

B E T W E E N :

(1) NUNEATON AND BEDWORTH BOROUGH COUNCIL
(2) WARWICKSHIRE COUNTY COUNCIL

Claimants

– and –

(1) THOMAS CORCORAN
(2)-(53) OTHER NAMED DEFENDANTS
(54) PERSONS UNKNOWN FORMING UNAUTHORISED ENCAMPMENTS
WITHIN THE BOROUGH OF NUNEATON AND BEDWORTH

Defendants

CLAIMANTS' SKELETON ARGUMENT
for the Application hearing listed on 3 December 2025

Bundle references are in the format [page number]

Suggested essential pre-reading:

- First witness statement of Amy Pittam [74-98]
- Second witness statement of Amy Pittam [731-736]
- Relief from sanctions application [726-730]
- *Nuneaton and Bedworth Borough Council & Anr v Corcoran & Ors* [2024] EWHC 3691 (KB) [28-44]
- *Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors* [2023] UKSC 47; [2024] 2 WLR 45 (specifically [167] and [188]-[237])
- Injunction Order of Cotter J dated 17 December 2024 [45-73]
- Draft Injunction Order (version 2) [737-757]

INTRODUCTION

1. The Claimants apply, pursuant to paragraph 7 of the Order of Cotter J dated 17 December 2024 (amended under the slip rule and re-sealed on 28 January 2025) [45-73], for the

renewal of the injunction contained within that Order (the ‘**Injunction**’) and accompanying power of arrest for a further 12 months as against Persons Unknown. This hearing is listed pursuant to paragraph 8 of the same Order.

2. This Application relates only to the defined category of Persons Unknown (the 54th Defendant); the Injunction is due to expire against those persons at 00:00 hrs on 18 December 2025. The Injunction also binds 33 Named Defendants up to and including 17 December 2029. No Application is made in relation to the Named Defendants.
3. The Injunction is a so-called ‘Traveller injunction’, in that it prohibits unauthorised encampments and the depositing of waste. The Injunction is **not** borough-wide against Persons Unknown, nor has it ever been. In relation to Persons Unknown, the Injunction applies to 142 specific sites (the ‘**Injunction Sites**’) in the borough of Nuneaton and Bedworth (the ‘**Borough**’), which equates to around 5.6% of the land in the Borough.

Service

4. The Application has now been served on both Persons Unknown, and the three Appellants in the *Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors* [2023] UKSC 47; [2024] 2 WLR 45 (‘*Wolverhampton*’) appeal. A full set of certificates of service can be found in the hearing bundle.
5. The Claimants accept that only 138 of the Injunction Sites were served with the Continuation Application in accordance with paragraphs 7 and 5 of the Order of Cotter J. The Claimants have applied for relief from sanctions accordingly (Application Notice at [726-730] and supporting second witness statement of Amy Pittam at [731-736]). The four missed sites were served on 24 November 2025, such that more than three clear days’ notice of the Application has been given. The Claimants accept that, in line with other cases of this nature where the same issue has occurred, the court may take the view that the prohibitions of any order continuing the Injunction should be suspended for 28 days.
6. The Claimants acknowledge that, following the Supreme Court’s decision in *Wolverhampton*, an injunction against newcomer Persons Unknown is technically always sought and granted on a without notice basis (see [139] and [143](ii) of *Wolverhampton*).

Nonetheless, there remains an obligation to take all reasonable steps to draw the Application to the attention of Persons Unknown (*Wolverhampton* at [167(ii)] and [226-229]), which it is submitted has been met.

BACKGROUND

7. The background to these proceedings is set out in full in the first witness statement of Amy Pittam, at paragraphs 10 to 29 [76-82]. On 17 December 2024, and upon the Part 8 Claim made by the Claimant on 22 February 2019, the Injunction was granted against 33 Named Defendants and Persons Unknown, as set out above. The Claimants have obtained a transcript of the Judgment, which can be found at [28-44] and which now carries the neutral citation [2024] EWHC 3691 (KB). A power of arrest was attached to the Injunction prohibitions (against both the Named Defendants and Persons Unknown), pursuant to the Police and Justice Act 2006, s27.
8. The Injunction (and the interim relief before it, as granted on 19 March 2019 by Timothy Straker QC, sitting as a Deputy Judge of the High Court) prohibits the forming of unauthorised encampments and the depositing of controlled waste (ie. fly-tipping). As against Persons Unknown, the Injunction was sought and granted over 142 sites in the Borough, which equates to around 5.6% of the land in the Borough.
9. Members of the Travelling community are not prohibited from entering the Injunction Sites or encamping lawfully on those sites (including by way of a negotiated stopping agreement), nor are they in breach of the Injunction should they form an unauthorised encampment away from the Injunction Sites. The 142 Injunction Sites were carefully selected by reference to the Claimants' analysis of the sites that were frequently targeted by unauthorised encampments visiting the Borough, and contain sensitive and vulnerable sites (such as parks and open spaces, school grounds, retail sites and car parks) where greater harm is suffered by the inhabitants of the Borough when unauthorised encampments are formed there.
10. The Claimants sought the injunctive relief in the discharge of their public functions pursuant to s187B of the Town and Country Planning Act 1990 to restrain breaches of planning control, and pursuant to s222 of the Local Government Act 1972 to promote or

protect the interests of the inhabitants of their administrative areas (specifically to restrain acts of trespass and various nuisances, and to restrain repeated breaches of directions to leave land made under the Criminal Justice and Public Order Act 1994). The First Claimant is the local planning authority for the Borough, such that it has the administrative function of enforcing planning control within the Borough. The Second Claimant is the local highway authority, in whom the adopted highways are vested.

