

ENGLAND AND WALES / JUDGMENT

Tandridge District Council v John Brien & Ors

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[2026] EWHC 547 (KB) IN THE HIGH COURT OF JUSTICE KING'S BENCH DIVISION Case No:
KB-2025-004086 Royal Courts of Justice Strand, London, WC2A 2LL Date: 9 th March 2026
Before : MR JEREMY HYAM KC SITTING AS A DEPUTY JUDGE OF THE HIGH COURT

- ----- Between : TANDRIDGE DISTRICT COUNCIL Claimant Defendants

- and –

(1) MR JOHN BRIEN

(2) MR PATRICK BRIEN

(3) PERSONS UNKNOWN (OWNERS/OCCUPIERS OF CARAVANS OR OTHER FORMS OF
RESIDENTIAL OCCUPATION SITUATED ON OR BEING BROUGHT ONTO THE LAND
WITHOUT A LAWFUL PLANNING CONSENT OR CHANGING THE USE OF THE LAND
WITHOUT LAWFUL PLANNING CONSENT

(4) PERSONS UNKNOWN BRINGING CARAVANS ONTO THE LAND OR ATTEMPTING TO BRING
CARAVANS ONTO THE LAND

- -----

- ----- Caroline Bolton (instructed by Tandridge District Council) for the
Claimant Felicity Thomas (instructed by Brilliance Solicitors for the First and Second
Defendant Hearing dates: 27th & 28th January 2026

- ----- Approved Judgment Approved Judgment Tandridge District Council
v Brien and ors JEREMY HYAM KC :

1. On 27th and 28th January 2026 I heard the final hearing of this claim for injunctive relief against two named Defendants and two defined categories of Persons Unknown. The injunction sought is a species of “traveller injunction” in that it prohibits unauthorised use and development of land as a gypsy caravan site by both named persons (the First and Second Defendant) and Persons Unknown (the Third and Fourth Defendant). 2. Interim relief was initially granted by Sarah Clarke KC on 5 th November 2025 following a without notice injunction made pursuant to section 187B of the Town and Country Planning Act 1990

(‘the TCPA 1990’). The injunction sought to prohibit actual and apprehended breaches of planning control on land which the Council contends lies within the Metropolitan Green Belt. The actual and apprehended breaches of planning control are the change of use of the relevant Land from agricultural Green Belt Land to a gypsy caravan site with the intention of stationing caravans on the Land for residential use and/or further operational development of the Land by the Defendants. That interim injunction was continued at an on notice hearing by agreement between the Claimant and the First and Second Defendant on 24 November 2025 on which date directions were made for a final hearing. Those directions included at paragraph 5, a direction that the Defendants should file at Court and serve upon the Claimant any witness evidence of fact by 4.30pm on 9 December 2025, and the Claimant any witness evidence by 4.30pm on 23rd December 2025. Preliminary application for adjournment

3. At the outset of the hearing an application was made by the First and Second Defendant to adjourn the final hearing on grounds that there is an extant planning application that goes directly to the issues which the Claimant invites the Court to resolve at the final hearing. I declined to rule on that application at the outset of the hearing on the basis that there was no dispute between the parties that s.187B confers an original, discretionary jurisdiction on the Court as to whether it is just and convenient (and proportionate) to grant an injunction on the particular facts. It follows that I would necessarily have to have regard to the evidence in deciding what relief, if any was appropriate and could consider the question of adjournment and whether some further form of interim or final relief was appropriate after considering the evidence and argument as a whole rather than on a provisional basis. The parties
4. The Claimant is Tandridge District Council, whose offices are based in Oxted, Surrey. The application relates to land on a site known as “Land at Hesiers Hill, Chelsham and Farleigh”. The claim for injunctive relief is brought under Section 187B of the Town and Country Planning Act (the TCPA 1990).
5. The First Defendant is Mr John Brien, he is the owner of land under title number SY449539 located on the southwest side of Hesiers Hill, Warlingham CRG 9QG and is the land to which this injunction relates. This land was purchased by him on 6th September 2022. In his statement of 9th December 2025 he explains that he Approved Judgment Tandridge District Council v Brien and ors resides on this land with his family which is comprised of himself and four children aged 11, 7, 6, and 8 months as well as his wife who is pregnant with a fifth child.
6. The Second Defendant is Mr Patrick Brien. He is the owner of an adjacent piece of land in this location under title number SY455075 which intersects with the First Defendant’s land. That land was purchased in 1996. Persons Unknown

7. The Third and Fourth Defendants to the injunction are persons unknown who either are in occupation or who have brought their caravans onto the site without permission (The Third Defendants) or may do so (The Fourth Defendants). The land subject to the application
8. What is described by the Council's officer Mr Mynehan in his witness statement in support of the injunction as "the offending site" straddles both of the plots owned by Mr John Brien and Mr Patrick Brien. The "offending site" is represented most clearly by the diagram at Annex 1 to the Injunction Order made by HHJ Roberts on 24th November 2025 outlined in red.
9. In terms of planning history, it is relevant that in respect of the "offending site" there is a small area of cross-over with land for which planning permission has already been granted for the siting of residential caravans (outlined in green) on appeal by a planning inspector in May 2023.
10. By that planning decision dated 11 May 2023 APP/M3645/C/21/3284447 (which was an appeal against two planning enforcement notices) retrospective planning permission was granted under s.177(5) of the TCPA 1990 as amended for development already carried out, namely the material change of use of the land from woodland to the use for the stationing of residential caravans and touring caravans for residential purposes at land adjacent to Caravan Site, Beech Farm Road, Warlingham CRG 9QG. (Appeal A). In addition permission was granted under s.177(5) of the TCPA 1990 as amended for the formation of a new access track hardstanding, cess pool, sheds and other domestic paraphernalia in association with the use of the land for the stationing of residential caravans and touring caravans for residential purposes (Appeal B). Conditions were imposed by the Inspector including that the site shall not be occupied by any persons other than Gypsies and Travellers (Condition 1), and by Condition 2, that the occupation of the land (identified by a green outline on the plan provided to me) was to be carried on only by the following and their resident dependents:- John Brien (senior) and Mrs Elizabeth Brien -
 - Mr John Brien (junior) and Mrs Ann Brien
 - Ms Mary Brien and Mr Michael Casey
 - Mr Tom Brien and Ms Teresa Collins
 - Mr Patrick Brien. Approved Judgment Tandridge District Council v Brien and ors The basis of the claim for injunction
11. As summarised in the Claim Form issued on 5th November 2025, The Claimant seeks an injunction pursuant to section 187B of the TCPA 1990 to prevent further and/or apprehended breaches of planning control on land known as Land at Hesiers Hill, Chelsham and Farleigh ("the Land") as marked in red on the plan attached at annex 1 to the Order. The application is made because the Claimant apprehends that in breach of planning control, the First and Second Defendants will continue to develop the land, which is in the Green Belt, without a lawful planning permission and in particular to change the use of the site to a gypsy caravan site without planning permission.

