

ENGLAND AND WALES / JUDGMENT

Multiplex Construction Europe Limited & Ors v Persons Unknown

COURT
IN THE HIGH COURT OF JUSTICE

BEFORE
MR JUSTICE RITCHIE

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IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

ROYAL COURTS OF JUSTICE

Case No: QB-2020-002702

Date: Wednesday, 5
th February 2025

BEFORE: MR JUSTICE RITCHIE

BETWEEN: (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
(2) LUDGATE HOUSE LIMITED
(3) SAMPSON HOUSE LIMITED
- and -
PERSONS UNKNOWN

Claimants

Defendants

MR T MORSHEAD KC appeared on behalf of the Claimants

The Defendant did not attend and was not represented

JUDGMENT

(Delivered ex tempore, transcribed and approved)

WordWave International trading as DTI Judgment Approved by the court for handing down.
Multiplex Construction Europe Ltd & Ors v PUs Mr Justice Ritchie: 1. 2. 3. 4. 5. I have before me
an application to continue an injunction which was granted on an interim, emergency basis, by
Soole J and then continued by other judges, then by me last January and then by other judges and
is still in force today. I have before me a hearing bundle, an authorities bundle and a skeleton

argument. Before the hearing I was under the impression that there were three issues to deal with:

- (1) whether I should dispense with service of the amended particulars of claim, (2) whether this application should be heard *ex parte*, because it has not been properly served, and (3) whether the injunction should be continued. However, I think quite properly, Mr Morshead informs me that, as a result of an order made by Collins Rice J recently, there are three additional challenges for the Claimants. The first is to show necessity for the injunction to continue; the second is to explain why it is interim, and the third is to explain how to conclude these proceedings. Actually, as discussed in with counsel, I consider that those match quite well the issues that I have identified but add a sub-issue. That is whether this is an injunction which should be granted as interim, final or quasi-final. So, I must ask, what is the nature of this injunction? Chronology Just running very briefly though the chronology, there was an original application on 27 July 2020 for an emergency *ex parte* interim injunction which was granted by Soole J on 30 July and lasted, until 21 January 2021. Judgment was given and it was, roughly speaking, an injunction to stop persons unknown from climbing on high structures in the Claimants' building site. That was based on evidence then before Soole J. After that, a witness statement was put in by Martin Wilshire on 25 January 2021, with evidence of trespass on 5 January 2021, by somebody climbing a gantry. He then left when security challenged him. There was also a lot of general hearsay evidence about urban explorers in the statement. Bourne J continued Soole J's order on 26 January 2021 and then Stewart J extended Bourne J's order on 4 March 2021. Eady J extended the injunction on 6 May 2021 and Davis J extended the injunction on 20 July 2021. Then a witness statement was put in from Stuart Wortley dated 23 February 2022, explaining that urban explorers were spotted in Blackfriars, nobody had entered the site but there was still a prevalence of urban explorers in London. Notices about the injunctions were put up all over the site. A final injunction was sought. HHJ Shanks, sitting as a deputy High Court judge, extended the injunction on 3 March 2022, and another witness statement from Stuart Wortley was filed on 21 December 2023 updating the facts (there had only been one trespass by two persons and therefore the injunction, according to him, was having the desired effect). He also referred to the judgment of Sweeting J concerning a site in Elephant and Castle and seeking a further extension because of *quia timet*. The evidence justified a fear of urban explorers Judgment Approved by the court for handing down. *Multiplex Construction Europe Ltd & Ors v PUs* 6. 7. 8. putting people and themselves in danger by climbing on the site. A further witness statement was filed from Stuart Wortley on 18 January 2024 about service and in that he stated that there had been no further incidents. As a result of that evidence, on 19 January 2024 I extended the injunction for a year and tweaked it a bit so that it related to climbing. I gave alternative service directions about putting up notices all over the site and using weblinks to lead people to the actual documentation. I gave an *ex tempore* judgment which I will not summarise here save that I will incorporate it into this judgment. By an application on 20 December 2024 the Claimants came back to renew, to extend the order to 30 April 2026, to amend their particulars of claim and to dispense with service of

the amended particulars of claim, but they asked for that to be dealt with on paper and they did not serve it by alternative means or at all. I have seen the draft amended particulars of claim and I have no difficulty with the contents of it. They have tidied up the registered land relevant to it and they have added Claimant three, whom they had permission to add from a Master earlier on. Evidence The witness statements relied on are from Emma Pinkerton. The first is dated 20 December 2024. She is a partner at Cameron McKenna. She set out the background stating that the PUs had never taken part in these proceedings. She set out the background to the amended particulars of claim. She set out the background to her decisions on service and her understanding of the Supreme Court case: *Wolverhampton v London Gypsies* [2023] UKSC 47. She thought it was sufficient to post the notices of my original injunction back in January 2024 at ten locations around the site, with a link to a website. However, it is implicit in that first witness statement that she accepts she is making an ex parte application to extend the interim or quasi-final injunction and she did not give notice of the application by putting up notices all over the site. She asserted that the Claimants were very concerned about urban explorers still posing a risk to the site and relied on the witness statement of Jamie Godden, which was served at the same time. She asserted the injunction had been effective so far. The witness statement of Jamie Godden was dated the 20 December 2024. He is a project director at C1. He informed the court that phases 1 and 2 had been completed but building 2 was due to be completed in Q1 2027 and a crane would be up until April

