

ENGLAND AND WALES / JUDGMENT

Dacorum Borough Council v Persons Unknown

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Approved Judgment Dacorum Borough Council v Persons Unknown Neutral Citation Number:
[2026] EWHC 1174 (KB) IN THE HIGH COURT OF JUSTICE KING'S BENCH DIVISION Case No:
KB-2025-002427 Royal Courts of Justice Strand, London, WC2A 2LL Date: 18 May 2026 Before: MR
JONATHAN GLASSON KC SITTING AS A DEPUTY JUDGE OF THE HIGH COURT

- ----- Between: DACORUM BOROUGH COUNCIL

- and – Claimant/

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

(2) PERSONS UNKNOWN BRINGING CARAVANS ONTO THE LAND OR ATTEMPTING TO BRING
CARAVANS ONTO THE LAND Page 1 Approved Judgment Dacorum Borough Council v
Persons Unknown

- ----- Ms Caroline Bolton (instructed by Sharpe Pritchard) for the
Claimant Mr Alan Masters (instructed by Brilliance Solicitors) for the Intended Defendants
Defendants Hearing date: 7 May 2026 (Draft judgment sent to parties 14 May 2026)

- ----- Approved Judgment This judgment was handed down remotely at
10.30 a.m. on 18th May 2026 by circulation to the parties or their representatives by e-mail
and by release to the National Archives.

- ----- MR JONATHAN GLASSON KC: 1. This is my judgment on three
applications that I heard on 7 May 2026. The applications were:

a) An application by the Claimant for the continuance of the without notice Injunction
pursuant to section 187B of the Town and Country Planning Act 1990 (“the Act”) made by
Cheema Grubb J on 5 April 2026 (“the Injunction”).

- b) An application by the Claimant for the following to be added as parties: Geraldine McDonagh, Michael Ward, Martin McDonagh, Charlene McDonagh, Thomas McDonagh, Martin Ward, Cindy Ward, Mary Donovan, Thomas Ward, Kellie Ward, Michael Gerrard Ward, Teresa Ward, Joshua McDonagh, Donna McDonagh, Bridget McDonagh, Michael Carter, Jodie Ward, Thomas Donovan, Helen Rochford, John Paul Mongan, Martina Ward, and Chloe Ward (“the Intended Defendants”); and
- c) An application by the proposed additional Defendants for the Injunction to be discharged or, alternatively, to be varied. In the event that it was varied then the Intended Defendants applied for the return hearing to be adjourned until the determination of their application for planning permission. 2. 3. In advance of the hearing the Claimant filed a 737-page bundle whilst the parties each filed authorities’ bundles. Page references in this judgment are to the hearing bundle. At the hearing, the Claimant was represented by Ms Caroline Bolton, and the Intended Defendants were represented by Mr Alan Masters. Both counsel had Page 2 Approved Judgment Dacorum Borough Council v Persons Unknown submitted skeleton arguments in advance and made detailed oral submissions at the one-day hearing. I am grateful to both counsel as well as those instructing them for their assistance. 4. This judgment is structured as follows:
 - a) The factual background
 - b) The evidence before me
 - c) The legal framework
 - d) The competing contentions of the parties
 - e) Discussion and decision (A) THE FACTUAL BACKGROUND 5. 6. On 5 April 2026, Easter Sunday, the Claimant made an out of hours application to the duty judge for “[a]n urgent section 187B Town and Country Planning Act 1990 injunction to prevent the unauthorised development of a gypsy caravan site in the Green Belt without a lawful planning consent”. The Claimant explained that it was being made out of hours because “[t]he breach was only investigated yesterday afternoon and the application has been prepared as quickly as possible it is apprehended that unless restrained by an injunction development will continue over the weekend.” The injunction sought to prohibit actual and apprehended breaches of planning control on “land north side of Friendless Lane, Markyate, St Albans, Hertfordshire and as described in the Land Registry title HD618747” (“the Land”). This lies within the Metropolitan Green Belt, in a Special Landscape Area, within the Chiltern Area of Outstanding Natural Beauty (“AONB”). The stated apprehended breaches of planning control were the change of use of the Land from an agricultural Green Belt Land to a gypsy caravan site and/or a caravan site, with the intention of stationing caravans on the Land for residential use, and/or operational development of the Land and occupation of the Land. The injunction was sought against Persons Unknown, “as it is not known who is involved with the development of this Land and at this early interim stage the order the identity of the Defendants is unknown. It is, however, always a without notice injunction against Persons