12. The Claimant seeks an injunction against Persons Unknown for the reason that it is not known who else is involved with the development of the land and accordingly, the order granted could be easily defeated by a Person Unknown undertaking the development. Relief sought in the injunction
13. The relief sought by the injunction is an order prohibiting the occupation of caravans marked 1-8 on the Land as set out in a photograph at [B/167] of the trial bundle and more generally, an order preventing further development or occupation of the land in breach of planning permission. The specific terms sought are set out in a draft order provided to the court on 27 January 2026. The issue
14. The issue for determination as helpfully distilled by Ms Thomas in her skeleton on behalf of the First and Second Defendant is whether final injunctive relief is necessary or proportionate at this stage having regard in particular:- (i) (ii) (iii) (iv) (v) The discretionary nature of s.187B TCPA 1990 An extant undetermined planning application (The Claimant disputes the validity of this application); The planning appeal history and personal occupation permissions already granted; The Defendants' and their families' Article 8 ECHR rights The best interests of the children affected. Factual Background
15. The factual background to the application can be stated shortly and is summarised in the witness statement of Mr Mynehan. The Land subject to the injunction application is owned by John Brien, the First Defendant. It was purchased by him in 2022. The site lies within the Metropolitan Green Belt. The land has been historically used for agriculture. Following information received towards the end of October 2025, it came to the Council's attention that a new unauthorised Gypsy and Traveller site had been developed on the Land. On 4th November 2025, the site was inspected. Upon arrival the officers noted large new wooden gates had been erected to the front entrance of the property. That which had been a Approved Judgment Tandridge District Council v Brien and ors previously unmade track was now tarmaced, and fencing had been constructed along the full length of the track. A large, fenced compound had been constructed approximately 300 x 400 metres in size. There had been a dramatic increase in the levels at the site. From a view over a fence the officer was able to see at least two static caravans and a large lodge building was already on site. A number of photographs were produced evidencing this. At the time of making his witness statement Mr Mynehan identified the following breaches of planning control:-
 - Unauthorised change of use of the land from agricultural to residential for the stationing and occupation of static caravans for human habitation
 - Unauthorised operational development including the laying of roadways and hard standing and the installation of sewage tanks and associated underground drainage; this to facilitate change of use
 - The storage of building materials on site and associated plant machinery used in the unauthorised development of the land

- The raising of land levels which would constitute a major engineering operation.
- 16. As to harm, Mr Mynehan explained that the unauthorised introduction of static caravans and associated development was having a significant impact on the wider area in terms of visual impact, traffic movement, noise and general levels of activity, which will have a detrimental impact on local infrastructure as well as impacting the rural character of the area. With significant changes of levels the development has already “significantly intensified the adjoining unauthorised sites and this is considered to be significant harm”.
- 17. On 14th November 2025, another officer of the Council, Victoria Penney made a pre-arranged visit to the site. Ms Choudry, solicitor for the First and/or Second Defendant was present. Mrs Penney met with the First and Second Defendant on the site. Welfare forms were completed by her. She identified that there were in fact now 12 caravans on the whole of the site. It was at this point explained to her by the Defendant’s solicitor and Mr John Brien and Mr Patrick Brien, that the caravans numbered 9-12 on her photograph already had permission because they were part of the neighbouring plot in respect of which planning permission had been granted in 2023. The Council did not appear to be aware of this.
- 18. This relevant planning history of land adjacent to the site was investigated by Mrs Penney and she confirmed the information was correct to the extent that permission had indeed been granted for the area marked in green in Annex 1 to the Order, with conditions as to the list of permitted persons who might occupy the site as summarised above including Condition 2. It is clear however from the photographs exhibited to Mrs Penney’s witness statements that the development of the site (and the related site for which permission was retrospectively granted) has gone well beyond that for which permission was granted by the Inspector in May 2023. That in itself is relevant because it is evident from a review of the Inspector’s decision in May 2023, that the inspector was influenced by what he described as “the reduction in scale of development from that previously proposed”, what were described as: “proposed landscaping enhancements’ and by “the inclusion of a landscape maintenance plan” – see paragraph 26 of the Appeal decision. The Inspector also referred at paragraph 29 of the Appeal decision to the fact that since 2019, Mr John Brien had purchased land to the north Approved Judgment Tandridge District Council v Brien and ors of the site (this is the Land now subject to the injunction application). The Inspector noted that Mr Brien had stated he: “intended to carry out native broadleaf tree planting, wildlife meadow planting provision of deadwood piles, open glades and bird and bat boxes on this additional parcel of land”. The photographs produced by Mrs Penney tell a different story.
- 19. On 9th December 2025, the First and Second Defendant filed witness statements. In Mr John Brien’s witness statement it was claimed that the Land marked in green had had planning permission for in excess of 20 years. While it is correct to state that the land marked in green has been in ownership of Mr Patrick Brien for some 20 years, to say that it had had planning permission for in excess of 20 years when the Appeal decision retrospectively granting permission is only dated May 2023, is clearly inaccurate. Mr John Brien went on to explain that there were now 16 children and 23 adults residing on the Land divided between the 12

identified caravans. Mr John Brien's statement sets out the persons living on the Land and identified certain medical conditions that were suffered by some of the occupants. It was further stated that the land subject to the Claimant's injunction application was subject to an application for planning permission dated 10 November 2025 submitted on his behalf by WS Planning and Architecture. The proposal was for a material change of use of land to provide an extension to an existing Gypsy/Traveller site, comprising the stationing of 6 static caravans on "land adjacent to Caravan Site, Beech Farm Road, Warlingham CR6 9QG". The statement did not explain why, or when he and his family (including those family members who had personal permissions to reside in caravans on the land marked in green) had relocated to the area which he had informed the planning inspector as recently as 2023 was intended to be used for landscape enhancement including "native broadleaf tree planting, wildlife meadow planting provision of deadwood piles, open glades and bird and bat boxes".