2026. HE asked for the injunction to be continued until then. He set out that urban exploring still continued. He set out recent social media posts. He summarised that an urban explorer had managed to get into a building site in Port Talbot on 14 December 2024, dodging 90 security cameras and he described four “group media” posting pages: UK Urbex, Urban Exploring UK, Project Urbex UK and Forgotten Urbex UK, where such posts are publicly displayed. He stated that the Blackfriars Yard building site had a crane and a scaffolding bridge and there were significant risks that these would be attractive to explorers. If they did explore on site that would create risks for the explorers and the security staff. He mentioned that there was an example of continuing Judgment Approved by the court for handing down. *Multiplex Construction Europe Ltd & Ors v PUs urban exploration* which had occurred in Spain on 13 October 2024, when Lewis Stevenson fell off a bridge. He had also climbed in London on cranes. He mentioned various previous injunctions in other cases including one granted by HHJ Simpkins, sitting as a deputy, in *Quintain (Wembley Retail Park) Ltd v Persons Unknown* [2023] EWHC 1509. 9. As for the site security, Jamie Godden described the timber hoardings, 2 metres high, the 24-hour CCTV, the 24-hour personnel, alarms and anti-climb measures and recited an incident on 18 October 2024 when two teenagers tried to enter the site by climbing the fence but were deterred by security. He asserted that other sites with no injunctions had been targeted and provided photographs in his exhibits (internal numbering, pages 84 to 87). I cannot tell from those photos whether those are building sites or fully formed buildings, so I am not sure whether they really support the assertion he is making that building sites are likely to be targeted. It

may well be that those photos all relate to fully made buildings. I infer that an urban explorer who likes to climb fully made buildings may like to climb building sites too. They might like to climb fully made buildings even more. I do not know, the evidence is not clear. Anyway, Mr Godden believes that the Bankside Yards will continue to be a target and wishes the injunction to be extended until April 2026 because (*quia timet*) the Claimants fear that urbex explorers will come in. Refusal to make an order

10. Collins Rice J made an order on 17 January refusing to deal with the application on paper, listing it for a hearing and warning that there were some potential defects in the approach. I have described those and they were set out in Mr Morshead's submissions. 11. Evidence Emma Pinkerton then put in two further witness statements, one on 25 January 2025 and the other on 4 February 2025. Those show again why she decided to go *ex parte* and showed that some documents had been uploaded onto the website but that notices have not been put up all over the site. The upload of the application before me and the supporting documents took place on 20 January 2025. The issues
12. Returning, then, to the issues, I do dispense with personal service of the amended particulars of claim, but I require them to be uploaded onto the website and hence available through the link that is put on the notice boards. As for the *ex parte* application, I am not prepared to deal with the main substance of the application *ex parte*. It seems to me that the rules and procedures are quite clear on *ex parte* applications; they are only made in circumstances that justify not notifying the potential defendant. I can understand the reasoning here because the potential defendants are persons unknown and nobody has ever turned up to defend these proceedings or to dispute them or to set aside any orders, so Cameron McKenna thought, "What's the point?" But I am afraid the point is that there may be a new urban Judgment Approved by the court for handing down. *Multiplex Construction Europe Ltd & Ors v PUs* 13. 14. explorer who, in the weeks since December, had decided to climb just after the injunction expired or indeed just before, and that person is entitled to be notified that the injunction is going to be continued. He or she may have been planning to explore in April just after the injunction ended. Furthermore, it is very important, as I understand the Supreme Court's rulings, that all proper measures are taken to notify the world, or persons unknown, about a *contra mundum* injunction in relation to the site, and it seems to me that the standard method now is the putting up of notices all over the site which are readable and link to a website with uploaded documents on it. That has not been done, and hence it is not appropriate to deal with the whole of the application today. So, I am going to adjourn the application so it can be heard at a later stage. I will adjourn it for a minimum of 21 days, to the first open date thereafter, with a time estimate of two-and-a-half hours. Finally in relation to the injunction and whether I should extend it in the short term, Mr Morshead, in his usual elegant way, has gone into the principles behind the current injunction and whether any extension of it should be labelled as further interim or final or indeed quasi-final (a phrase I had used in my previous *ex tempore* judgment). However, it is not the labelling that is important, in my provisional view. It is the substance of what is going on. As the Supreme Court has explained in the *Wolverhampton* case, this is a new

form of protection for civil rights, which fits in between interim and final, hence the labelling “quasi-final”. The substance of this new form is that civil rights of property owners, business owners, land owners and others can be protected by the obtaining of emergency and longer term injunctions by application. Strict substantive and procedural requirements have been imposed by Supreme Court and the Court of Appeal decisions governing PU injunctions. I sought to summarise those requirements in *Valero Energy Ltd & Ors v Persons Unknown*