Unknown (Wolverhampton City Council & Others v London Gypsies and Travellers & Others [2023] UKSC 47).” Page 3 Approved Judgment Dacorum Borough Council v Persons Unknown 7. 8. 9. In support of the application, the Claimant filed a witness statement from Ms Caroline Durrant dated 5 April 2026 as well as a skeleton argument from Ms Caroline Bolton. The witness statement from Ms Durrant explained that she was employed as a Principal Planning Enforcement Officer by the Claimant. She stated that on “Saturday 4th April 2026 the Council was in receipt of numerous reports of extensive activity within the land. At approximately 11:30am I drove past the site and could see diggers in operation, a large expanse of hardcore had been laid and fencing was being erected. The reports also included the laying of services such as water pipes and septic tanks.” She checked the Council’s planning system and saw that a planning application had been submitted the previous day, Good Friday, albeit that it had not yet been validated or determined. The application was for change of use of agricultural land to form 14 residential Gypsy and Traveller pitches, each pitch to provide 1 x mobile home, 2 x touring caravans and 1 x day room with associated groundworks, hardstanding, boundary treatment and landscaping. As the works had the “potential to cause significant and irreversible harm to both the Green Belt and the National Landscape area” a decision had been made to serve a Temporary Stop Notice to stop the works whilst the Planning Application was determined. A copy of that Notice was posted to the registered owner and at 1630 on 4 April Ms Durrant attended the site accompanied by two police officers. A group of males came up to her, and she asked to speak to the person in charge. All of the persons on site refused to accept a copy of the notice or to look at the notice. Ms Durrant took photographs on 5 April which confirmed that works had not ceased since the Temporary Stop Notice. The photos are at CLD/07 of her statement. One shows two touring caravans being brought on the site (p.67), another shows a digger (p.68), a further photograph shows two diggers (p.72). An aerial photograph shows a number of vehicles including lorries and that as Ms Durrant said in her statement “a vast expanse of hardcore had been laid”. Notably there was no sign of any of the 38 children that are claimed by the Intended Defendants to be in occupation at this time. Indeed, there is no indication that the Land is occupied at all. Ms Durrant concluded her statement by saying that she believed that “the Defendants are intending on continuing over the Easter weekend to develop this site, without a lawful planning consent, accordingly, this matter is urgent and I respectfully ask the court to grant the relief sought.”

10. Ms Bolton’s skeleton argument (pp 20-27) summarised the factual background and explained that it “is understood that residential occupation of the caravans has not yet commenced, and the Claimant seeks an injunction to prevent the occupation as well as further development.” Ms Bolton referred the Court to the leading authority in respect of injunctions under s.187B of the Act, South Buckinghamshire District Council v Porter & others [2003] 2 AC 558 (“Porter”) and the leading case in relation to injunctions against Persons Unknown, Wolverhampton City Council & Page 4 Approved Judgment Dacorum Borough Council v Persons Unknown Others v London Gypsies and Travellers & Others [2023] UKSC 47 (“Wolverhampton”). 11. The Judge granted the Injunction for the reasons set

out at the end of the order: “The evidence provided by the Claimant in the application is persuasive. I am satisfied that development has been carried out without obtaining planning permission on green belt land as identified shown edged red on the attached plans at Annex 1. The fact that an application for planning permission was uploaded on an internet portal on Good Friday and the works began immediately thereafter indicates a deliberate attempt to circumvent and defy planning laws. This recent history is also firm evidence that those causing or commissioning the works were aware that planning permission was required. There is evidence the development is capable of and is causing harm to the green belt and is requiring the Council to take enforcement action. Despite the serving of a Temporary Stop Notice on 4 April 2026, development has continued on the site, including the arrival of what are potentially residential units. This persuades me that the risk of incurring a penalty for breach of the TSN will not prevent further development. After careful consideration of the position of the unknown persons (including those who have refused to identify themselves), all of whom consider themselves to have reason or justification, albeit not consistent with planning law, to commission the works described by the Claimant, I am persuaded that an ex parte application is appropriate given the high risk that notice will cause the Defendants to intensify their efforts, rather than desist from what appears to be wholly unlawful development. Furthermore, damages or other penalty would be insufficient to repair the damage to the location. Those on site carrying out or commissioning or encouraging the works have been notified of the Temporary Stop Notice and have not given instructions for the activity to cease. The balance of convenience strongly favours the granting of this application at this time because it is restricting the activities of persons unknown in order to prevent further breaches of the law. I attach weight to the fact that this activity, including the written application for planning permission, has been timed to begin at the start of the Easter weekend when the Defendants may have expected enforcement action and diligence to be negligible. I have reminded myself of the jurisprudence concerning injunctions against persons unknown in the context of traveller communities, in particular my attention has been directed to *Wolverhampton City Council & Others v London Gypsies and Travellers & Others* [2023] UKSC 47. I have considered the tests therein and am satisfied that this urgent injunction should be granted. I am not aware of any vulnerable persons on site and consider it appropriate to grant this application now rather than await further enforcement action and that, in these unusual circumstances, it is not disproportionate to do so. I have directed a short return date. In the meantime, this order and the Penal Notice attached should cause the activity to cease. There is justification to require a cross-undertaking as to damages in the circumstances.” Page 5 Approved Judgment *Dacorum Borough Council v Persons Unknown* 12. The Injunction ordered that: “In relation to the Land that is shown edged red on the attached plans at Annex 1, the Defendants, whether by themselves or by instructing, encouraging or permitting any other person must not without a lawful planning consent:

- (a) bring onto the Land any further hardcore nor bring onto the Land any other material for the preparation of hard surfaces;

