluded that, balancing all relevant matters, it is proportionate to seek this Order.

Summary of Reasons to Grant the injunction sought

36. I am advised that when a Court considers an Injunction such as this one being sought by the Council, it is obliged to have regard to the tests set out in the case of *American Cyanamide*. In addition, where there is no real likelihood of challenge, the Courts have approached such applications on the basis that an injunction will usually be justified so long as it can be established that there is a substantial risk of trespass.
37. Therefore, if serious issue is identified which cannot be addressed by the recovery of damages and the balance of convenience is more in favour of the granting of an injunction than against doing so, an injunction will be ordered. In addition, the Court takes into account the fact that there is no real defendant in opposition as it is not as if there is any claim to an entitlement to occupy or fly-tip.

38. There can be no question that a serious issue is set before the Court, namely the persistent and uncontrolled infiltration by persons trespassing and causing a nuisance on council land. This arises not just by virtue of the trespassing encampments being established, but also by virtue of serious acts of nuisance by the acts of uncontrolled littering and fly tipping. This is personal, domestic and industrial waste. Even if, which of course is not the case, the trespass could be met by payment of fees, giving the person the right to occupy, the devastation to the inhabitants of the Borough, whereby communities would encamp on the leisure and recreational areas of the Borough could not possibly be quantified in damages and certainly could not be reimbursed to the residents.
39. Since there is a serious issue to be tried where damages cannot act as an adequate remedy and the balance of convenience is firmly in the Borough's favour, I do respectfully request the Court grant the injunction sought in the terms of the draft Order presented as part of the application paperwork.
40. In the circumstances the only appropriate relief is injunctive relief preventing the Persons Unknown from entering and occupying with their vehicles, mobile homes and caravans the specified Green Spaces, public car parks, cemeteries and highway verges in the Borough as well as preventing the depositing of waste and fly tipping waste in these areas.
41. I am quietly confident and hopeful that the Order being sought as part of this application will reduce the visits, which no doubt will please residents enormously who have to suffer directly the actions of the unlawful occupiers. An injunction will also assist the local police who do not have the resources to fully police the problem, but who are constantly being contacted with reports of criminal and anti-social behaviour.
42. It is hoped that with a preventative injunction the numbers of encampments created will reduce enabling the police to concentrate their time on other criminal activity in the Borough and of course build up community relations again.

43. The degree of success of the injunction may need to be monitored over a short period of time to see whether the injunction had had the desired effect. It is for that reason why the Borough asks for the matter to return to Court for a Return Day / Final Hearing in approximately 3 months' time. This will enable the Borough to assess the success or otherwise of the injunction. I understand such a delay to a Return Day is unusual, but in the particular circumstances of this action, I suggest it would be sensible and appropriate.
44. Of course, there would be nothing to stop any individual applying (the Order proposes 72 hours) to the Court to set aside or vary the existing Order if it felt the order was unfair and needed to be set aside as having been wrongly obtained over all the protected areas or specified areas.

Conclusion

45. I trust the Court has gained a flavour of the enormity of the problem the Borough is faced with on so many different levels and in so many different spheres. The hours expended on the occupation by persons who have no regard for others and persist with their bad conduct costs the Council thousands of pounds. This cannot go on, as if it does, the Borough will be so badly effected it may never recover financially and community relations will be seriously damaged. The proposed Order as per the draft attached to the Draft Injunction is seen as a hopeful and positive step in dealing with the abuse of public land experienced by the Borough at the hands of those Persons Unknown that is seeks to target.
46. I do hope the Court finds favour with the application and agrees to the order as proposed, which as the Court will appreciate does not mean unknown persons cannot come into the Borough but does mean they cannot make any encampment on the Green Spaces, public car parks, cemeteries and highway verge in the Borough as per the sites identified and numbered on the Map to the detriment of the Borough's inhabitants and lawful visitors

47. In all circumstances the Claimant respectfully seeks the Order requested.

48. I confirm that contents of this Witness Statement is true.

STATEMENT OF TRUTH

- I believe that the facts stated in this Witness Statement are true
- I am duly authorised to make this statement

Signed.....



Dated.....2019



Roland George Copley