

Party: Claimant
Witness: S Wortley
Statement: Third
Exhibits: "SSW4"
Date: 21.12.23

Claim Number: QB 2020 002072

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) LUDGATE HOUSE LIMITED
(INCORPORATED IN JERSEY)
- (3) SAMPSON HOUSE LIMITED
(INCORPORATED IN JERSEY)

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE CLAIMANTS' CONSTRUCTION SITE AT BANKSIDE YARDS WITHOUT
THE CLAIMANT'S PERMISSION

Defendants

WITNESS STATEMENT OF

STUART SHERBROOKE WORTLEY

I, STUART SHERBROOKE WORTLEY of 50/60 Station Road, Cambridge CB1 2JH WILL SAY
as follows:-

1. I am a solicitor of the Senior Courts of England and Wales and have conduct of these proceedings on behalf of the Claimants.
2. The Second and Third Claimants are the registered owners of a construction site in London known as Bankside Yards; the First Claimant is the main contractor

appointed by the Second and Third Claimants to undertake construction work at Bankside Yards.

3. On 3 March 2022, Mr Justice Shanks granted an interim injunction to restrain the Defendants from entering or remaining on the Bankside Yards construction Site. The injunction was granted until 31 December 2023. Earlier injunctions (in substantially the same terms) were granted in these proceedings by:-

- Mr Justice Soole - dated 30 July 2020
- Mr Justice Bourne - dated 26 January 2021
- Mr Justice Stewart - dated 4 March 2021
- Mr Justice William Davis - dated 20 July 2021
- Master Dagnall - dated 26 October 2021

4. I make this witness statement in support of the Claimant's application to further extend the interim injunction.

Service of the Order dated 3 March 2022

5. Paragraphs 6 of the Order of Mr Justice Shanks dated 3 March 2022 required that copies of an approved form warning notice be posted:-

5.1 at each of the main entrances to the Bankside Yards construction site;

5.2 at a minimum of 10 prominent locations around the perimeter of the Bankside Yards construction site;

6. Paragraphs 7 and 8 of the Order required that:-

6.1 the warning notice refer to the Court papers, evidence and various orders and to state that these can be viewed at:-

6.1.1 a dedicated website identified in the warning notice;

6.1.2 a physical location identified in the warning notice.

6.2 digital copies of the said documents be uploaded to the website;

6.3 hard copies of the said documents be kept at a physical location.

7. The said documents have been duly uploaded to the following website:-

<https://www.multiplex.global/uk/news/london-injunction-bankside-yards/>

8. I am informed by Jamie Godden, the Deputy Project Director of the First Claimant, and believe that copies have also been posted at all main entrances and at 10 prominent locations around the perimeter.

Update since the Order

9. I am informed by Mr Godden that since the injunction was granted there has only been one incident of trespass.
10. Whilst it is impossible to be sure, I respectfully suggest that this demonstrates that the injunction has had and continues to have the desired deterrent effect which the Claimants were seeking.
11. Having said that, the risk of trespass by urban explorer activity remains and I am informed by Mr Godden that on 20 December 2023, two individuals breached security and entered the Bankside Yards construction site. They were seen on CCTV and left when they were intercepted by security.

Security Measures

12. I am informed by Mr Godden that all of the security measures which protect the Bankside Yards construction site from trespass (referred to in paragraph 35 of Mr Wilshire's First Witness Statement dated 27 July 2020) remain in place - namely:-
 - timber site hoardings of at least 2 metres height;
 - lighting;
 - 24 hour security personnel;
 - intruder alarms (both audible and silent), although this is under review;
 - anti-climb measures on hoardings and tower cranes; and
 - closed circuit television (including motion sensors).