- (b) bring onto the Land any further caravans, mobile home, motor home, portacabin or similar accommodation whether in exchange for existing caravans or otherwise;
- (c) station on the Land or leave on the Land any caravans, mobile home, motor home, portacabin or similar accommodation for the purposes of human habitation or
- (d) reside on the Land or any part thereof, whether in a caravan, mobile home, any other kind of residential accommodation or from using the Land as a residential gypsy caravan site;
- (e) bring onto the Land any portable structures including portable toilets or any other items and paraphernalia for purposes associated with human habitation or residential occupation or any other purpose in breach of planning control;
- (f) construct any buildings on the Land;
- (g) install or connect on the Land any services including running water, electricity or sewage connections for the purposes of facilitating the use of the Land for human habitation or residential occupation or otherwise carry out works to the land associated with or in preparation for its use for the stationing of caravans and/or mobile homes for the purpose of human habitation or residential occupation or otherwise in breach of planning control;
- (h) undertake any further development of the land as defined in Section 55 of the Town and Country Planning Act 1990, without the express grant of planning permission from the Claimant or, on appeal, from the Secretary of State;
- (i) permit or tolerate the use, parking or storing on the Land whether by themselves or any other person of any plant or machinery used or capable of being used for the removal of trees and/or the development of the Land as a residential gypsy caravan site or for any other purpose relating to the development of the Land.” 13. Cheema-Grubb J directed that the Injunction should be reconsidered at a hearing on 15 April 2026 and that any evidence from the Defendants should be filed by 9 April Page 6 Approved Judgment Dacorum Borough Council v Persons Unknown

2026. In the event, the Intended Defendants did not file evidence until the day of that hearing. Consequently, HHJ Saddique, sitting as a Judge of the High Court, made an order adjourning the case to a one-day hearing to be listed on 7 May 2026. (B) THE EVIDENCE BEFORE ME The Claimant’s evidence 14. The Claimant filed witness evidence from Mr Denis McDaid, a process server and also from Mr Tom Wicks a Director of Enforcement Services Ltd which is engaged by the Claimant to investigate and remedy alleged breaches of planning control in the Borough, and further evidence from Ms Durrant. 15. In Mr Wicks’ statement he explains that on: “5 April 2026 at approximately 1330hrs I visited the Land. Hardsurfacing, foul waste drainage tanks, and fencing were being installed and there were 9 touring caravans on the Land along with machinery and equipment being used to carry out the works including excavators, bulldozers, and other machinery.

4. I spoke to a man who identified himself as Martin Ward an owner and occupier of the Land. He explained that he and his friends and family intended to bring static caravans onto the Land to be occupied by his friends and family and had submitted a planning application to seek planning permission for that development (26/00811/FUL) ("the Planning Application") produced and shown to me marked TW2.
5. He told me there were women and children on the Land and I should consult the Planning Application for any further information."
16. Mr Wicks states that he visited the Land later that day at 1830 in order to serve the Injunction. He says that he handed copies of the Injunction to Mr Ward and explained the content and told him that he would affix copies to the entrance of the Land. Mr Ward said that he would take them down if he did and that "he would distribute them amongst friends and family". Mr Wicks handed them to "another man named Martin who asked me to read the order to him which I did. He said he didn't recognise the order, he couldn't read or write, tore it in half, and told me to come back when I had some proper paperwork. He told me his solicitor would contact the Council".
17. Mr Wicks continued, in a paragraph which was the subject of detailed submissions by Mr Masters at the hearing: "There were 9 touring caravans, 2 static caravans which were not occupied or connected to services, hardsurfacing, a shipping container, and fencing, on the Page 7 Approved Judgment Dacorum Borough Council v Persons Unknown Land and drainage to a waste treatment plant was being installed when I served the order and left the Land at approximately 1900hrs."
18. Mr Wicks visited the Land again on Thursday 9 April 2026. He says that: "There were 12 touring caravans and 4 static caravans which were not connected to services, hardsurfacing, a shipping container, and fencing, on the Land, and drainage to a waste treatment plant was being installed".
19. Mr Wicks exhibited to his statement the planning application which had been submitted on 3 April 2026. The form stated that the application was being made by "Messrs Ward, McDonagh, Donovan & O'Loughlin".
20. Mr Wicks also exhibits a number of photographs that he had taken during his visit on 9 April 2026. Some photographs show one static caravan (for example p.311, p.313, p.319, p.323, p.325) others show some touring caravans (for example p.313-p.315) and a campervan (p.312). Again, notably there are no photographs of the 38 children said to be on the Land, nor indeed of any adult occupants. 21. 22. 23. In Ms Durrant's second witness statement she exhibits "a photo supplied by one of the neighbours to the site dated 4 April 2026 at 18:06 shows a digger carrying out works and also shows what appears to be 2 septic tanks present". A further photo taken by a neighbour shows higher vantage with what appears to be some kind of gravel laid on top of the grass. She exhibits photographs taken by neighbours on 6 and 7 April 2206 showing works continuing on the site, Ms Durrant also exhibits "a photo supplied by Hertfordshire Constabulary in an email dated 9 April 2026 at 13:51 [which]

shows the evolution of the site on 7, 8 and 9 of April 2026.” In none of the photographs that are exhibited is there any sign of residential occupation. In Ms Durrant’s third statement she explains that she had ascertained that the Land appeared to have been sold by Mr John Anthony Meehan to Martin Gerard Ward. She exhibits an undated signed TRI form where the signature of Martin Ward bears a resemblance to the signature of the Second Witness Statement of Mr Martin Ward, one of the Intended Defendants. Ms Durrant also exhibits a photograph showing a lorry with the logo ‘Meehan Plant Hire’. She explains that a “Companies House search shows a company called S MEEHAN PLANT HIRE LIMITED with a Mr John Anthony Meehan of Benmore Farm, Toms Lane, Kings Langley, Hertfordshire, England, WD4 8NR as an officer and person with significant control.” Ms Durrant also exhibits “images from Hertfordshire Constabulary compiled in one document taken on 7th April, 8th April, 10th April 2026, 11th April 2026, 13th April 2026, 16 th April 2026, 17th April 2026, 20th April 2026, 24th April 2026 and shows the site’s progression after serving the injunction.” Page 8 Approved Judgment Dacorum Borough Council v Persons Unknown