20. He describes the new planning application dated 10th November 2025 (i.e. after the claim was issued in the present case) as one which sought permission "for an extension of the existing Caravan Site in order to accommodate our expanding family".
21. At § 26 of his statement the further following statement was made: "The site represents an opportunity for our family to reside together in accordance with our custom and in a singular unit. Our family has no other form of suitable accommodation namely brick and mortar which is inappropriate to our identity".
22. The Second Defendant, Mr Patrick Brien made a short statement in which he said that he had instructed solicitors to transfer the intersecting piece of land (i.e. where the red and green land intersect) to Mr John Brien and that thereafter he will have no financial or beneficial interest in the part of the land included in the "red line injunction plan".
23. In a subsequent statement from Mrs Penney dated 21 January 2026 it was explained that while it was correct to state that a retrospective planning application no. 2025/1308 had been received by the Council in respect of "Land off Beech Farm Road, Hessiers Hill, also described as Land Adjacent to Caravan Approved Judgment Tandridge District Council v Brien and ors Site Beech Farm Road, Warlingham," that application had been rendered invalid on 3rd December 2025 as further information was required to progress the validation process. A letter was issued to advise of the same to WS Planning and Architecture, Mr John Brien's agents, on 3rd December 2025.
24. She observed that in any event the invalid retrospective planning application 2025/1308 does not reflect the current site layout in respect of the position of the hardstanding or the correct number of mobile homes that are on the site. A photograph exhibited to her statement of 19th December 2025 graphically represents this at [492] of the trial bundle.
25. Apart from the witness statements of Mr John Brien and Mr Patrick Brien dated 9th December 2025, no other site occupants (in particular those occupying pitches 1-8 in breach of planning control who I find are likely to have been on notice of the intended injunction), gave evidence in any form as to how, or why, or when, they came to be on the Land subject

to the injunction application, nor evidence as to why they needed to remain on the site and could not be accommodated elsewhere (as by inference from the evidence of Mr Mynehan and the photographs, they must have been until relatively recently).

Legal Framework

26. The Court's power to grant injunctive relief is derived from the Senior Courts Act 1981 s. 37 which provides:- "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"
27. By section 187B(1) of the TCPA 1990 the Council has power to apply for an injunction to restrain an apprehended breach of planning control. 187B Injunctions restraining breaches of planning control
 - (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 the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other 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. Approved Judgment Tandridge District Council v Brien and ors
28. Accordingly the Court may grant an injunction where a local planning authority considers it necessary or expedient to restrain an actual or apprehended breach of planning control. The underlying cause of action in such a claim brought under s.187B is a breach of planning control. It is not for the Court to adjudicate on the breach of planning control. That is a matter for the local planning authority or the Secretary of State on appeal and not the court. However as confirmed by the House of Lords in South Buckinghamshire District Council v Porter & others [2003] 2 AC 558, the decision by the local authority under s.187B(1) to seek injunctive relief as the democratically elected and accountable body principally responsible for planning control in their area is a relevant consideration for the Court – see at §39 of the CA decision cited by Lord Bingham in §20 at 575E reproduced below, as is, to the extent the Court is able to form an informed view about it, the possibility that a pending or prospective application for planning permission may succeed – see at §30F.

29. The discretion to grant injunctive relief must be exercised judicially. The proper approach to s.187B injunctions is summarised by Simon Brown LJ in the Court of Appeal and affirmed by Lord Bingham in *South Buckinghamshire District Council v Porter & others* [2003] 2 AC 558 at §20:- "20. The Court of Appeal's ruling on the approach to section 187B was expressed in five paragraphs of Simon Brown LJ's judgment, which I must quote in extenso: " The approach to section 187B "38. I would unhesitatingly reject the more extreme submissions made on either side. It seems to me perfectly clear that the judge on a section 187B application is not required, nor even entitled, to reach his own independent view of the planning merits of the case. These he is required to take as decided within the planning process, the actual or anticipated breach of planning control being a given when he comes to exercise his discretion. But it seems to me no less plain that the judge should not grant injunctive relief unless he would be prepared if necessary to contemplate committing the defendant to prison for breach of the order, and that he would not be of this mind unless he had considered for himself all questions of hardship for the defendant and his family if required to move, necessarily including, therefore, the availability of suitable alternative sites. I cannot accept that the consideration of those matters is, as Burton J suggested was the case in the pre-1998 Act era, 'entirely foreclosed' at the injunction stage. Questions of the family's health and education will inevitably be of relevance. But so too, of course, will countervailing considerations such as the need to enforce planning control in the general interest and, importantly therefore, the planning history of the site. The degree and flagrancy of the postulated breach of planning control may well prove critical. If conventional enforcement measures have failed over a prolonged period of time to remedy the breach, then the court would obviously be the readier to use its own, more coercive powers. Conversely, however, the court might well be reluctant to use its powers in a case where enforcement action had never been taken. On the other hand, there might be some urgency in the situation sufficient to justify the pre-emptive avoidance of an anticipated breach of planning control. Considerations of health and safety might arise. Preventing a Approved Judgment *Tandridge District Council v Brien and ors* gipsy moving onto the site might, indeed, involve him in less hardship than moving him out after a long period of occupation. Previous planning decisions will always be relevant; how relevant, however, will inevitably depend on a variety of matters, including not least how recent they are, the extent to which considerations of hardship and availability of alternative sites were taken into account, the strength of the conclusions reached on land use and environmental issues, and whether the defendant had and properly took the opportunity to make his case for at least a temporary personal planning permission. "39. Relevant too will be the local authority's decision under section 187B(1) to seek injunctive relief. They, after all, are the democratically elected and accountable body principally responsible for planning control in their area. Again, however, the relevance and weight of their decision will depend above all on the extent to which they can be shown to have had regard to all the material considerations and to have properly posed and approached the article 8(2) questions as to necessity and proportionality. "40. Whilst it is not for the court to question the correctness of the existing planning status of the land, the court in deciding whether or not to grant an