- [2024] EWHC 134 (KB). They have been summarised more recently in *Shell Oil*. What is not yet wholly clear is whether there is a settled procedure for finalising such proceedings, and it is that with which Collins Rice J was grappling when she listed this hearing. I also tentatively signposted it in my *ex tempore* judgment in January 2024. 15. I do not know whether this application is a further interim injunction to be extended to what is currently thought to be a final date in April but may end up being a final date earlier, if the work is done and the crane is removed earlier, or later if the work overruns and the crane stays later, or other factors on the building site persuade the Claimants they need a further extension on proper evidence.
16. What I do foresee is that there may be some potential difficulties with trying to squeeze such applications into the summary judgment process in which, usually, the party applying puts its evidence forward and seeks to show that the other side has no response or no valid response. In *contra* distinction, in PU cases, as directed by the Supreme Court in *Wolverhampton*, it is the duty of the Claimants when applying for Judgment Approved by the court for handing down. *Multiplex Construction Europe Ltd & Ors v PUs* PU injunctions to set out the defences or potential defences of the PU. That does not fit awfully well with the usual summary judgment procedure. In any event, I do not have to decide that at this stage. What I have to decide at this stage is whether there are sufficient grounds and justification for continuing the interim injunction until the adjourned hearing. Substantive and procedural requirements I shall run, very briefly, through the substantive requirements. Firstly, there is a cause of action in trespass. It is a *quia timet* action, in that it is feared that PUs who are urbex (urban explorers) will wish to climb in the yard. It is properly pleaded. There has, in my judgment, been full and frank disclosure by the Claimant. Is there sufficient evidence to justify the injunction? I am going to mix that decision with consideration of whether there is a realistic defence and whether there is compelling justification. Rolling those all into one, there is, in my judgment, a considerable and potentially very severe downside risk of any urban explorer entering this building site to be met (in the dark, probably) with rubble, construction, equipment, high structures, ladders and hand tools, power tools, lines, wires and other matters over which that person may trip or fall from a great height. So, there is a danger to the urban explorer him or herself and then there is a danger to the security guards, whose job is to dissuade the climber and to get the climber offsite, and/or potentially to bring them into citizen's arrest custody, depending on what they are doing. There is also a risk to anybody else who is on site who is not security if they are fallen upon or equipment falls on them. The likelihood of this happening, on the

evidence that has been put before me, is not as high as it used to be, because it is probable that the likelihood of trespass has gone down as a result of the injunctions that have been granted since Soole J granted his order in July 2020. But urban exploring is continuing elsewhere in London, as is shown by the photograph set out in a witness statement of Jamie Godden and, most importantly, on this site two youths tried to get into the site on 18 October 2024, despite the notices of the injunction. It seems to me that that is the trigger for a continuing the quia timet is that urbex explorers are still considering targeting the Bankside Yards as a place to carry out their allegedly exhilarating but definitely dangerous activities. I do consider that there is a compelling case for continuing the interim injunction, at least for the next 21 days or until the date upon which the application is properly listed for a full hearing. That is all I have to decide, whether there is a compelling reason for that short continuation. I do not consider damages are an adequate remedy for the same reasons given before: basically compensation for personal injuries only works to some extent to compensate if there is an insurer, and I have absolutely no idea whether the urbex explorers have any insurance for their activities. I very much doubt that they do. 17. 18. 19.

20. As for the procedural requirements, I consider that: the PU are properly identified, as I did before; the terms of the injunction are strict, tight and clear and do not use legal Judgment Approved by the court for handing down. Multiplex Construction Europe Ltd & Ors v PUs language, as I did before; the prohibitions match the claim, as I found before; the geographic boundaries are tight and clear, as I found before; the temporal limits are clear, at least for this short extension. As for service, I am going to order that the service of this order takes place in accordance with my previous order of January 2024. There will be a right to vary or set aside any PU on very short notice, and in just over 21 days, a proper hearing of this application will take place. 21. Finally, because this is a renewal I have look at whether anything has changed to justify refusing the continuation. I have not found any such evidence.

Conclusion

I consider that it is overwhelmingly necessary to continue the injunction on this interim basis. I have read and taken into account the historical growth of PU injunctions, including INEOS Upstream Ltd & Ors v Persons Unknown [2019] EWCA Civ 515, particularly the judgment of Longmore LJ at paragraphs 18 to 34. 22. END Judgment Approved by the court for handing down. Multiplex Construction Europe Ltd & Ors v PUs Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof. Lower Ground, 46 Chancery Lane, London WC2A 1JE Email: civil@epiqglobal.co.uk This transcript has been approved by the Judge 8

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