11. The Injunction was sought in response to the Borough experiencing a high volume of unauthorised encampments and resulting harm. Between April 2015 and the end of 2018, approximately 103 unauthorised encampments were formed in the Borough, many of which had aggravating features (as explained in Ms Pittam’s witness statement – see in particular paragraph 14 [77-79]). An especially prevalent aggravating feature was the depositing of untreated human waste; given that many encampments were being formed at or close to school sites, and on recreation areas and green spaces used by the public (especially children), these deposits were especially harmful. Other prevalent harms included fly-tipping, threats and intimidation to the inhabitants of the Borough, incidents of violence and physical altercations between members of the encampments and the inhabitants of the Borough, various nuisances and financial harm to the Claimants in seeking to deter, enforce against and clean up after encampments.
12. After the grant of interim relief in March 2019, and prior to final hearing, these proceedings caught within the *Barking & Dagenham* litigation from October 2020 onwards, which culminated in the appeal to the Supreme Court in *Wolverhampton* (handed down on 29 November 2023). The Claimants were successful respondents in the appeal, and the claim was at last able to proceed to final hearing in December 2024.
13. Throughout the course of the interim relief, unauthorised encampments had continued to form in the Borough, but had done so far less frequently, and were of a limited size and duration. Ms Pittam’s witness statement (at paragraph 41 [86]) records that between 19 March 2019 to June 2022, just 12 unauthorised encampments formed in the Borough. Between June 2022 and September 2024, the number rose slightly to 17 encampments.
14. As Ms Pittam also explains, the harms suffered by the Claimants and the inhabitants of the Borough have also reduced (see paragraphs 45 to 52 [87-88]). Specifically, Ms Pittam notes

that legal and eviction costs incurred by reason of unauthorised encampments has fallen from its peak of £36,093 in 2019/2020 to a nil record since 2023. Further, the cost of clearing fly-tipping and human waste from encampment sites fell dramatically, but was not eliminated entirely, although no such costs have been incurred since the grant of the Injunction in December 2024.

15. Since the grant of the Injunction in December 2024, Ms Pittam records that three unauthorised encampments have formed in the Borough, none of which were on an Injunction Site, and the most recent of which was recorded on 4 September 2025.
16. The evidence given by Martin Rone-Clarke, Gypsy and Traveller Liaison Officer at Warwickshire Police, presents similar, but not identical, data (see paragraph 5 [192]). If anything, that data is less favourable to Persons Unknown (Ms Pittam explores the reasons why there may be some discrepancies in the data at paragraphs 18 to 20 of her witness statement [80]). Nonetheless, Mr Rone-Clarke's data clearly shows that there has been a significant reduction in the number of unauthorised encampments in the Borough since 2018, which corroborates the Claimants' own evidence.

RELEVANT LEGAL PRINCIPLES

Test to apply on this Application

17. The Supreme Court, in *Wolverhampton* at [225], expressed that the temporal limitation and periodic review of newcomer injunctions:

give[s] all parties an opportunity to make full and complete disclosure to the court, supported by appropriate evidence, as to how effective the order has been; whether any reasons or grounds for its discharge have emerged; whether there is any proper justification for its continuance; and whether and on what basis a further order ought to be made.

18. Ritchie J, who was dealing with an application for the continuation of an interim injunction in *High Speed Two (HS2) Ltd v Persons Unknown* [2024] EWHC 1277 (KB) ('*HS2*'), considered how a review hearing should be approached:

32. Drawing these authorities together, on a review of an interim injunction against PUs and named Defendants, this Court is not starting *de novo*. The Judges who have previously made the interim injunctions have made findings justifying the interim injunctions. It is not the task of the Court on review to query or undermine those. However, it is vital to understand why they were made, to read and assimilate the findings, to understand the sub-strata of the *quia timet*, the reasons for the fear of unlawful direct action. Then it is necessary to determine, on the evidence, whether anything material has changed. If nothing material has changed, if the risk still exists as before and the claimant remains rightly and justifiably fearful of unlawful attacks, the extension may be granted so long as procedural and legal rigour has been observed and fulfilled.

33. On the other hand, if material matters have changed, the Court is required to analyse the changes, based on the evidence before it, and in the full light of the past decisions, to determine anew, whether the scope, details and need for the full interim injunction should be altered. To do so, the original thresholds for granting the interim injunction still apply.

19. Morris J took the same approach in ***Transport for London v Persons Unknown & Ors*** [2025] EWHC 55 (KB) (*'TfL'*), specifically at [54]-[55]. At [55], his Lordship said:

In the present cases, TfL has already provided detailed evidence at a full trial and the Court has, on two occasions, already made a full determination of the issue of risk and the balance of interests. In my judgment, in those circumstances there needed to be some material change in order to justify a conclusion that the Final Injunctions should not continue. (For example, as in the HS2 case where Phase 2 of the HS project had subsequently been abandoned: see paragraph 40 above).