injunction (and, if so, whether and for how long to suspend it) is bound to come to some broad view as to the degree of environmental damage resulting from the breach and the urgency or otherwise of bringing it to an end. In this regard the court need not shut its mind to the possibility of the planning authority itself coming to reach a different planning judgment in the case. "41. True it is, as Mr McCracken points out, that, once the planning decision is taken as final, the legitimate aim of preserving the environment is only achievable by removing the gipsies from site. That is not to say, however, that the achievement of that aim must always be accepted by the court to outweigh whatever countervailing rights the gipsies may have, still less that the court is bound to grant injunctive (least of all immediate injunctive) relief. Rather I prefer the approach suggested by the 1991 Circular: the court's discretion is absolute and injunctive relief is unlikely unless properly thought to be 'commensurate'—in today's language, proportionate. The approach in the Hambleton case [1995] 3 PLR 8 seems to me difficult to reconcile with that circular. However, whatever view one takes of the correctness of the Hambleton approach in the period prior to the coming into force of the Human Rights Act 1998, to my mind it cannot be thought consistent with the court's duty under section 6(1) to act compatibly with convention rights. Proportionality requires not only that the injunction be appropriate and necessary for the attainment of the public interest objective sought—here the safeguarding of the environment—but also that it does not impose an excessive burden on the individual whose private interests—here the gipsy's private life and home and the retention of his ethnic identity—are at stake. "42. I do not pretend that it will always be easy in any particular case to strike the necessary balance between these competing interests, interests of so different a character that weighing one against the other must inevitably be problematic. This, however, is the task to be undertaken by the court and, provided it is Approved Judgment Tandridge District Council v Brien and ors undertaken in a structured and articulated way, the appropriate conclusion should emerge."

30. The First and Second Defendant, through their Counsel Ms Thomas, summarised a number of further legal propositions which I do not consider to be in dispute. Whether they add materially to the succinct summary of the correct approach by Simon Brown LJ reproduced above and approved by Lord Bingham is doubtful. I summarise those propositions as follows: (i) (ii) (iii) (iv) (v) (vi) "The court should ordinarily be slow to make an order which it would not at that time be willing, if need be, to enforce by imprisonment. But imprisonment in this context is intended not to punish but to induce compliance, reinforcing the requirement that the order be one with which the defendant can and reasonably ought to comply"—Porter at §§32-33; "it is ultimately for the court to decide whether the remedy sought is just and proportionate in all the circumstances"—Porter at §36. The Court's task under s.187B is to evaluate whether, in the light of the full factual and legal context placed before it, the proposed injunction represents a proportionate response, rather than an automatic consequence of planning policy breach. Article 8 ECHR is engaged where individuals occupy caravans or mobile homes as their residence – Chapman v. United Kingdom (2001) 33 EHRR 18. A structured assessment of whether any Article 8 interference

is justified should be carried out – R(Razgar) v. SSHD [2004] UKHL 27 at §17. Article 8 imposes a positive obligation on public authorities to facilitate the way of life of a vulnerable minority (Gypsies and Travellers) – Chapman v. United Kingdom (supra) (vii) A decision taken without regard to the need to safeguard and promote the welfare of affected children will not be “in accordance with law” for the purposes of Article 8(2) – Stevens v. SSCLG and Guildford [2013] EWHC 792 (Admin). (viii) Such principles (with regard to affected children) do not mandate a particular outcome. They do, however, require a structured and conscientious assessment, capable of demonstrating that children’s interests were properly brought into the balance. (ix) The Public Sector Equality Duty (‘PSED’) under s.149 of the Equality Act 2010 requires the authority to have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations in respect of persons with protected characteristics, including disability, race or ethnic origin. Consideration of the duty should be a conscious approach and state of mind – Bracking v. SoS for Work and Pensions

[2013] EWCA Civ. 1345. While the PSED does not mandate any Approved Judgment Tandridge District Council v Brien and ors particular result, it does require equality impacts are identified, understood, and brought properly into the decision-making process.

(x) When considering relief under s.187B the Court may take into account:-

- whether a pending or prospective planning application has a realistic prospect of success,
- whether interim or less intrusive measures can adequately address planning harm
- whether immediate final relief is necessary or whether deferral or tailored relief would be appropriate.
- That the Court may adjourn or withhold final injunctive relief where the planning position is not yet settled depending on the evidence. (xi) That even in the Green Belt context, the grant of an injunction under s.187B requires careful consideration of hardship, the absence of alternative sites, and the practical consequences of removal – South Cambridgeshire District Council v. Price [2008] EWHC 1234 (Admin). (xii) A local planning authority must place sufficient material before the Court to enable the Court to determine for itself whether the relief sought is necessary and proportionate. Persons Unknown

31. The law in relation to Persons Unknown and the test to be applied is different to the test for the named Defendants. Wolverhampton City Council & Others v London Gypsies and Travellers & Others [2023] UKSC 47 provides extensive guidance on the approach to be taken when applying the test to a ‘newcomer’. As summarised in the Claimant’s submissions, the defining features of the newcomer injunction are as follows:

- (a) injunctions against Persons Unknown who are “newcomers” have not evolved from any other form of injunction but are a “wholly new type of injunction” based in equity, giving the Court significant flexibility as to the scope of any order. The only limiting factor is that it must be just and convenient, being the test that the Court must apply when considering whether to grant an injunction, and which is now contained in section s37(1) Senior Courts Act 1981 (Wolverhampton at [17]);
 - (b) the past focus on whether a newcomer injunction is interim or final is unhelpful, and in substance newcomer injunctions are typically neither interim or final. It is not an injunction that ‘holds the ring’, but one granted for its medium to long term effect, even if time-limited (Wolverhampton at [139], [143(iv)] and [143(vii)]; Approved Judgment Tandridge District Council v Brien and ors
 - (c) the ‘newcomer injunction’ is an entirely new injunction and has not been developed to protect the integrity and effectiveness of some related process of the court, as would be the case for interim injunction sought under American Cyanamid principles to hold the ring pending joinder of the wrongdoers and a trial. The newcomer injunction is a form of enforcement of rights which are not seriously in dispute, rather than a means of dispute resolution (Wolverhampton at [144], 163) and [164]).
32. In Jockey Club Racecourses Ltd v Kidby & Others [2024] EWHC 1786 (Ch) at paragraphs [14]-[22], Sir Anthony Mann applied the test in Wolverhampton, and restated the principles and guidance therein and applied them in context of protestor cases, referring in particular to paragraphs [139], [142], [167], [188], [219], [220]-[222], [225], [226], [230] and [232] of Wolverhampton.
33. The Claimant argues that these two cases give rise to a broad series of questions that will assist the Court when considering whether to grant an order against Persons Unknown, whether in the context of protestors or travellers which I have summarised below: Is there a compelling justification for the relief sought? Is there a practical alternative to the injunction? - -
- Are there any other steps the Claimants could take to prevent the wrong?
 - Have the Claimants complied with the duty of full and frank disclosure?
 - Have the actual or intended respondents to the application been identified as - precisely as possible? Is the injunction clear in its terms and confined to the minimum necessary to achieve its proper purpose? Is there a strict temporal and territorial limit? -
 - Have reasonable steps been taken to bring the application to the attention of those likely to be affected? - Is the proposed notice of the Order likely to be effective?
 - Has the Claimant provided a generous liberty to apply clause? - Should a cross-undertaking in damages be given?

34. I propose to address those questions in the analysis below when dealing with the injunction against Persons Unknown. Analysis and conclusions Injunction against the First and Second Defendant
35. I was substantially assisted by the written and oral arguments of the parties in relation both to the structured approach which I should take and to the analysis of the evidence. Notwithstanding the detailed submissions on behalf of the First and Second Defendants I am entirely satisfied that it is just and convenient to grant an injunction in the form sought by the Claimant in the present case both against the First and Second Defendant, and against Persons Unknown, the Third and Fourth Defendant. My reasons which support the judicial exercise of discretion in favour of an injunction in the present case are as follows:- Approved Judgment Tandridge District Council v Brien and ors Flagrant breach of planning control
36. First, the Council have placed before the Court clear evidence of flagrant breaches of planning control. I accept the Claimant's evidence that the Land is situated in the Metropolitan Green Belt and that as explained by Mr Mynehan the breaches identified amount to significant harm. That harm includes substantial harm to the Green Belt. There is a compelling case based on the evidence that without the protection of the injunction the Defendants will continue to breach planning control and cause further harm to the Green belt and the related environment. Planning history does not justify breach nor does an extant planning application mean that some lesser order is appropriate.
37. Second, although it was urged on me by Counsel for the First and Second Defendant that the planning application submitted on 10th November 2025 (after the injunction claim was issued) may succeed and should be allowed to run its course rather than a final injunction be granted now, it is clear from the evidence that that planning application is currently invalid (because of lack of information). Indeed it is notable that one of the pieces of absent information described in the letter from the Council to the First and Second Defendant's agent, WS Planning and Architecture was "Gypsy status and any personal/medical/schooling information required". That detailed information has never been provided to the Council and has not been provided for the purpose of the present application.
38. Ms Thomas for the First and Second Defendant submitted that the letter addressed to the First and Second Defendant's agent requesting this information had never been seen by the First and Second Defendant and neither had they seen the updated statement of Mrs Penney explaining that the planning application was invalid. I am afraid there was an element of unreality in this submission. First, because the letter was in the trial bundle that had been filed with the court electronically and must have been served on the First and Second Defendant's solicitor. Second because the witness statement had been specifically referred to in the skeleton argument filed by the Claimant as "essential reading". Third, because WS Planning were clearly acting as agents for the First Defendant in respect of the planning application. The same is stated clearly on the planning application itself.

39. Even if I considered that that planning application would be revalidated or re-made promptly, and was thus a matter which was relevant to the exercise of my discretion, I do not consider that the application as put forward is one which is likely to be granted (although I cannot rule out that an Inspector may reach a different decision). More importantly I consider that even if it were (granted), it is not a reflection of what is happening on the ground. The description of the proposal (which is a retrospective application), is entirely at odds with the current use and development of the land in breach of planning control as is graphically demonstrated by the photographs exhibited to Mrs Penney's witness statement. In particular, an area which is identified in the 2025 planning application as "biodiversity enhancement area" and where the planning drawing indicates trees and greenery, is in fact the area currently covered with hardcore and on which a number of static caravans have been placed. Personal permissions Approved Judgment Tandridge District Council v Brien and ors
40. Third, evidentially the First and Second Defendant's case for family members remaining in occupation of the land in breach of planning control is very weak. There is no evidence which explains why John and Patrick Brien (or the other members of the family who have personal permissions) are no longer occupying the pitches for which they have personal permission following the March 2023 appeal decision, when they moved or why, or why they could not relocate to the caravan pitches for which they have permission if the injunction is granted. Article 8 rights
41. Fourth, the Claimant, by its officer, Mrs Penney, attended the site for the purpose of welfare checks and obtained such information as was made available to her in the presence of Mr John and Mr Patrick Brien and their solicitor Ms Choudry on 14th November 2025. Those welfare checks are exhibited as VP04 to the witness statement of Mrs Penney dated 14th November 2025. The welfare forms report note that in respect of Caravan 1 occupied by Mr John Brien and his wife Ann, it is recorded that their 8-month child suffered from a particular medical condition, "type 1 SMA [skeletal muscular atrophy]" and that "full medical details will be given by solicitor to TDC legal". No welfare issues are raised by Mr Patrick Brien (Caravan 2) or Ms Collins and child (Caravan 4). But a similar entry "Full medical details will be given by solicitor to TDC" was made in relation to the information regarding the occupant of Caravan 3, Tom Brien. In relation to Caravan 5 occupied by Martin Brien and his wife the entry reads 'possible medical concerns. Full medical details will be given by solicitor to TDC'. A similar entry was made in relation to Caravan 6, occupied by Mr Bill Brien, his wife and children; Caravan 7, occupied by Ms Cash; Caravan 8 occupied by Mrs Maragret Brien (Aunt of John Brien), Caravan 9 occupied by Mr. Bill Connors and three children, Caravan 10 occupied by Mrs Mary Brien and Michael Cassey and their three children, and Caravan 11 occupied by Mrs Elizabeth Brien and Mr Connors. As to Caravan 12 occupied by Mr John Brien senior and his wife Elizabeth the entry is "Yes, for both John Senior and Elizabeth. Full medical details will be given by solicitor to TDC legal". I note the John Brien Senior and his wife have personal permissions to be in a caravan on a pitch on the land marked in green, as do Mr John Brien (junior) and his wife Ann and their children,