24. Ms Durrant exhibits a table collated by the Claimant from the information contained in the planning application and the witness statements provided by the Intended Defendants setting out who is apparently residing on each plot. She says that “the information provided in the planning application is inconsistent with the information provided in the witness statements in respect of a number of the pitches”.
25. Ms Durrant says that on Wednesday 8 April 2026 Hertfordshire County Council Gypsy and Traveller Service team attended the site to conduct welfare checks on the occupants. At this time, they established that five vehicles, four cars, six chalets, five caravans and three motorhomes were on site. It was reported that on the site there were 28 adults and 70 children. The ages were reported to be ranged from 6 months old to 17 years old. No medical concerns were declared, however they were told that one person was 4 months pregnant, and one male declared suffering with arthritis. Ms Bolton emphasised in her reply submissions that the team were simply reporting what they had been told, not recording what they had themselves seen.
26. Ms Durrant says that on 20 April 2026 officers from the Claimant’s housing options team had attended the site in conjunction with Herts County Council Gypsy and Traveller Service Team. They spoke with a male who identified himself as Martin and the head of the family. They explained they were on site to offer housing advice to any occupants that required assistance. They were advised that no one on site required assistance as they wished to remain living on site. Another male, also called Martin spoke to the team and advised them that they had been asked to leave their previous site and had nowhere else to go. 27. 28. The evidence from the Intended Defendants The Intended Defendants have served eleven short witness statements. They bear a noted similarity to one another. Each witness statement states that the occupation of the Land began on 3 April 2026. Paragraph 3 of the first witness statement of Mr Michael Ward dated 14 April states his wife and six children “began our occupation of the site on 03 April 2026”. Paragraph 1 of the first witness statement of Mr

Martin McDonagh dated 14 April states his family of three “began our occupation of the site on 03 April 2026”. Paragraph 1 of the first witness statement of Martin Ward states his wife and four children began “our occupation of the land commenced on 03 April 2026”. The first witness statements dated 14 April of Ms Bridget McDonagh at paragraph 4; Ms Helen Rochford at paragraph 4; Ms Jodie Ward at paragraph 3; Ms Martina Ward at paragraph 1; Mr Michael Gerrard Ward at paragraph 2; Mr Thomas Ward at paragraph 1 all state their occupation began on Good Friday, 3 April 2026. In Mr Martin Ward’s second witness statement states unequivocally “[i]n relation to the occupation of the site at Friendless Lane, I confirm that our occupation of the site commenced on 03 April 2026 and that our occupation commenced before the injunction order of 05 April 2026.” Page 9 Approved Judgment Dacorum Borough Council v Persons Unknown 29. 30. 31. The Intended Defendants also state that they have faced hostility from local residents since moving on to the land. They refer to where they lived previously. Mr Michael Ward says “[w]e were often living roadside and doubling up on other traveller sites”. Mr Martin Ward also refers to previously living on the road or doubling up on other sites. Ms Bridget McDonagh says that “[w]e came here because we had reached the point where there was nowhere else to go”. She says that previously “[w]e relied on temporary and insecure arrangements”. Ms Helen Rochford says that before moving to the site neither her nor her partner, Mr Mongan, had stable accommodation. She says she lived roadside or doubled up on other Traveller sites. Ms Jodie Ward said that “[b]efore moving here, we experienced prolonged instability, including roadside living, short-term and insecure arrangements, and periods of homelessness”. Mr Joshnua McDonagh says “[w]e have been living on a roadside with our young children and have been suffering due to not having proper care and education”. Ms Martina Ward says that “[p]rior to occupying this site, we previously living [sic] in severely overcrowded conditions on another Traveller site. We were eventually forced off site due to planning constraints on that site”. Ms Mary Donovan says that before “moving onto the land, we were roadside constantly moving around and where possible doubling up with others”. Mr Michael Gerrard Ward says that before “commencing our occupation on the land on 03 April 2026, we lived sporadically and temporarily on other Traveller yards and generally moved around without any hope for a permanent site”. Mr Thomas Ward says that before moving on to the Land on 3 April 2026, had “periods of living roadside and doubling up on other traveller sites”. The Intended Defendants refer to a number of medical conditions that affect themselves and their children. The Intended Defendants also rely on reports from Dr Violet Cannon that are described as “Welfare and Cultural Impact Reports”. At the end of the hearing, they submitted a witness statement from Dr Cannon setting out her experience and exhibiting her CV. I discuss below the Claimant’s objection to her evidence. THE LEGAL FRAMEWORK 32. Section 187B(1) of the Act provides: 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. Page 10 Approved Judgment Dacorum Borough Council v Persons Unknown 33. 34. 35. 36. American Cyanamid v Ethicon [1975] A. C. 396 at pp 406-409 established that in considering an application for an injunction the court will consider (a) whether there is a serious question to be tried, (b) whether damages will supply an adequate remedy and (c) where does the balance of convenience lie in deciding whether to grant (or continue) interim injunctive relief. Porter was a case concerned with a final injunction order under s.187B of the Act and is the leading authority on how the discretion is applied under s.187B of the Act. As discussed further below, the parties disagreed as to whether or not Porter “was engaged”. The Intended Defendants argued that it was engaged whilst the Claimant argued that it was not engaged as none of the Intended Defendants were in occupation before the Injunction was made and emphasised that in Porter the defendants were in occupation at the time of the injunction. I discuss the competing arguments as to the relevance of Porter to the applications before me later in this judgment. The key aspects of the judgment which were helpfully summarised by HHJ Sarah Richardson, sitting as a Judge of the High Court, in Surrey Heath v Shir [2019] EHC 3251 (QB) at [31]: “(a) The Court on a section 187B application is not required, nor even entitled, to reach its own independent view of the planning merits of the case. These it is required to take as decided within the planning process, the actual or anticipated breach of planning control being a given when it comes to exercise its discretion.
- (b) The Court should not grant injunctive relief unless it would be prepared if necessary to contemplate committing the defendant to prison for breach of the order, and must therefore consider all questions of hardship for the defendant and the defendant’s family if they were to move from the site.
- (c) Questions of the family's health and education are 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.
- (d) The degree and flagrancy of the postulated breach of planning control may well prove critical.

