

Wit: Y Feehan
For: Claimant
Date: 01/05/2025
No.: 6
Exhibits:

IN THE HIGH COURT OF JUSTICE
KING’S BENCH DIVISION

Claim No. KB-2024- 003315

IN THE MATTER OF SECTION 222 OF THE LOCAL GOVERNMENT ACT 1972
AND SECTION 187B OF THE TOWN AND COUNTRY PLANNING ACT 1990

B E T W E E N:-

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH
RICHMOND UPON THAMES

Claimant

-and-

- (1) PERSONS UNKNOWN FORMING AN UNAUTHORISED ENCAMPMENT AND / OCCUPYING FOR RESIDENTIAL PURPOSES (including temporary accommodation) WITH OR WITHOUT VEHICLES AT ANY OF THE 8 SITES WITHIN THE LONDON BOROUGH OF RICHMOND UPON THAMES LISTED ON THE SCHEDULE ATTACHED TO THIS CLAIM
- (2) PERSONS UNKNOWN DEPOSITING WASTE ON ANY OF THE 8 SITES WITHIN THE LONDON BOROUGH OF RICHMOND UPON THAMES LISTED ON THE SCHEDULE ATTACHED TO THIS CLAIM

Defendants

LONDON GPYSIES AND TRAVELLERS

Intervener

SIXTH WITNESS STATEMENT OF YVONNE
FEEHAN

I, YVONNE FEEHAN, Parks Service Manager for the London Borough of Richmond upon Thames, of Civic Centre, 44 York Street, Twickenham, London TW1 3BZ WILL SAY AS FOLLOWS:

1. I make this Statement on behalf of the Claimant, further to the hearing before Mr Justice Dexter Dias on 14 February 2025 (the “Hearing”).
2. I understand that during the Hearing, Mr Justice Dexter Dias indicated that he wanted further evidence as to the Council’s use and enforcement of Public Spaces Protective Orders (“PSPO”) in dealing with unauthorised encampments, and to what extent those forming unauthorised encampments are advised of the existence of PSPOs. I also wish to provide further information in relation to the Council’s assessment of need in relation to accommodation provision for the Gypsy and Traveller community.

PSPO in place on the 8 Sites

3. Within my third Witness Statement, at Exhibit YF10, I exhibited a copy of the PSPO that prevents people from, amongst other things, camping on or bringing motor vehicles, trailers or caravans onto areas covered by the PSPO. The Schedule to that PSPO identifies the areas to which the relevant Articles of the PSPO apply. As per that Schedule, Article 11 (camping) applies to “*All open public owned, adopted or managed by the London Borough of Richmond upon Thames Council including roads, footpaths, pavements, alleyways and towpaths, all grass verges, and parks and open spaces including wooded areas.*” Article 20 (Motor vehicles etc.) applies to “*All land within the Council’s administrative area which is open to the air and to which the public are entitled or permitted to have access (with or without payment) including roads in the restricted area, footpaths, pavements, grass verges, alleyways and tow paths, allotments, and parks and open spaces, including wooded areas.*”. Accordingly, there is a PSPO in place preventing camping on, and the bringing of vehicles, trailers and caravans onto, the 8 Sites.

What Those in Unauthorised Encampments are Advised of

4. In my third Witness Statement, I stated that *“Travellers are advised of [PSPOs] in accordance with the Council’s usual procedure.”*. What I meant by this is that a Council Officer or member of Park Guard will attempt to engage with those in an unauthorised encampment, often via a self-nominated spokesperson for camp, to advise them that a PSPO is in place and to try and ensure compliance.
5. Within Exhibit YF23, attached to my fourth Witness Statement, is the Council’s Draft Guidance procedure for, amongst other things, dealing with unauthorised encampments. It has come to my attention that the procedure of alerting those in unauthorised encampments to the existence of the PSPO is mistakenly absent from the draft unauthorised encampment procedure, located in section 4 of the Draft Guidance. However, the procedure that is followed, as outlined in paragraph 4 above, is essentially set out in section 3 of the Draft Guidance, which deals with both unauthorised encampments and homelessness. The Draft Guidance [see page 3 of YF23] states that *“During the engagement process, the Council’s Officers and/or Agencies [Park Guard] will visit the persons identified as rough sleeping daily ensuring that they...remain fully compliant with the Council’s Byelaws and Public Spaces Protection Orders.”*
6. For completeness, I have instructed my team to correct the Draft Guidance, to ensure that the procedure for alerting those present in unauthorised encampments to the PSPO, is included. The draft wording currently in place, pending approval is:

“During the engagement process, the Council’s Officers and/or Agencies will visit the persons identified associated with the unauthorised encampment daily, ensuring that they remain fully compliant with the Council’s Byelaws and Public Space Protection Orders. Any failure to comply with the Council’s Byelaws and Public Space Protection Orders will result in appropriate enforcement action and subsequent eviction from land belonging to the Council.”
7. I confirm that regardless, the above is the procedure that is followed in any event.