Ms Mary Brien and Mr Michael Casey, Mr Tom Brien and Ms Teresa Collins and the Second Defendant, Mr Patrick Brien.

42. In fact no ‘full medical details’ were provided by the First and Second Defendant’s solicitor. The only relevant information in relation to medical details was provided in the exhibits to Mr John Brien’s statement and consists in a letter printed on 16th June 2025 confirming his child’s medical condition. That documentary information (rather surprisingly) consisted of discharge notes relating to routine follow up in a clinic in New York USA. In his statement Mr Brien explained this as follows: “he is treated by doctors in the United Kingdom and at Stony Brook Children’s service UFPC-PCK in New York in the United States of America”. No evidence of any such treatment being provided in the UK was produced. To describe the details of the medical conditions relied on by other occupants of caravans as ‘exiguous’ would be an understatement. They are referred to in general terms only by Mr Brien at §14 to §22 of his witness statement but are otherwise (in documentary terms), non-existent.
- Approved Judgment Tandridge District Council v Brien and ors
43. Further, and as pointed out by the Claimant in submissions, the current occupants of Caravan 12, (John Brien Senior and Mrs Elizabeth Brien) are entitled to occupy a caravan on the land outlined in green under the 2023 planning permission. Likewise, the current occupants of Caravan 10 (Mary Brien and Michael Casey), the occupants of Caravan 2 (Patrick Brien and his wife and children), the occupant of Caravan 3 (Tom Brien and Teresa Collins) and the occupants of Caravan 1 (the First Claimant, John Brien and his wife Ann Brien and children). There is no evidence from these witnesses as to why they cannot relocate and continue to reside on the land outlined in green pursuant to the personal permissions they already have.
44. Fifth, in terms of evidence, it is notable that of the persons impacted by the mandatory elements of the injunction are the occupiers of Caravans 1-8, 9 and 11. Of those occupiers, the only ones to file evidence in opposition to the application are Mr John Brien and Mr Patrick Brien who, as noted above, are entitled to occupy one of the pitches numbered 9-12 under the 2023 personal permissions.
45. Sixth, other than the references in Mr John Brien’s evidence to adverse impacts of an injunction on family members, is there any positive case advanced by those who are occupying the land in breach of planning control as to (i) how and when they came to occupy the land; (ii) why they came to occupy it when they did in breach of planning control; (iii) any hardship they will suffer if required to move elsewhere. None of their personal circumstances have been advanced in any detail. I agree with the Claimant’s submission that the broad statement by Mr John Brien on their behalf that they would have nowhere else to go, or that they have available to them no other form of suitable accommodation is, without any further particularisation, of little weight in the proportionality balance. Children

46. Seventh, although Ms Thomas has argued strenuously that the interests of children are the decision-maker's primary consideration and that the Council's enquiries by way of welfare checks were superficial and inadequate to allow the Claimant to discharge the burden upon it to show that the interests of the children and the PSED had properly been taken into account, I consider that the Council have in fact adequately discharged their duty. I say so because I see this issue as essentially one of evidential sufficiency. I am satisfied that there is good evidence that the Claimant has had regard to the interests of children affected by the injunction. There is good evidence that Mrs Penney attended the site on 14th November 2025 to assess the site and to obtain welfare information. She duly completed the welfare check forms which are exhibited to her statement. It was indicated to her that "full medical details" would be provided by the First and Second Defendant's solicitor Ms Choudry. No such details were ever provided nor detail of any particular adverse consequences to any particular child or children. I accept the Claimant's submission that the duty of due enquiry and the duty to "have regard" to the interests of affected children and other vulnerable persons is satisfied by undertaking such checks and requesting such information. If no, or only exiguous information is subsequently provided by those said to be adversely affected - despite saying that it would be provided - it is not unreasonable for the Claimant to take the absence of the provision of such information into account when considering whether injunctive relief may be appropriate rather than conduct Approved Judgment Tandridge District Council v Brien and ors yet further enquiries. Although the Counsel for the First and Second Defendant described the absence of a recorded entry on the Welfare Form in answer to the question whether a forced move put individuals at risk as being "of magnetic importance", and said this absence of information supported her submission that the enquiries carried out by the Claimant were cursory and insufficiently rigorous or diligent, the fact is that these forms were completed at or shortly after a meeting when the First and Second Defendant's solicitor had been present and had indicated that full information would be provided. It never was. Thus the Court has no proper evidential basis on which it can accord significant weight to the claimed adverse impacts on children and vulnerable persons affected by the intended injunction.
47. As the Claimant correctly submits there is still no evidence before the Court (whether through the retrospective planning application process or through the evidence provided to this court by way of witness statement) save in relation to the evidence from Mr John Brien, as to where the newly resident children and their parents have come from, when they have come onto the site or (other than in the most general terms in the statement of Mr John Brien) that they would suffer serious disadvantage were they required to be relocate from the site. The most that is said is that such children attend local schools and currently live on the land. Although it was submitted to me that there is no alternative site available in the borough where these families might be accommodated I find that cogent evidence in support of that submissions is absent. It consists only of a generalised assertion made by Mr John Brien in his witness statement without any evidential support and without any explanation of how or when his extended family came to inhabit what appears from the

photographs and evidence of Mr Mynehan to be a newly developed extension to the adjacent site which had planning permission granted in