- (e) 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 gypsy moving onto Page 11 Approved Judgment Dacorum Borough Council v Persons Unknown the site might, indeed, involve him in less hardship than moving him out after a long period of occupation.
 - (f) 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 a case for at least a temporary personal planning permission.
 - (g) Relevant too will be the local authority's decision under section 187B(1) to seek injunctive relief as 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.
 - (h) 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.
 - (i) The court's discretion is absolute and injunctive relief is unlikely unless properly thought to be 'commensurate'—in today's language, proportionate. 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 (in the Porter case this was the gypsy's private life and home and the retention of his ethnic identity which was considered to be at stake).” (D) THE COMPETING CONTENTIONS OF THE PARTIES
37. What follows is a summary of the submissions advanced by the parties in their oral and written submissions. The Claimant’s submissions
38. Ms Bolton argued that on the application of the American Cyanamid test there was a clear basis for the Injunction to be continued. She described the Injunction as a “status quo” injunction rather than, as described by the Intended Defendants, an Page 12 Approved

Judgment Dacorum Borough Council v Persons Unknown 39. 40. 41. eviction injunction as they were not in occupation at the time the Injunction as made. There is a serious issue to be tried as to whether the Intended Defendants have undertaken unauthorised development. Ms Bolton argued that given that the Intended Defendants are already breaching planning control and the Injunction, the balance of convenience is with the Claimant is in preserving the status quo and preventing further breaches. Should the Injunction be discharged the Land would be converted for use as a caravan site and further considerable damage to the Land. Damages would not provide an adequate remedy in these circumstances. The Claimant refuted the Intended Defendants' assertion that there had been a breach of the duty to give full and frank disclosure to Cheema Grubb J on the without notice application. The Judge was made aware that residential caravans were being brought on to the Land and indeed referred to that in her reasons. The Land was at the time unoccupied, and the evidence of the Intended Defendants considered alongside the contemporaneous photographic evidence demonstrates that their evidence is simply not to be believed. The Intended Defendants have not made their application to discharge or to vary the Injunction with "clean hands". In fact, they have deliberately breached the terms of the Injunction and are not remotely trying to comply with the Injunction. The Claimant was unable to identify the identities of the Intended Defendants. The argument advanced by Mr Masters that the Claimant could have named the individuals named on the planning application was misconceived. Only surnames were given. The assertion made in oral submissions that the Claimant had neglected to draw Cheema Grubb J's attention to the Porter case was plainly wrong as it was cited in the skeleton argument that was lodged for the application. As to the application of Porter at this stage and the need for a Porter assessment, the Claimant submitted that Porter was not engaged as none of the Intended Defendants were in occupation at the time of the Injunction. All of them have claimed that there were in occupation on 3 April 2026 which was plainly wrong. Ms Bolton relied on the judgments in Surrey Heath v Shir [2019] EWHC 3251 (QB) and Surrey Heath BC v Robb and others [2020] EWHC 3251 (QB) as establishing that a Porter assessment did not arise where defendants were not in occupation at the time of the injunction.

42. Ms Bolton argued, relying on Mid-Bedfordshire District Council v Brown [2005] 1 WLR 1460 ("Mid-Bedfordshire"), that to vary the Injunction would be to condone the breaches of the injunction which would be wrong to do. Ms Bolton argued that it was inappropriate for the Court to come to a conclusion on the merits or otherwise of the planning application by the Intended Defendants. In any event, the Claimant strongly refuted the assertion that the Land could be characterised as "grey belt".
43. Ms Bolton argued that this case was on all fours with the case of Tandridge District Council v King and others, KB-2026-000643, unreported, where Mr Douglas-Jones Page 13 Approved Judgment Dacorum Borough Council v Persons Unknown KC, sitting as a Deputy Judge of the High Court, had been concerned with the question of whether to continue an interim injunction where the defendants had not been on the land in question at the time of the without notice injunction. 44. The Intended Defendants' submissions For the Intended

Defendants, Mr Masters began his oral submissions by explaining that his focus would be on what was known on 5 April 2026, the date of the Injunction, and the evidence showing occupation at that date. He said that it was not relevant whether there was occupation on 3 April 2026. Mr Masters argued that there was a basis for the Injunction to be set aside because the Claimant had failed in its duty to give full and frank disclosure at the without notice application. Alternatively, he argued that because of the Article 8 rights of the Intended Defendants and the rights of their children, there was a basis for the Injunction to be varied such that they would be permitted to remain on the land until their planning application had been permitted.