20. This approach was approved and applied by Hill J in the annual review in ***Valero Energy Ltd v Persons Unknown*** [2025] EWHC 207 (KB) (*'Valero 2025'*).¹

21. The question of the proper approach to a review hearing was again examined in a sequence of three cases throughout the spring of 2025: ***Basingstoke & Deane BC v Persons Unknown*** [2025] EWHC 738 (28 March 2025) (*'Basingstoke'*), ***Test Valley BC v Persons Unknown*** (KB) (9 May 2025, unrep.)² and ***Rochdale MBC v Persons Unknown*** [2025] EWHC 1314 (KB) (28 May 2025) (*'Rochdale'*). Those three cases also concerned Traveller injunctions granted against newcomer persons unknown under the ***Wolverhampton*** jurisdiction, and these three sets of proceedings (among others) had been

¹ It would appear that the same approach was also adopted in ***Multiplex Construction Europe Ltd v Persons Unknown*** on 28 February 2025. No transcript or neutral citation is available for that judgment, but a summary can be found on Westlaw at [2025] 2 WLUK 578.

² Counsel can provide a note of the judgment if required.

combined with the current proceedings and brought into the *Barking and Dagenham* litigation and *Wolverhampton* appeal.

22. In each of *Basingstoke*, *Test Valley* and *Rochdale*, the relevant injunction had been granted against Persons Unknown for a year, with the claimants given express liberty to apply for the continuation of the order by a specified date (absent which the injunction would expire by the effluxion of time). The express liberty to apply in the Injunction is identical to the clause that appeared in the *Basingstoke* and *Rochdale* injunction orders (as well in a similar injunction held by the London Borough of Havering), and materially the same as that which appeared in the *Test Valley* injunction (this counsel having represented the claimants in each of these cases).
23. Given (i) the subtle difference in the underlying orders sought to be continued in the three Traveller injunction cases as compared to the protest injunction cases (ie. they were not five years orders subject to review), (ii) a specific point arising from the underlying judgment in *Basingstoke*, and (iii) the duty of full and frank disclosure on the claimants, counsel for the claimants raised the question of which is the correct test to apply; the options being a further full *Wolverhampton* assessment, or the *HS2/TfL/Valero 2025* approach. Only in *Basingstoke* did the court purport to undertake a full *Wolverhampton* assessment (although Garnham J in *Rochdale* indicated at [71]-[77] that, even had a full assessment been required, the relevant tests were met).
24. In *Rochdale*, Garnham J summarised the case law (at [42]-[52]), noting that *Basingstoke* was an outlier (for good reason) in the approach that was taken. His Lordship held, at [51]:

In my judgment the correct approach is dictated by the Supreme Court's judgment in Wolverhampton and in particular [225]. This is not a "tick box" exercise, but the matters on which evidence should be adduced and argument focussed are (i) how effective the order has been; (ii) whether any reasons or grounds for its discharge have emerged; (iii) whether there is any proper justification for its continuance; and (iv) whether and on what basis a further order ought to be made. The parties should give full disclosure, supported by appropriate evidence, directed towards those questions.

The Judge proceeded to test the continuation application by reference to those four criteria, and whether there had been a material change of circumstances.

25. The same appears to have been cited with approval, and applied, in *Hanson Quarry Products Europe Ltd v Persons Unknown* (6 June 2025, unrep.).³

26. On 24 June 2025, the Persons Unknown protest injunctions held by 10 (of 13) airports came before the court for their annual review: *London City Airport Ltd & Ors v Persons Unknown* [2025] EWHC 2223 (KB)⁴ (the ‘*Airports Review*’). In that review, Bourne J cited with approval, and applied, *HS2*. It does not appear from counsels’ skeleton that the court was referred to *Rochdale* (or *Basingstoke* or *Test Valley*).⁵

27. On 11 July 2025, Sweeting J gave judgment in the annual review in *Esso Petroleum Company Ltd & Ors v Persons Unknown* [2025] EWHC 1768 (KB) (‘*Esso*’). Sweeting J, at [7]-[8] expressly approved of and applied the approach in *Rochdale*, stating:

...this is the practical and proportionate way to approach a review ordered as part of the original grant or relief. Such a review is also an opportunity to make necessary adjustments in light of the experience of the practical operation of the injunction and changing circumstances. The Court should nevertheless be wary of embarking upon fundamental changes to the scope or nature of injunctive relief at a review hearing rather than requiring a further and full application to be made. I also bear in mind that there is no legal presumption of continuance.

28. *Esso* was approved of and applied in the annual review in *Gatwick Airport Ltd v Persons Unknown* [2025] EWHC 2228 (KB), both *Rochdale* and *Esso* were cited with approval and applied in *Arla Foods Limited & Anr v Persons Unknown* (22 July 2025, unrep.),⁶ and *Rochdale* (along with *HS2* and *TfL*) was approved of and applied to the persons unknown review in *Teledyne UK Limited v Gao & Ors* [2025] EWHC 2050 (KB), expressly accepting that *Basingstoke* was an outlier (see [44]-[49]).

29. Therefore, it is submitted that, where there is no material change of circumstance necessitating a full *Wolverhampton* assessment, the *Rochdale* approach should be followed, with the same now being well-established in the case law. Only if there is a material change of circumstance, or some other exceptional factor (as there was in

³ [2025] 6 WLUK 122.

⁴ The judgment has been transcribed post-hearing, and is dated 26 August 2025.

⁵ https://assets.ctfassets.net/lmkdg513arga/733EcaFfNBtr3pO3oLrEGZ/2ae78f04e1cdcab573567d5377d7f2ea/Airports_-_skeleton.pdf.

⁶ [2025] 7 WLUK 442. Counsel can provide a note of the judgment if required.

Basingstoke), should a full *Wolverhampton* assessment be conducted. It is submitted that this Application falls into the former category, and *Rochdale* applies.