2023. Ms Thomas made an additional submission that the Planning Inspector in March 2023 had noted a persistent failure of local planning policy with respect to traveller sites over the last 10 years. I do not think it is appropriate to take those observations out of context. The Inspector was considering at that time what he describes as a smaller development and one which would only cause moderate harm which could be mitigated by appropriate landscaping and planting. The Inspector was informed that the area outlined in red which is now being occupied and has been covered with hardcore was intended for landscape enhancements where it was intended “to carry out native broadleaf tree planting, wildlife meadow planting, provision of deadwood piles, open glades, and bird and bat boxes” . While it may be the case, that at some future planning appeal, the Council’s planning policy failures (if they are such) may be raised by the First Defendant as a reason to justify an extension to the caravan site that already has permission subject to conditions, I am not presently persuaded that that application has a sufficiently good prospects of success that it should weigh strongly in the balance against an injunction which I otherwise consider necessary and expedient to enforce the planning control and protect the local environment from what Mr Mynehan describes as significant harm in the Green Belt.
48. It is clear to me from the photographic evidence of actual occupation and flagrant breach of planning control on Green Belt land, that an injunction is the only expedient means of securing compliance with the law. The fact that the proposed retrospective application does not remotely resemble what is happening on the Approved Judgment Tandridge District Council v Brien and ors ground, is, if anything, a factor in favour of the grant of relief rather than a reason for adjourning or postponing any order. Moreover, although it is urged on me that alternative means of enforcement, e.g. service of a planning contravention notice might have been deployed, or adjourning the application yet further, I am satisfied (and indeed it is accepted by the First and Second Defendant) that the Claimant does not have to exhaust enforcement powers prior to seeking an injunction. What matters is that, in the Court’s view there is a compelling need for an injunction and that its terms are suitably tailored and proportionate.
49. Ninth, I consider that the injunction does serve a real purpose and will ameliorate the significant harm that is being caused. The order will prohibit unlawful occupation and development of the site in breach of planning control which has caused and is causing significant harm. Other statutory means at the Council’s disposal may be deployed for removal of structures etc. It is not necessary that they are included in the draft order which has been tailored to be the least invasive in order to achieve the required objective.
50. Finally, turning back to the distillation of principle in Porter, I remind myself that in considering the Claimant’s decision to seek injunctive relief in the present circumstances and the weight I should attach to the Council’s decision as the democratically elected and accountable body principally responsible for planning control in their area, that this will

“depend above all on the extent to which they can be shown to have had regard to all the material considerations and to have properly posed and approached the article 8(2) questions as to necessity and proportionality”. My analysis of this assessment, adopting the Defendant’s counsel’s list of questions is as follows:- (i) (ii) (iii) (iv) (v) Will the injunction interfere with the exercise of the right to respect for private or family life or home? Yes, with regard to those who have already have home on the land but not newcomers whose right under Article 8 is limited to the right to pursue a nomadic lifestyle (see Sir Geoffrey Vos MR at §105 in *Barking and Dagenham LBC v. Persons Unknown* [2023] QB 295. If so, will such interference have consequences of such gravity as potentially to engage the operation of Article 8. Potentially although the evidence of apprehended harm is weak. If so, is the interference in accordance with law. An injunction granted by the High Court pursuant to s.187B TCPA 1990 because considered just and convenient to do so would be in accordance with law provided all material considerations including the interests of the welfare of children and vulnerable adults, the PSED duty etc. have been taken adequately taken into account. I consider they have been. If so, does it pursue a legitimate aim? Yes. To prevent significant harm to the Green Belt. If so, is the interference necessary in a democratic society, that is proportionate to the legitimate aim pursued? Yes. The planning breach is flagrant and inadequately explained or justified by the First and Second Approved Judgment *Tandridge District Council v Brien and ors* Defendant. No lesser enforcement measure is likely to be effective to prevent continuing harm. The injunction meets a pressing social need (protection of the Green Belt and prevention of significant harm) and does not impose an excessive burden on the individuals affected who have failed, despite ample opportunity to do so, to provide cogent evidence that being obliged to relocate from the site will cause an excessive burden upon them. The Article 8 right of those currently occupying caravans in breach of planning control is a qualified right. It is a right that must be balanced against the rights of others. The balance between the rights of those affected with the rights of others including the public interest in securing compliance with planning control is proportionately struck by the grant of an injunction in the terms sought. Those who are entitled to remain on the adjacent land in accordance with the 2023 permission will only be required to relocate within the site and return to the caravan or caravans they formerly inhabited. This is not an excessive burden. As to the others (adults and children) who have no such personal permissions and must relocate away from the site, the evidence of adverse effect and harm in respect of them is very weak and not such as to outweigh the need to grant injunctive relief to protect harm to the Green Belt. Injunction against Persons Unknown

51. In the light of those conclusions I deal with the injunction against Persons Unknown more shortly adopting the list of questions proposed by the Claimant’s Counsel:- Is there a practical alternative to the injunction?