45. Mr Masters argued that the Claimant knew the identities of the individuals who had made the planning application and therefore should have named them in the without notice application. The name of the planning agent was also known and so they could have been contacted for further information. Relying on the judgment in *Wolverhampton* he argued that there had been a failure by the Claimant to make reasonable enquiries before seeking a *Persons Unknown* injunction. He drew attention to the fact that Ms Durrant in her first statement does not indicate whether or not the caravans were occupied. Mr Masters submitted that Ms Durrant could and should have asked the individuals she spoke to on 4 April 2026 at 1630 their identities.
46. Mr Masters also argued that it is important to understand the particular cultural context. The Intended Defendants regard their home as their caravan. Mr Masters suggested that it was likely that the caravans were being kept in laybys and were being brought on to the Land during the evening. He noted that there were no nighttime photographs in the Claimant's evidence and that the caravans in the photographs were intact.
47. Mr Masters submitted that Ms Durrant was to be criticised for not drawing the Judge's attention to the fact that in the photographs taken on 5 April there was a photograph showing two touring caravans being brought on to the Land. He argued that the reasonable inference of two caravans being brought on to the Land was that they were occupied.
48. Mr Masters drew particular attention to paragraph 8 of Mr Wicks' statement, set out above at paragraph 12. He submitted that the wording used was "judicious" and that the placing of the coma after the reference to 9 touring caravans was significant and should be read as suggesting that it was only the 2 static caravans that were not occupied. He also drew attention to the fact that at paragraph 3 of his statement, Mr Wicks said that there were 9 touring caravans on the Land when he visited at 1330 on Page 14 Approved Judgment *Dacorum Borough Council v Persons Unknown* 5 April 2026. He also drew attention to paragraph 5 of Mr Wicks' statement where he said that he had been told that there "were women and children on the Land" at that visit. Mr Masters accepted that there were no signs of occupation on 3 April 2026 but submitted that there was "no doubt" that there was occupation on 5 April 2026.

49. Mr Masters argued that if the Court was not satisfied that the alleged breach of the duty of candour was sufficient to discharge the Injunction then it should be varied such that the Intended Defendants should be permitted until their planning application had been determined. He relied on the judgment of Ms Karen Ridge, sitting as a Deputy Judge of the High Court, in *Waverley Borough Council v Gray and Others* [2023] EWHC 2116 (KB), as authority for the need for a human rights assessment of his clients when considering whether to continue the Injunction in its current form. Mr Masters also relied on *Bromley v London Gypsy and Travellers and Liberty* 2020 EWCA Civ 12. Mr Masters submitted that although the *Bromley* case was about unauthorised encampments “it can be seen that Article 8 was engaged, the duty is clearly greater where Councils are seeking to evict Gypsies from land they own, the need for a proper assessment of their housing and welfare needs prior to the initiation of eviction proceedings is clear. This has not been done in this case.”
50. Mr Masters submitted it could not be just and proportionate to continue the Injunction where on 5 April there were a large number of caravans on the site and the Claimant had been told that there were women and children on the Land. He also argued that the Land would be regarded as “grey belt” and that his clients’ planning application had good prospects of success. (E) DISCUSSION AND DECISION A preliminary point – Dr Cannon’s evidence 51. 52. The Claimant had objected to Dr Cannon’s evidence being admissible when serving its skeleton argument. As noted earlier, the Intended Defendants served at the end of the hearing a witness statement in which Dr Cannon exhibited her CV and also provided an account of her experience. The Claimant argues that Dr Cannon’s reports should be disregarded. It argues that nothing in the witness statement served at the end of the hearing would make Dr Cannon an expert who could assist the Court. It notes that Dr Cannon holds an honorary doctorate and is not a person with relevant qualifications that would make her an expert. The Claimant also argues that there was no direction for expert evidence in any event and no permission for expert evidence has been sought. The Claimant asserts that the importance of this requirement is evident in this case, when permission is sought it allows the Court to restrict the role and nature of the expert evidence provided and prevents time being wasted on satellite issues such as whether the person has the relevant qualifications to be considered an expert. The Claimant also drew my attention to the decision in *Tandridge* where the Deputy High Court Page 15 Approved Judgment *Dacorum Borough Council v Persons Unknown* 53. 54. 55. 56. 57. 58. Judge ruled that Dr Cannon’s reports were not admissible and could not be relied upon as expert evidence. I accept the Claimant’s arguments in this regard. There was no direction for expert evidence made by HHJ Saddique on 15 April 2026 nor has there been any subsequent application for expert evidence. I am not satisfied that Dr Cannon should be regarded as an independent expert in any event. In those circumstances I have disregarded her evidence. Was there a failure of Full and Frank Disclosure by the Claimant? I am entirely unpersuaded that there was a failure of the duty of full and frank disclosure by the Claimant such as to warrant the discharge of the Injunction. First, it is clear from the reasons given by Cheema Grubb J that she was aware that