30. Notably, the most recent annual review of a Traveller injunction to be heard post-*Rochdale*, again approved and applied the test set down by Garnham J (*LB Haverling v Persons Unknown* [2025] EWHC 2603 (KB) (*'Haverling'*)). Whilst all of these cases are High Court and not appellate authority, it is submitted that the volume is such that they should be followed, and that the correct approach to these applications is now well-settled.

Power to grant injunctive relief

31. Strictly, in the circumstances of this Application, the court need not trouble itself with the statutory framework behind the Injunction. The below is included only for context.

32. The court's power to grant injunctions is wide-ranging, and is derived from the **Senior Courts Act 1981, s37**, which provides:

(1) The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.

Town and Country Planning Act 1990, s187B

33. The **Town and Country Planning Act 1990, s187B** (*'s187B'* hereafter) provides:

(1) Where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to court for an injunction, whether or not they have exercised or are proposing to exercise any of their powers under this Part.

(2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.

(3) Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.

(4) In this section "the court" means the High Court or the county court.

34. The underlying cause of action in a claim brought under **s187B** is a breach of planning control.

Breach of planning control

35. Pursuant to the **Town and Country Planning Act 1990** (the ‘**TCPA 1990**’), **s57(1)**, planning permission is required for the carrying out of any development of land. ‘Development’ is defined to include the carrying out of any building operation on, over or under land or the making of any material change of use of land (**s55(1)**), and the depositing of refuse or waste materials on land (**s55(3)(b)**). Planning permission may be obtained by way of express grant, or by way of deemed grant through permitted development rights. Carrying out development without the required planning permission constitutes a breach of planning control (**s171A(1)**).

36. The breaches of planning control complained of are primarily the material change in the use of the relevant land to a temporary Traveller site, and by the depositing of refuse or waste materials, without the requisite planning permission.

37. Unusually, the cause of action that underlies a claim brought pursuant to **s187B** is not one upon which the court can adjudicate; the court is not entitled to reach its own independent view on the planning merits of the case. The decision as to whether something is or is not a breach of planning control is a matter for the local planning authority, or the Secretary of State on appeal, and not the court (***South Buckinghamshire District Council v Porter & Anr* [2003] UKHL 26; [2003] 2 AC 558** (‘*Porter*’) at [11], [20], [29] and [30]).

38. That said, the court’s power to grant an injunction under **s187B** remains a discretionary one, albeit that discretion is not unfettered (see *Porter* [28]-[29]). The discretion must be exercised judicially meaning, in this context:

...that the power must be exercised with due regard to the purpose for which it was conferred: to restrain actual and threatened breaches of planning control. The power exists above all to permit abuses to be curbed and urgent solutions provided where these are called for. (Porter at [29] per Lord Bingham).

Local Government Act 1972, s222

39. The **Local Government Act 1972, s222** ('s222' hereafter) provides:

1. *Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area –*
 - a) *they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and*
 - b) *they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.*

40. Accordingly, **s222** does not create a cause of action. Rather, it confers on local authorities the power to bring proceedings to enforce obedience with public law, without the involvement of the Attorney General (*Stoke-on-Trent City Council v B&Q (Retail) Ltd* [1984] AC 754).

41. The guiding principles as to the exercise of the court's discretion under **s222** are identified in *City of London Corporation v Bovis Construction Ltd* [1992] 3 All ER 697 at 714 (per Bingham LJ), and include:

*...the essential foundation for the exercise of the court's discretion to grant an injunction is not that the offender is deliberately and flagrantly flouting the law but the need to draw the inference that the defendant's unlawful operations will continue unless and until effectively restrained by the law and that nothing short of an injunction will be effective to restrain them: see *Wychavon DC v Midland Enterprises (Special Events) Ltd* (1986) 86 LGR 83 at 89.*

Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors

42. Whilst the court is not performing a full *Wolverhampton* assessment, the Claimants accept that the court may benefit from being appraised of the pertinent aspects of *Wolverhampton* to assist in the consideration of the question of whether all legal and procedural rigour has been followed.

43. The Supreme Court, in *Wolverhampton*, considered many issues relating to so-called Traveller injunctions against newcomer Persons Unknown. The Supreme Court dismissed

the appeal and found that injunctive relief can be granted against newcomer Persons Unknown, albeit the Court held that such an injunction, in its operation against newcomers, is neither interim nor final, and is instead a form of without notice relief ([139]).

44. Throughout the course of its judgment, the Supreme Court examined the distinguishing features of such injunctions and, of particular importance, the principles that govern when such relief can and should be granted (ie. when it would be just and convenient to grant such relief). Specifically, at [167] the Supreme Court set out the following.