Reasons for Seeking the Injunction

13. I am informed by Rebecca Taverner (Legal Counsel for the First Claimant) that the reasons for seeking an injunction referred to in paragraph 41 of Mr Wilshire's First Witness Statement dated 27 July 2020 remain valid – namely:-
 - urban exploring is an inherently dangerous activity not only puts the perpetrators at risk but also members of the emergency services and anyone who might come to their aid in the event of them getting into difficulty;

- the location of the Bankside Yards construction site (central London adjacent to the River Thames) makes it an obvious target for urban exploring;
 - experienced urban explorers understand the deterrent effect of a civil injunction to restrain trespass;
 - the balance of convenience favours an injunction given that:-
 - the injunction merely prohibits conduct which would be unlawful in any event; and
 - an award of damages would not be an adequate remedy for the Claimants.
14. In addition to those factors, the risk of urban exploring remains prevalent on major London construction sites.
15. In September 2023, the First Claimant successfully applied for an injunction to restrain trespass at the Elephant and Castle Town Centre development in London. A copy of the judgment of Mr Justice Sweeting in that case is attached to this statement marked "**SSW4**".

Wolverhampton CC v London Gypsies and Travellers

16. In paragraphs 5 - 13 of my Second Witness Statement dated 23 February 2022, I referenced the decision of Mr Justice Nicklin in *Barking and Dagenham LBC and others v Persons Unknown and others [2021] EWHC 1201 (QB)* in which it was held that where a Claimant seeks injunctive relief against newcomers, the Court has only limited jurisdiction to grant an interim injunction and no jurisdiction at all to grant a final injunction.
17. It was the uncertainty resulting from this decision which resulted in only relatively short extensions being granted to the interim injunction in these proceedings in 2021 (see the date of the Orders listed in paragraph 3 above).
18. On 13 January 2022, the Court of Appeal handed down its decision in *Barking and Dagenham LBC and others v Persons Unknown and others [2022] EWCA Civ 13*. This decision overturned the first instance decision and confirmed that the Court had jurisdiction to grant interim injunctions and final injunctions against newcomers. This prompted the Claimants' successful application dated 23 February 2022 to extend the injunction until 31 December 2023 (without the need for any review before then).

19. Subsequently (in October 2022) the Supreme Court granted permission for the appellants permission to appeal. On 29 November 2023, the Supreme Court handed down its judgment (in a decision now known as *Wolverhampton CC and others v London Gypsies and Travellers and others* [2023] UKSC 47).
20. The Supreme Court rejected the appeal and upheld the decision of the Court of Appeal to the effect that the Court does have jurisdiction to grant interim injunctions and final injunctions against “newcomers”.
21. Paragraph 237 of the Judgment of Lord Reed, Lord Briggs and Lord Kitchin (with whom Lord Hodge and Lord Lloyd Jones agreed) provided as follows:-

“(12) Conclusion

237. There is nothing in this consideration which calls into question the development of newcomer injunctions as a matter of principle, and we are satisfied they have been and remain a valuable and proportionate remedy in appropriate cases. But we also have no doubt that the various matters to which we have referred must be given full consideration in the particular proceedings the subject of these appeals, if necessary at an appropriate and early review.”

22. I respectfully suggest that each of the Orders made in this case (those listed in paragraph 3 above) has been an entirely appropriate exercise of the Court’s jurisdiction.
23. I am informed by Mr Godden that the projected date for Practical Completion for the development on the Bankside Yards construction site is 30 January 2027.
24. In the circumstances, the Claimants respectfully request that:-
 - 24.1 the current injunction be extended on a temporary basis until further order, as the current injunction expires on 31 December 2023, and it is unlikely that the Claimant will secure a hearing date by the expiry; and
 - 24.2 the current injunction be extended until 15 February 2027 to ensure protection for the site by the injunction until Practical Completion.

Service of the Review Application

25. Although there is no express requirement in the Order of Mr Justice Shanks dated 3 March 2022 to give notice of future applications, once the date of the hearing is known, the Claimants intend to give notice of the application by:-

25.1 uploading the relevant documents to the website referred to above and

25.2 posting a further notice (referring to the application and the witness statement) at the same entrances and locations referred to in paragraph 5.

26. The Claimants also intend to give notice of the temporary injunction (if ordered), referred to at paragraph 25.1 using the same methods referred to at paragraphs 26.1 and 26.2.

Update on development

27. I am informed by Mr Godden that Phase 1 of the development at the Bankside Yards construction site has now been completed.

I believe that the facts stated in this Witness Statement and Exhibits 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.

I am duly authorised to make this statement on behalf of the Claimants.



Stuart Sherbrooke Wortley

21 December 2023