“potentially residential units” had been brought on to the Land: see above at paragraph 11 and the underlined passage in the Judge’s reasons. Secondly, in my judgment, Mr Master’s criticisms are misconceived. The reference to the Claimant having information that there were “women and children on the Land” has to be read in context. Mr Wicks says that on 5 April 2026 at 1330 he was told by a man identifying himself as the owner of the land that “he and his friends and family intended to bring static caravans onto the Land to be occupied by his friends and family” (emphasis added). That is entirely consistent with the photographic evidence which does not contain any sign of occupation. Thirdly, I do not accept Mr Masters’ interpretation of paragraph 8 of Mr Wicks’ statement that I have set out above. It is not a credible interpretation not least when considered alongside the photographic evidence. Fourthly, the criticisms of a failure to try to identify the names of the Intended Defendants is mis-placed. The full names were not given on the planning application, and I do not accept that the Claimant was required to contact the planning agent, over the Easter weekend, to try to establish the full names of the applicants to the planning application. As Ms Bolton submitted in reply, the Claimant would not have wanted to have tipped off the Intended Defendants which would have undermined the need for the application to be made urgently and without notice. In any event, these criticisms have to be weighed against the reaction of the individuals on the Land when they were approached by Ms Durrant and by Mr Wicks. Ms Durrant explains in her first statement that when she went to the Land on 4 April to serve the Temporary Stop Notice the individual who was identified as being the owner or person in charge “did not provide his details” (see paragraph 14 of her first statement). Ms Durrant goes on to say all of the individuals on the Land “continued to state that we could not serve the papers, they were fraudulent and that we could be prosecuted. I attempted to explain several times that we could serve the notices however it was evident that this was not being listened to. All of the persons on site refused to accept a copy of the Page 16 Approved Judgment Dacorum Borough Council v Persons Unknown 59. 60. notice or to look at the notice” (paragraphs 18-19 of her statement). Similarly, Mr Wicks states that he was met with resistance the next day. He was told by Martin Ward that he would take down copies of the Injunction if they were affixed to the Land. Another man, also called Martin, tore the Injunction in half and told him “to come back when he had some proper paperwork” (see paragraphs 6-7). Fifthly and finally, for reasons which I give in detail below, I cannot accept the signed witness evidence of the Intended Defendants, that they were each in occupation on 3 April 2026. Should the Injunction be continued or should it be varied? As noted earlier, this requires me to consider the test in *American Cyanamid v Ethicon* [1975] A. C. 396. Thus, in considering an application for an injunction the court will consider (a) whether there is a serious question to be tried, (b) whether damages will supply an adequate remedy and (c) where does the balance of convenience lie in deciding whether to grant (or continue) interim injunctive relief. At a contested hearing on the return date following a without notice interim injunction, the court does not conduct a mini-trial or decide disputed questions of fact; it cannot assess the veracity of evidence in the absence of cross-examination. However, some review of the competing cases on the available evidence is necessary (*Metropolitan Housing Trust Ltd v Taylor* [2015] EWHC 2897 (Ch), at [12] (Warren

J) Page 17 Approved Judgment Dacorum Borough Council v Persons Unknown 61. 62. 63. 64. 65. 66. A serious issue to be tried? There is no doubt in my mind that there is a serious issue to be tried. It is accepted that there has been unauthorised development of the Land. The photographic evidence demonstrates that the development of the Land has continued notwithstanding the terms of the Injunction. The balance of convenience In considering the balance of convenience it seems to me that the relevant factors are as follows. First, when considering the balance of convenience for the continuance of the Injunction and the Intended Defendants' application for a variation of the Injunction, a critical question is whether or not the Intended Defendants were in occupation of the Land at the time the Injunction was made. Although the focus is on whether there was occupation at the date of the Injunction, I do not accept Mr Masters' submission that the question of whether there is occupation on 3 April is irrelevant. Each of the Intended Defendants state unequivocally that they were in occupation of the Land as of 3 April 2026. As Lord Reed PSC, Lords Briggs and Kitchen JJSC explained in *Wolverhampton* at [17], the injunction is equitable in origin and remains so despite its statutory confirmation. The equitable doctrine of "clean hands" applies to the Intended Defendants and to the Claimant alike. On the material before me, I cannot accept the Intended Defendants' evidence that there were in occupation on 3 April 2026 as alleged in their witness statements. Nor can I accept the submission that they were "in occupation" at the date of the Injunction. Those assertions are flatly contradicted by the photographic evidence. I also cannot accept Mr Masters' submission that the absence of any indication of occupation in the photographs is because the caravans were brought on to the Land during the evening. There was no evidential basis for that submission. None of the Intended Defendants had made such an assertion in their statements. The assertion is entirely contradicted by the photograph taken at 1806 on 4 April 2026 (p.349). Equally, the submission that "occupation" should be construed as meaning that all that was needed was for a caravan to be on the Land for there to be "occupation" is strained and is again inconsistent with the photographic evidence. In considering the Intended Defendants' evidence, I also take into account the significant discrepancies between the information contained in their witness statement and in the planning applications which has been comprehensively set out in the table exhibited to Ms Durrant's third witness statement (see p.613-614). It is notable that the Intended Defendants did not offer any explanation as to why there are those discrepancies. Page 18 Approved Judgment Dacorum Borough Council v Persons Unknown 67. 68. 69. 70. 71. 72. 73. The Intended Defendants have explained that they have literacy difficulties and have relied on their evidence being recorded by their solicitors. However, the fact that they have been legally represented by solicitors and counsel only serves to undermine their evidence further. I am therefore driven to the conclusion that the Intended Defendants have not come to the court with clean hands. I have also concluded that on the evidence before me the Land was not occupied at the date of the Injunction. Secondly, on the material before me, the Intended Defendants have developed the Land in flagrant violation of the Injunction. As in *Mid-Bedfordshire*, "they cocked a snook at the court. They did so in order to steal a march on the Council and to achieve the very state of affairs which the order was designed to prevent. No explanation or