These considerations lead us to the conclusion that, although the attempts thus far to justify them are in many respects unsatisfactory, there is no immovable obstacle in the way of granting injunctions against newcomer Travellers, on an essentially without notice basis, regardless of whether in form interim or final, either in terms of jurisdiction or principle. But this by no means leads straight to the conclusion that they ought to be granted, either generally or on the facts of any particular case. They are only likely to be justified as a novel exercise of an equitable discretionary power if:

- i. There is a compelling need, sufficiently demonstrated by the evidence, for the protection of civil rights (or, as the case may be, the enforcement of planning control, the prevention of anti-social behaviour, or such other statutory objective as may be relied upon) in the locality which is not adequately met by any other measures available to the applicant local authorities (including the making of byelaws). This is a condition which would need to be met on the particular facts about unlawful Traveller activity within the applicant local authority's boundaries.*
- ii. There is procedural protection for the rights (including Convention rights) of the affected newcomers, sufficient to overcome the strong prima facie objection of subjecting them to a without notice injunction otherwise than as an emergency measure to hold the ring. This will need to include an obligation to take all reasonable steps to draw the application and any order made to the attention of all those likely to be affected by it (see paras 226-231 below); and the most generous provision for liberty (ie permission) to apply to have the injunction varied or set aside, and on terms that the grant of the injunction in the meantime does not foreclose any objection of law, practice, justice or convenience which the newcomer so applying might wish to raise.*
- iii. Applicant local authorities can be seen and trusted to comply with the most stringent form of disclosure duty on making an application, so as both to research for and then present to the court everything that might have been said by the targeted newcomers against the grant of injunctive relief.*
- iv. The injunctions are constrained by both territorial and temporal limitations so as to ensure, as far as practicable, that they neither outflank nor outlast the compelling circumstances relied upon.*

- v. *It is, on the particular facts, just and convenient that such an injunction be granted. It might well not for example be just to grant an injunction restraining Travellers from using some sites as short-term transit camps if the applicant local authority has failed to exercise its power or, as the case may be, discharge its duty to provide authorised sites for that purpose within its boundaries.*

45. The practical application of the principles affecting an application for a newcomer injunction, and the safeguards that should accompany the making of such an order, were considered in detail at [188]-[237]. The same shall not be extracted in full here, and the court is respectfully asked to read and consider the same, with the relevant parts being referred to below in submissions.

Precautionary relief

46. The Claimants seek precautionary relief (although the relief is not ‘pure’ precautionary relief, as the apprehended wrongs and resulting harms have already been suffered). Ordinarily, the court should therefore have regard to the test set out by Marcus Smith J in *Vastint Leeds BV v Persons Unknown* [2019] 4 WLR 2 (*‘Vastint’*), as approved by Vos MR in *London Borough of Barking and Dagenham & Ors v Persons Unknown & Ors* [2022] EWCA Civ 13; [2023] QB 295 (*‘Barking & Dagenham’*) at [83]. At [31] of *Vastint*, Marcus Smith J set out that the following two questions must be answered in the affirmative for injunctive relief to be granted:

- i. First, is there a strong possibility that, unless restrained by an injunction, the defendant will act in breach of the claimant’s rights?; and
- ii. Secondly, if the defendant did act in contravention of the claimant’s rights, would the resulting harm be so grave and irreparable that, notwithstanding the grant of an immediate interlocutory injunction (at the time of the actual infringement of the claimant’s rights) to restrain further occurrence of the acts complained of, a remedy of damages would be inadequate.

47. Marcus Smith J, still at [31], proceeded to then set out multiple factors relevant to the assessment of each of those questions:

- i. In relation to the first question: if the infringement is purely anticipatory, what steps has the claimant taken to ensure that the infringement does not occur; the attitude of the defendants; where infringements have already been committed, it may be that the defendant's intentions are less significant than the natural and probable consequences of his or her act; the time frame between the application for relief and the threatened infringement may be relevant (the courts often use the language of imminence, meaning that the remedy sought must not be premature);
- ii. In relation to question two: how easily can the harm of the infringement be undone by ex post rather than ex ante intervention; the gravity of the anticipated harm.

48. Following *Wolverhampton*, the conventional approach is now to apply the test from the Supreme Court in relation to newcomer Persons Unknown,⁷ with *Vastint* (and indeed *American Cyanamid*) being reserved for named defendants only; the *Vastint* requirements are essentially built-into the *Wolverhampton* test. That said, the court may choose to have regard to the *Vastint* multi-factorial test, as it did in *Basingstoke* (in 2024 and 2025), and as Butcher J did in *Rochdale* in 2024.

49. The court in *Test Valley* took the view that the *Vastint* test had been subsumed into the *Wolverhampton* framework. Garnham J also accepted that submission at [78] of *Rochdale*, but also found that the *Vastint* test provided a useful 'double check', with which Jonathan Glasson KC (sitting as a Deputy Judge of the High Court) concurred in *Haverling* at [32].

SUBMISSIONS

50. There has been no material change of circumstance since the grant of the Injunction on 17 December 2024. Accordingly, the court should adopt the *Rochdale* approach at this hearing.

⁷ The majority of cases since *Wolverhampton* have concerned protest injunctions, in which a settled framework based on the *Wolverhampton* guidance has now been developed.

Efficacy of the Injunction

51. As set out above, the Claimants' evidence is that, since the first grant of injunctive relief in March 2019, the number and duration of unauthorised encampments forming in the Borough has fallen significantly.

52. The data produced by Ms Pittam at paragraph 41 of her witness statement shows [86]:

Date range	Number of encampments
April 2015 to the end of 2018	103
19 March 2019 to June 2022 (ie. after the grant of the interim injunction)	12
June 2022 to September 2024	17
December 2024 onwards (i.e after the grant of the Injunction)	3

53. The data produced by Mr Rone-Clark at paragraph 5 of his witness statement shows [192]:

Local Authority Area	2018	2019	2020	2021	2022	2023	2024
Nuneaton and Bedworth	33	24	12	6	7	14	1

54. The harms suffered by the Claimants and the inhabitants of the Borough have reduced commensurately (Pittam WS paragraphs 45 to 52 [87-88]). Most notably, the costs incurred by the Claimants in the clearance of fly-tipped waste have reduced (with no such costs being incurred since December 2024, there having been no incidents of waste deposits, including human waste), and no costs have been incurred by way of legal or eviction fees since 2023 (save for in these injunction proceedings).