Decision not to Enforce PSPO/Issue Fixed Penalty Notices (“FPN”)

8. Although it is the Council's policy that those present in an unauthorised encampment are made aware of the PSPO in place, and efforts should be made to ensure compliance, in reality, the decision whether to take enforcement action or not rests with those attending to the unauthorised encampment, usually Park Guard. Unfortunately, the Council's experience is that despite being made aware of the PSPOs, the reality is that those present in the unauthorised encampments rarely take any notice of them, do not fear the consequences of breaching them and that generally speaking, they are of no assistance in dealing with unauthorised encampments. As such, those dealing with the unauthorised encampment, rarely, if ever, exercise their discretion to issue FPNs.
9. If a Council Officer or a member of Park Guard decides to issue an FPN for a breach of the PSPO, the Council Officer or member of Park Guard would need to ask the individual breaching the PSPO for their name and address, and to see a form of identification to certify the details provided. If details are provided and are certified as accurate, an FPN can be issued and instructions of how to make payment are provided.
10. However, although it is a criminal offence to do so, if an individual fails to provide their details or provides false details, the Council cannot realistically then seek to prosecute the individual should they fail to pay the financial penalty within the requisite period of time, as they cannot later be traced or contacted. In reality, the Council would also not expect the police to arrest those who refuse to provide their details for an FPN, or provide false details, either. Even if the police are able to attend an unauthorised encampment, the Council's experience is that they are extremely reluctant to carry out arrests unless absolutely necessary, in an attempt to keep tensions to a minimum. In any event, if a person is of no fixed abode, such as many of those that set up and reside in unauthorised encampments, their inherent lack of permanent address also renders the Council unable to prosecute for a failure to pay a FPN, as again, they cannot later be traced or contacted.
11. Further, Park Guard, who are typically tasked with attending an unauthorised encampment upon the Council becoming aware of them, usually consist of a crew of just 2 people. As shown in Exhibit YF4 attached to my first Witness Statement, the vast majority of unauthorised encampments that have been set up on the 8 Sites have contained over 10 vehicles, with many encampments comprising of significantly more.

With each vehicle usually having multiple occupants, it would be simply impractical for a Park Guard crew to even attempt to issue FPNs to all those on site.

12. It should be said that the Council does not wish to punish those forming unauthorised encampments by seeking to fine them, it simply wants to protect the 8 sites identified for the reasons set out elsewhere in my previous Witness Statement. However, in any event, the Council also does not believe that the small financial penalty incurred by FPNs, currently £80, but £50 is paid within 10 calendar days, acts as a deterrent to those setting up unauthorised encampments, who likely know full well that they would not ultimately be pursued by the Council.
13. Finally, upon an encampment being established on one of the 8 Sites, even if the Council was able to successfully issue FPNs in relation to breaches of the PSPO and went on to recover the associated financial penalties, the Council would still need to pursue a further method of enforcement to recover possession of its land and remove the unauthorised encampment.

Assessment of Needs

14. As discussed in my first Witness Statement, at paragraphs 24-26, in 2019 and 2020, the Council had in place an interim injunction to prevent the unlawful occupation and depositing of waste on 131 green spaces across the Borough. This injunction was discharged following the Judgment of His Lordship Mr Justice Nicklin in London Borough of Barking -v- Persons Unknown [2021] EWHC 1201 (QB). Despite being one of a number of local authorities to successfully appeal this decision, the Council opted not to seek a further injunction but instead chose to keep the matter under review internally.
15. However, following the number and size of the encampments in the subsequent years, the associated cost to the Council of dealing with them, and the Council's assessment that the current means of dealing with the encampments were ineffective, it became clear that the Council needed to consider an alternative.
16. Far from my department making a unilateral decision, I discussed the matter with a range of different Council departments, the Council's senior management and other relevant groups, such as the police and social services.

17. I also liaised the Council's Planning and Policy Teams, who informed me that as per the Council's current and emerging Local Plans, the policy position was that there was no assessed need for the provision of further pitches or sites for Gypsies and Travellers.
18. Following these discussions, it was decided that the Council would seek the limited injunction now sought in these proceedings. In this regard, the Council's assessment of need regarding accommodation provision for the Gypsy and Traveller Community was the Council's Local Plan, and the research that underpinned it. My colleague, Joanne Capper, provides further detail in relation to the Local Plan and the associated research in her Witness Statements provided during these proceedings.
19. However, even if the Council's policy position was to provide further pitches or sites, it appears to me most unlikely that any additional provision would have been able to accommodate the size of unauthorised encampments that the Council has experienced in recent years.

STATEMENT OF TRUTH

I believe 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.

YVONNE FEEHAN



Dated this 1st day of May 2025