apology for the breaches of the court order was offered to the judge or to this court” ([25] per Mummery LJ). Thirdly, I do not accept Ms Bolton’s submission that my conclusion that the Intended Defendants were not in occupation at the date of the Injunction inevitably leads to a conclusion that there is no need for the court to consider a Porter assessment at all. Insofar as any individuals are residing at the Land at the date the hearing before me, the consideration of the balance of convenience will include those matters that I have already set out from Porter (see *Surrey v Shir*, at [46]). Fourthly, the fact that the Intended Defendants have come on to the Land after the Injunction does however impact significantly on the weight to be given to those factors. The impact on their Article 8 rights is limited (if impacted upon at all when considering the qualified nature of this right) by the fact that the Land has never been their home or only became their home after service of the Injunction. So too, does the fact that each of the Intended Defendants have misled the Court in asserting that they were in occupation on 3 April 2026. Fifthly, the discrepancies between the Intended Defendants’ witness statements and the information contained in the planning application is stark – see in particular the evidence from Mr Michael Ward, Mr Martin McDonagh, Ms Diane McDonagh, Mr John Paul McDonagh, Mr Bernie McDonagh, Mr Pat Ward, Ms Victoria McDonagh and Mr Martin Ward. Those discrepancies – (which are a consequence of the failure of the Intended Defendants to come to the court with clean hands- impact the ability to carry out any meaningful individual Porter assessment at this stage. A full Porter assessment will take place at the trial. The court can ensure that there is a speedy trial which will allow a full Porter assessment. 74. Sixthly, the Intended Defendants have complained in their witness statements about the living conditions on the Land. They refer to the fact that there is no running water, no electricity, no toilet or washing facilities and no formal waste disposal. The Land is not appropriate for habitation and could only be made so by further works being undertaken which would amount to further breach of planning control and the Injunction. Seventhly, I do not accept the submission made by the Intended Defendants that the Bromley case supports a variation to the Injunction. That was concerned with a very different set of factual circumstances in the context of county wide injunctions. Whilst principles of proportionality and respect of the needs and lifestyle of gypsies and travellers have application here, the considerations of proportionality and the considerations in Bromley are of a very different nature. Eighthly, the submissions on behalf of the Intended Defendants that the likely success or otherwise of the planning application is misconceived. The court on a section 187B application is not required, nor even entitled, to reach its own independent view of the planning case (Porter, at [20] of Lord Bingham’s speech). Ninthly and finally, I am also satisfied that damages are not an adequate remedy for the Claimant in the event that a breach is proved at final hearing. The Claimant is the custodian of the public interest and there is no financial compensation capable of repairing the damage to that interest. Continuing the Injunction is appropriate and necessary for the attainment of the public objective sought and is proportionate in the particular circumstances here where the Intended Defendants have moved on to the Land subsequent to the Injunction and in flagrant defiance of the order. For these reasons, the balance of

convenience in the circumstances here comes down in favour of continuing the Injunction as against the Intended Defendants. Should the Injunction be continued as against Persons Unknown? I am satisfied that the requirements set out in Wolverhampton are met in this case. As noted already, I am satisfied that the Claimant complied in full with the disclosure duty which attached to the making of a without notice application and that it has similarly complied with that duty in its evidence for the hearing before me. The Claimant has demonstrated that, on the particular facts, it was just and convenient in all the circumstances that the injunction sought should be made. There is no practical alternative to the Injunction as shown by the fact that the Temporary Stop Notice was ignored. The Claimant has defined the category of persons unknown to relate to the unauthorised activities it seeks to prohibit. The terms of the Injunction spell out clearly and in everyday terms the full extent of the acts it is prohibiting, corresponding 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. The Injunction is subject to clear and defined territorial limits and includes a Page 20 Approved Judgment Dacorum Borough Council v Persons Unknown generous liberty to any person affected by its terms to apply to vary or discharge the whole or any part of the injunction.

CONCLUSION

For the foregoing reasons: 81. a) b) c) I grant the Claimant's application for the Intended Defendants to be added as parties to the Injunction; I refuse the Intended Defendant's application to discharge or to vary the Injunction; and I grant the Claimant's application to continue to interim Injunction pending a final hearing. 82. 83. In the circumstances of this case, it seems to me to be appropriate that I should order a speedy trial to the final hearing. As this was not a matter canvassed at the hearing, the parties are invited to make any observations they consider appropriate in that regard when considering this draft judgment. I invite the parties to agree a draft order. If there are aspects of the order which cannot be agreed, then the parties should file brief submissions setting out the points of dispute. Page 21

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