55. It is submitted that the greatly reduced number of unauthorised encampments in the Borough (and on the Injunction Sites specifically) is not evidence that the threat has

dissipated, but evidence that the injunction is having its intended effect (*Valero 2025* at [34]; *Rochdale* at [57]).

Are there grounds for discharge?

56. There is a significant overlap between this consideration and the following consideration. It is submitted that no grounds for discharge have emerged; unauthorised encampments continue to form in the Borough (albeit with a significantly reduced frequency), as well as in neighbouring administrative areas.

Is there a proper justification for continuation?

57. There is a proper justification for the continuation of the Injunction:

- i. the Borough remains a target for unauthorised encampments. The same is evidenced by the formation of three encampments since the grant of the Injunction on 17 December 2024;
- ii. neighbouring and proximate administrative areas that do not have the benefit of similar injunctive relief are experiencing unauthorised encampments with greater frequency than the Borough (Rone-Clarke WS paragraph 5 [192]). It is clear that unauthorised encampments still frequent the geographic area generally; the court is invited to draw the inference that these encampments no longer frequent the Borough by reason of the Injunction. The Claimants apprehend that, if the Injunction is not continued, encampment numbers in the Borough will again increase to unsustainable levels.

Whether and on what basis a further order should be made

58. It is submitted that the Injunction should be continued for a further 12 months without any substantial or material modification, upon which it should expire by the effluxion of time, but with liberty to apply for continuation (in accordance with [225] of *Wolverhampton*).

59. An updated draft order is produced at [737-757]. A few small typographical and stylistic amendments have been made. The prohibitions are unaltered, save for typographical and stylistic amendments, and the addition of further clarification in the defined terms (but which does not alter their meaning). A draft power of arrest will also be produced.

The *Wolverhampton* requirements

60. The Claimants maintain that a full *Wolverhampton* assessment is not necessary. The submissions below are intended to assist the court when considering whether all procedural and legal rigour has been followed.

Compelling justification for the remedy

61. The guidance at [167(i)] of *Wolverhampton* requires there to be a compelling need, sufficiently demonstrated by the evidence, for the remedy that is sought, which is not adequately met by other measures available to the Claimants. At [188], the compelling need is described as the ‘*overarching principle that must guide the court at all stages of its consideration*’. At [218] the Supreme Court also held that there ‘*must be a strong probability that a tort or breach of planning control or other aspect of public law is to be committed and that this will cause real harm*’.

62. It is submitted that the Claimants have given clear and comprehensive evidence of wrongful conduct requiring of a remedy (both in the claim, and this Application). Given historical experiences, and continuing experience since the grant of injunctive relief, there is a strong probability that further breaches of planning control, trespasses, various nuisances and ignorance of directions under the Criminal Justice and Public Order Act 1994 will occur.

63. Further, the guidance at [188]-[217] of *Wolverhampton* must be considered when the court is assessing whether there is a compelling justification for the injunctive relief sought. At [189], the Supreme Court set out three preliminary questions:

- i. whether the local authority has complied with its obligations to consider and provide lawful stopping places for Gypsies and Travellers;

- ii. whether the local authority has exhausted all reasonable alternatives, including whether it has engaged in dialogue with the Gypsy and Traveller community to try and find a way to accommodate their nomadic way of life by giving them time and assistance to find alternative or transit sites, or permanent accommodation;
- iii. whether the local authority has taken steps to control or prohibit unauthorised encampments and related activities by using other measures and powers at its disposal.

64. Paragraphs [190]-[217] then go on to further dissect each of the three preliminary questions.

The three preliminary questions: (1) the obligation to consider and provide lawful stopping places

65. The relevant guidance in *Wolverhampton* can be found at [190]-[202].

66. Ms Pittam's witness statement explains how the First Claimant responds to unauthorised encampments that form in the Borough (paragraphs 33 to 40 [83 to 85]) and also the stopping provision in the Borough (paragraphs 83 to 87 [96-97]). In that evidence, Ms Pittam explains that the First Claimant does not have a formal adopted negotiated stopping policy, but does operate the Warwickshire Protocol 2025 and its own documented procedure, which includes a practise of toleration and negotiated stopping where appropriate.

67. Cotter J was clearly satisfied with the approach taken by the Claimants when granting the Injunction (the 2025 policy then being in its 2022 iteration). Nonetheless, Ms Pittam's witness statement also explains that the First Claimant is taking steps to formally adopt a negotiated stopping policy drafted by Mr Rone-Clarke, which will be a standard policy adopted by all other local authorities in the county (see also Rone-Clarke WS paragraphs 20 to 22 [195-196]). Ms Pittam's second witness statement alerts the court that there has been some slippage in the timetable since the date of her first statement (paragraphs 10 to 15 [733-734]).

68. It is accepted that the Claimant does not operate a transit site, nor is there a transit site in the county of Warwickshire. Mr Rone-Clarke is working with the Second Claimant on a proposed transit site, although this is still a few years away from being operational. Other proximate counties have transit sites, which Mr Rone-Clarke has on occasion used (Rone-Clark WS paragraphs 17 to 19 [195] and Pittam WS paragraphs 83 to 85 [96-97]).