52. I am satisfied that the Council's decision to seek injunctive relief for the perceived significant harm was reasonable and that nothing short of an injunction will prevent further occupation and development of the Land. There has been no suggestion that unless ordered to do so the occupation, development of the Land in breach of planning control will cease. Are there any other steps the Claimant could take to prevent the wrong?
53. No. It is evident from the photographic evidence that there has already been significant development on the land, including the tarmacing, changing of levels and importation of hardcore. I note that this is an area which, according to the March 2023 appeal decision was the area where, according to the Inspector a §29:- "the appellant proposed to carry out native broadleaf tree planting, wildlife meadow planting, provision of deadwood piles, open glades and bird and bat boxes on this additional parcel of land."
54. As I have already concluded, the photographs tell a very different story. I accept the Claimant's submission that the Claimant is not obliged to seek other enforcement measures where it considers it expedient to seek an injunction. Has the Claimant complied with the duty of full and frank disclosure? Approved Judgment Tandridge District Council v Brien and ors
55. I am satisfied that the Claimant has complied with their duty of full and frank disclosure. . Have the actual or intended respondents to the application been identified as precisely as possible?
56. I consider the answer to this question is yes, even though the identity of some of the occupiers on the land is known to the Claimant. What the Claimant has done is to define the category of person unknown to relate to the unauthorised activities that it seeks to prohibit. I was helpfully referred by the Claimant to the decision of the Court of Appeal in Cuciurean v. SoS Transport HS2 Limited [2022] EWCA Civ 1519 where at §37-§39 the Court dealt with an argument similar to that advanced by Ms Thomas on the present facts:
37. The main argument put forward by Mr Wagner is that the appellant could not be a "person unknown" because he was known to the respondents and named in the Cotter Order. But why not? If the definition of D1 is clear, then there is no reason why he could not be both. The principal purpose of the wide definition of D1 was to cover anyone who might go onto the CPL after the making of the Cotter Order. At the time that the Cotter Order was made, the appellant was not a person known to the respondents as occupying the CPL. So he was not in that group of named defendants, who were on the CPL at the time. But the respondents could not look into the future. They did not know what the appellant (or any of the other defendants, named or not) was going to do thereafter. But they still needed to protect themselves against anyone, be they named defendants or others, from trespassing on to the CPL and causing nuisance after they had obtained possession.
38. In this way, the respondents needed a 'Persons Unknown' category to protect themselves against trespass and nuisance in the future. Through the definition of D1, the Cotter Order gave them that, and provided the vital means of ensuring that those who needed to be

notified of the injunction were notified appropriately. And when, the following month, the appellant went to the CPL and occupied the tunnel, he was notified of the terms of the injunction (although he knew them anyway) and he fell foursquare within the definition of D1.

39. Mr Wagner said during argument that, in this case "'Persons Unknown' describes activities which will make you a defendant and in breach of the order". I agree with that. It is the prohibited activities in the future which matter for the definition of D1, not whether the respondents happened to know your name at the date of the Cotter Order, and so could name you as a defendant.
57. I agree with the Claimant that in the present case, what it is necessary for the order to do is to define with precision those activities which, if carried on by persons unknown, will amount to a breach of the injunction order. It was neither necessary Approved Judgment Tandridge District Council v Brien and ors nor expedient for the Claimant to seek to name each of the identified occupants of the caravans in questions. Is the injunction clear in its terms and confined to the minimum necessary to achieve its proper purpose?
58. The draft injunction order is restricted to what is necessary to achieve its purpose. It is restricted to the minimum necessary. It is directed at the First and Second Defendant who are the owners of the relevant Land. It is also directed at the Third and Fourth Defendant, persons unknown. The draft order itself is specific to the Land in question and requires that the First and Second Defendant do not themselves or by instructing or encouraging others, permit, residence on the land by persons not authorised to do so by the Amended Enforcement Notice (arising from the March 2023 planning appeal). Is there a strict temporal and territorial limit?
59. The territorial limits are clearly by reference to the Land. The order sought against Persons Unknown for is 5 years (with an annual review) which I consider reasonable and proportionate. Have reasonable steps been taken to bring the application to the attention of those likely to be affected?
60. The hearing and previous orders, claim form and supporting evidence have all been served on the Land in accordance with the alternative service order. Is the proposed notice of the Order likely to be effective?
61. The proposed notice is likely to be effective as it will be on the entrance to the Land that the Claimant seeks to protect from unauthorised development. Has the Claimant provided a generous liberty to apply clause?
62. There is an appropriate liberty to apply clause, which permits a newcomer to apply to vary or discharge the Order on 48 hours' notice. Should a cross-undertaking in damages be given?
63. I do not consider one should be. I note that the Claimant's submission that a local authority is not obliged to give a cross-undertaking in damages when seeking an interlocutory injunction when it was engaged in carrying out its law enforcement duties. I decline to order

a cross undertaking in the particular circumstances. Such an undertaking is not required as a matter of routine in such applications and there are no pressing reasons why a cross undertaking should be required in the present case. I note that no undertaking has hitherto been required in the proceedings. The nature of the Order sought Approved Judgment Tandridge District Council v Brien and ors

64. For the reasons given above, I am satisfied that an injunction should be granted. I also consider the terms of the injunction proposed are appropriate and proportionate. Specifically, I consider that the terms of the Order sought is clear and precise and uses everyday terms. The prohibited acts in the order 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 is granted. In terms of the date by which the terms of the injunction should be complied with and bearing in mind arrangements must be made to relocate I consider a reasonable time is two months from the date of the order made consequent on this judgment.
65. For these reasons I conclude that the requirements laid down in Wolverhampton have been met. There is a compelling case for the grant of an injunction in the terms sought. For these reasons I will grant a final injunction against the First and Second Defendant in the terms sought, and a five-year injunction in the terms sought against Persons Unknown with an annual review. Annual review
66. I adopt the suggestion from Counsel for the Claimant that in the case of the injunction against Persons Unknown there should be an annual review at a review hearing fixed for around 50 weeks from the date of the Order and if the Claimant does not at that hearing seek continuation of the order it will then lapse at the end of its one-year term - see paragraph 3 of the draft order which I note currently refers erroneously to the thirteenth and fourteenth (rather than the Third and Fourth) Defendant.
67. I invite the parties in the light of this judgment to agree and perfect the terms of the final injunction order and submit a final version to the Court for approval and sealing. I will deal with any consequential matters in writing unless either party specifically requests an oral hearing.

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