

Party: Claimants
Witness: S S Wortley
Statement: Second
Exhibits: "SSW7" - "SSWX"
Date: 12.12.23

Claim Number: KB-2023-002914

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

B E T W E E N

- (1) ELEPHANT AND CASTLE PROPERTIES CO. LIMITED
- (2) ELEPHANT & CASTLE 990 UNI CO LIMITED
- (3) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING OR REMAINING AT
THE PROPERTY DESCRIBED IN THE DETAILS OF
CLAIM WITHOUT THE CLAIMANTS' PERMISSION

Defendants

WITNESS STATEMENT OF

STUART SHERBROOKE WORTLEY

I, STUART SHERBROOKE WORTLEY of One Wood Street, London, EC2V 7WS WILL SAY as follows:-

1. I am a partner of Eversheds Sutherland LLP, solicitors for the Claimants.
2. On 1 August 2023, Mr Justice Sweeting granted an injunction to restrain "newcomers" (to adopt the language adopted by the Supreme Court in *Wolverhampton City Council and others v London Gypsies and Travellers* UKSC 2022/0046 referenced below) from entering or remaining on the Claimants' property.
3. Paragraph 1 of the Order of Mr Justice Sweeting provides:-

"the Defendants must not until further order, without the consent of the Claimants or other lawful authority, enter or remain upon any part of the land as shown edged red on the plan at Schedule 2 to this Order as demarcated from time to time by hoarding or security fencing (the "Elephant and Castle Construction Site")."

4. Paragraph 15 of the Order requires the Claimants to apply to extend this interim injunction (or else seek a final order) by no later than 28 July 2023.

5. Paragraph 14 of the Order provides as follows:-

"This Order shall be reviewed by the Court by not later than 31 December 2023 (having regard in particular to any judgment of the Supreme Court which has by then been delivered in the appeal now known as Wolverhampton City Council v. London Gypsies and Travellers (2022/0046)) – such review to be conducted in writing unless the Court otherwise directs, on application to be made by the Claimants (and served in accordance with paragraph (12) above) in the week commencing 11 December 2023."

6. The Claimants have duly applied to the Court to have the Order reviewed pursuant to paragraph 14 and I make this witness statement to assist the Court in undertaking that review.

7. Where the facts referred to in this witness statement are within my own knowledge they are true; where the facts are not within my own knowledge, I believe them to be true and I have provided the source of my information.

Service of the Order

8. Paragraphs 5 and 6 of the Order required:-

8.1 the Order and the proceedings to be uploaded to a website;

8.2 notice of the Order and the proceedings (including a statement describing the basic operation of the injunction and confirming where copies of the Order and the proceedings may be viewed and including a plan) to be posted at all main entrances to the Elephant and Castle Construction Site and not less than 10 prominent locations around the perimeter of the site.

9. The Order and the proceedings have been uploaded to this website

www.multiplex.global/news/london-injunction-elephant-and-castle/

10. There is now produced and shown to me marked "**SSW7**" a photograph of one of the warning notices posted on the perimeter. I am informed by Michael Waters, the Project Director and believe that copies have also been posted at all main entrances and at 10 prominent locations around the perimeter.

Update since the Order

11. I am informed by Mr Waters that since the injunction was granted there has been just 1 incident of trespass. On 25 November 2023, an individual male climbed Gate 4 and walked down the ramp onto the construction site. Almost immediately, he retraced his steps and left the site. Urban explorers generally act in small groups and occasionally larger groups. It is rare that they act alone. Accordingly, this unidentified individual may not have even been an urban explorer.
12. This compares with 5 incidents involving small groups of urban explorers between April and July 2023 (when the Claimants issued these proceedings) and suggests that the injunction is having the deterrent effect which the Claimants hoped for.

Wolverhampton CC v London Gypsies and Travellers

13. On 29 November 2023, the Supreme Court handed down its judgment in this case.
14. The appellants raised fundamental questions concerning the Court's jurisdiction to grant injunctions against so called "newcomers". The appeal was refused.
15. 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."

16. I respectfully suggest that:-
 - 16.1 the Order made by Mr Justice Sweeting on 1 August 2023 was an entirely appropriate exercise of the Court's jurisdiction; and

- 16.2 there is no need for any earlier review than 28 July 2024 (which is already provided for).
17. I am informed by Mr Waters and believe that the projected date for Practical Completion for the Elephant and Castle development is 30 January 2026.
18. In the circumstances, the Claimants respectfully request that upon the review ordered by Mr Justice Sweeting no further order is necessary.

Service of the Review Application

19. In accordance with paragraph 14 of the Order of Mr Justice Sweeting, the Claimants intend to serve the application and this supporting witness statement by uploading them to the website referred to above and by posting notice referring to the application and witness statement at the same entrances and locations referred to in paragraph 5.

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

12 December 2023

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KING'S BENCH DIVISION

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Defendants

"SSW7"

This is the exhibit marked "SSW7" referred to in the witness statement of Stuart Sherbrooke Wortley dated 12 December 2023.



MULTIPLY

Important Notice High Court of Justice – Claim No: KB-2023-002914

On 1 August 2023, an Injunction was made by the High Court of Justice prohibiting anyone from entering or remaining upon the Construction Site shown on the attached plan without the express permission. Anyone in breach of the Injunction will be in contempt of court and may be imprisoned, fined or have their assets seized.

• This means that you must not go beyond this notice and enter this site without permission.

If you do, you may be sent to prison or have your assets seized.

Copies of the documents listed below may be viewed at:
<https://www.multiplexglobal.com/news/forbid-enjunction-plaintiff-and-claim-form-14-07-2023>

- Claim form + Details of Claim dated 13 July 2023
- Application Notice dated 14 July 2023
- Witness Statements of Michael Waters dated 14 and 28 July 2023
- Witness Statements of Stuart Worley dated 14 July 2023
- Judgment of Mr. Justice Swire dated 1 August 2023
- Sealed Order dated 1 August 2023

Copies may also be obtained from the Site Office or by contacting Becky Rowell, Head of Legal at Multiplex on 07834 161460 or by email becky.rowell@multiplexglobal.com