69. Ms Pittam further explains that:

- i. the Claimants have a power to provide a transit site, but not an obligation to do so. In this regard, Ms Pittam is referring to the **Criminal Justice and Public Order Act 1994, s80** and the **Caravan Sites and Control of Development Act 1960, s24**;
- ii. the Borough did not have a transit site when Cotter J granted the Injunction; and
- iii. a negotiated stopping policy is more flexible and of greater utility to the Gypsy and Traveller community.

70. Therefore, it is submitted that the absence of a transit site in the Borough should not preclude the continuation of the Injunction.

71. It is of note that the First Claimant exceeds its assessed need for residential pitches in the Borough by 2036/37, and has also safeguarded its existing Travelling Showpeople site from alternative uses (Matile WS, specifically paragraphs 11 to 14 [202-202]).

The three preliminary questions: (2) exhaustion of all reasonable alternatives

72. As is set out below, the Claimants submit that they have explored and exhausted all reasonable prohibitory and enforcement action prior to seeking injunctive relief. However, [189] and [203] of *Wolverhampton* also raises the consideration that local authorities should seek to engage with Gypsy and Traveller communities in an attempt to encourage dialogue and co-operation, and better understand the needs of the respective parties.

73. To that end, this Application has been served on the Appellants in the Supreme Court proceedings in *Wolverhampton*.

74. Mr Rone-Clark's witness evidence explains his role as the Gypsy and Traveller Liaison Officer at Warwickshire Police, and the work that he does in promoting engagement with and understanding of the Gypsy and Traveller community. In particular, Mr Rone-Clark has established a Gypsy, Roma and Traveller engagement group, with representatives from the Second Claimant's Gypsy and Traveller team supporting the work of the group and a 2025 project around Gypsy, Roma and Traveller history month (Rone-Clark WS paragraphs 23 to 25 [196-197]). Ms Pittam also explains that a representative of the First Claimant attended the event at Warwickshire Police HQ in June 2025 to celebrate Gypsy, Roma and Traveller History Month (Pittam WS paragraph 89 [98]).

75. Further, as Ms Pittam explains in her witness evidence, the First Claimant seeks to engage constructively with those forming unauthorised encampments (paragraphs 32 [83] and 35 [84])

The three preliminary questions: (3) steps to control or prohibit unauthorised encampments by other measures and powers

76. The Claimants have not relied solely on legal methods to prevent unauthorised encampments; the First Claimant has deployed (and continues to deploy) various target-hardening measures to deter encampments, at considerable expense (Pittam WS paragraphs 49 to 50 [87]).

77. The Claimants have also considered, and used, other measures and powers in an attempt to control and prohibit unauthorised encampments (including those discussed at [204]-[216] of *Wolverhampton*): see Pittam WS paragraphs 65 to 82 [92-96].

78. In particular, the Claimants have relied on the powers in the **Criminal Justice and Public Order Act 1994** ('**CJPO 1994**'), ss77-78, which have proved an ineffective and inefficient way of controlling the formation of, and enforcing against, unauthorised encampments. In particular:

- i. it can be very easy for an encampment to thwart enforcement attempts under ss77-78. Encampments will often wait to be served with s77 directions, then move a short

distance to a new site prior to an order being sought, necessitating the process to be started again, and causing a ‘cat and mouse’ cycle of enforcement throughout the Borough. Further, s77 directions last only for 3 months, and the penalty for non-compliance is a fine (s77(3));

- ii. the Injunction provides a much more cost-efficient and timely resolution to the formation of unauthorised encampments, as compared to the use of ss77-78. Swift enforcement is especially important to reduce the harm that may be suffered by reason of the unauthorised encampments. The longer an encampment is in situ, the more likely it is that significant harm, will be suffered.

79. The Police also have powers under s61 and s60C of the CJPO 1994, but for the reasons set out in the Claimants’ evidence these have also proven ineffective at reducing the formation of and harm caused by unauthorised encampments, and are police-led and therefore require police resource, which is not always available.

Procedural protections

80. Paragraph [167(ii)] of *Wolverhampton* requires there to be procedural protections for the rights of newcomers to overcome the strong prima facie objection of subjecting them to a without notice injunction. Those protections should include generous liberty to apply provisions, and an obligation to take all reasonable steps to bring the application and any order to the attention of those who may be affected. These are expanded upon in [226]-[232].

81. To that end, the Injunction, and the draft Order continuing the Injunction, both include a liberty to apply, and make provision for (alternative) service (or, more accurately post-*Wolverhampton*, ‘notification’) of the Order and any subsequent continuation Application.

Territorial and temporal limitations

82. Paragraph [167(iv)] repeats guidance from earlier case law and requires newcomer injunctions to be constrained by territorial and temporal limitations to ensure, as far as is

practicable, that they neither ‘*outflank nor outlast the compelling circumstances relied upon*’. That guidance is expanded upon in [225].

Territorial limits of the Injunction

83. The Injunction is **not** borough-wide against Persons Unknown, and is appropriately limited.

84. As explained by Ms Pittam, the 142 Injunction Sites equate to around just 5.6% of the Borough (Pittam WS paragraphs 25 to 29 [81-82]). The sites have been carefully selected and include sensitive sites such as schools, recreational areas, green spaces and retail sites, on which the formation of unauthorised encampments is especially harmful. The selected sites are sites that were either targeted frequently prior to the grant of injunctive relief, or are of the same nature as those sites that were frequently targeted. The Claimants have considered whether the 142 Injunction Sites should be increased or decreased in number when making this continuation Application, and continue to consider that the selection represents an appropriate balance between the rights of the Claimants and the inhabitants of the Borough, and the way of life Gypsy and Traveller community.

85. 5.6% of the Borough is a smaller percentage of the Borough than is covered by equivalent injunctions in *Havering* (23%), *Basingstoke* (10%), *Test Valley* (7.02%) and *Rochdale* (9.75%).

Temporal limits of the Injunction

86. In accordance with the *Wolverhampton* guidance, the Claimants seek a one-year order, with the possibility of continuation upon review. If no further application is made, the Order will expire by the effluxion of time.

It is just and convenient to grant the injunctive relief sought

87. Paragraph [167(v)] of *Wolverhampton* repeats the requirement of the **Senior Courts Act 1981** that it must be just and convenient to grant the injunction.

88. There are also several other miscellaneous points of guidance set out between [188]-[237] that do not obviously fall within any of the other subsections of [167], and which should therefore be considered in the general assessment of whether the relief is just and convenient. Those considerations include:

- i. that the intended respondents to an application must be defined as precisely as possible, identified and enjoined where possible and, if the order is sought against newcomers, the possibility of defining the class of persons by reference to conduct and/or intention should be explored and adopted if possible [221];
- ii. the injunction should be clear and precise, and use everyday terms, when setting out the acts that it prohibits. The prohibited acts must correspond as closely as possible to the actual or threatened unlawful conduct, and extend no further than the minimum necessary to achieve the purpose for which it was granted [222]-[224];
- iii. the order is not an interim order, in the sense that it is holding the ring until the final determination of the merits at trial, and where an application is a public body acting pursuant of public duty, an undertaking in damages may not be appropriate. That said, there are some instances in which a cross undertaking may be considered appropriate. The matter should be considered on a case-by-case basis, and an applicant must equip the court with the most up-to-date guidance [234].

89. As to (i) and (ii) above, it is submitted that these requirements are met, and Cotter J must have been satisfied of the same when granting the Injunction.

90. As to (iii), extensive case law was cited to Cotter J, who saw no reason to depart from the usual position that no undertaking in damages is required (see [41] of the judgment at [42]). There is no other Traveller injunction of which counsel is aware in which such an undertaking has been required.

Full and frank disclosure

Factual points

91. Ms Pittam's second witness statement highlights two issues with the service of the Injunction that have come to her attention during the preparation of the hearing bundle; the service timeline was such that the exercise was not completed until 12 May 2025, with three Injunction Sites being missed in error altogether (Pittam WS2 paragraphs 16 to 21 [734-736]).

Legal points

92. Since the grant of the Injunction, Nicklin J has handed down judgment in *MBR Acres Limited & Ors v Curtin & Persons Unknown* [2025] EWHC 331 (KB) ('*MBR Acres*'). That case concerned a protestor injunction and not a Traveller injunction, although the injunctive relief is still grounded in the *Wolverhampton* jurisdiction. For the purposes of full and frank disclosure, that judgment is notable for two reasons:

- i. Nicklin J granted a true *contra mundum* order, and found that Persons Unknown did not need to be, and ought not to be, defined in any way (see [356] and [362] of the judgment); and
- ii. Nicklin J included within the *contra mundum* order a requirement that the court's permission must be obtained before a contempt application could be made (see [390] of the judgment).

93. As to (i), it is submitted that no variation should be made to the injunction in these proceedings to make it a true *contra mundum* order. That approach is at odds with all other High Court Persons Unknown cases decided since *Wolverhampton*, only one of which (*Valero*) was referred to in the judgment. On one occasion, a High Court Judge on the first hearing of a without notice application followed the approach of Nicklin J (*The Chancellor, Master and Scholars of the University of Cambridge v Persons Unknown* [2025] EWHC 454 (KB)), but that approach was rejected by the Judge at the return date, who preferred and retained the 'conventional' approach ([2025] EWHC 724 (KB)).

Further, modifying the injunction to make it a true *contra mundum* order expands significantly the scope of reach of the order, for which there is no justification.

94. As to (ii), it is submitted that no variation should be made to the injunction to include such a requirement. A permission requirement is completely at odds with, and cannot be reconciled with, the power of arrest.

95. In any event, in *MBR Acres*, Nicklin J was responding to the specific circumstances of that case (and in particular an earlier contempt application against a former person unknown, which he considered to be totally without merit) Those circumstances do not arise in these proceedings. Whilst a handful of other protest injunctions have since adopted this requirement (see [2025] EWHC 724 (KB) above and *Trinity College Cambridge v Persons Unknown* and *St John's College Cambridge v Persons Unknown* [2025] EWHC 1577 (Ch), for example), it is submitted that the approach should not be followed here. The ordinary position is that a claimant who makes a contempt application does so at their own risk, including as to costs (*PJSC Vseukrainskyi Aktsionernyi Bank v Maksimov* [2014] EWHC 4370 (Comm) at [21]-[22]). Further, there is no reason to suspect, in this case, that the Claimants will seek to bring vexatious or ill-founded contempt applications, especially as it has never in fact sought to enforce by way of contempt proceedings or by exercising the power of arrest (when it was available). Bourne J, in the *Airports Review*, rejected the need for a permission requirement for these reasons (see [23]), as did Sweeting J in *Esso* (see [29]), among others.

CONCLUSION

96. For the reasons set out in this skeleton, the Claimants seek a one-year continuation of the Injunction as against the 54th Defendant, Persons Unknown.

**Natalie Pratt
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27 November 2025