

Name: Ian Horgan
Date: 16/08/2022
Statement No.: 1
Exhibit: IH1-8

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION**

Claim No. QB-

**IN THE MATTER OF SECTION 222 LOCAL GOVERNMENT ACT 1972 AND
SECTION 187B OF THE TOWN AND COUNTRY PLANNING ACT 1990**

B E T W E E N :

SURREY COUNTY COUNCIL

Claimant

-and-

**(1) PERSONS UNKNOWN FORMING AN UNAUTHORISED ENCAMPMENT AND /
OCCUPYING FOR RESIDENTIAL PURPOSES (including temporary accommodation)
WITH OR WITHOUT VEHICLES ON CHOBHAM COMMON, SURREY**

**(2) PERSONS UNKNOWN DEPOSITING WASTE OR FLY-TIPPING ON CHOBHAM
COMMON, SURREY**

Defendants

WITNESS STATEMENT OF IAN HORGAN

I, IAN HORGAN of Surrey County Council, Woodhatch Place, 11 Cockshot Hill, Woodhatch,
Reigate, RH2 8EF WILL SAY as follows:

Preliminary:

1. I make this witness statement in support of the Application before this Honourable Court brought by Surrey County Council ("the Council") for a preventative injunction in the terms of the draft Order that I have been shown. In particular an injunction against the First Defendant that :
 - (i) they be forbidden from setting up an encampment within the boundaries of Chobham Common as identified by the attached Map at Exhibit **IH1** without the express written permission of the Claimant as Landowner.
 - (ii) they be forbidden from entering or occupying for residential purposes within the boundaries of Chobham Common as identified by the attached Map at Exhibit **IH1** without the express written permission of the Claimant as Landowner.

Personal Background:

seventeen permanent Gypsy, Roma, Traveller sites across the County as well as the small business centres and encroachments onto Surrey land and unauthorised encampments.

5. My team and I have been directly involved in the problems that have arisen in relation to occupation and encampments on the Common by virtue of our responsibilities for unauthorised encampments.

The Benefit of the 2019

being sought. I am aware of the fact that Travellers are from a nationally recognised ethnicity and have their own distinct identity and culture. I am therefore aware of the importance of treating the Travellers needs with respect and dignity. I am especially aware of any potential conflicts between the way of life of Travellers and the need to uphold their rights under the Human Rights Act and the need to balance this with the laws of the land, local bye-laws and the rights and entitlements of the local residents affected by Traveller movements. After all, the land that the Council is seeking to protect with this preventative injunction is designated public land, intended for the greater benefit of all who come to the County of Surrey.

10. As part of the assessment between the Gypsy and Traveller way of life and the needs of the Council and those that reside and work within the County, it is inevitable that financial factors have to be taken into account, particularly in these times of austerity and high demand on local authority budgets. As I shall endeavour to explain the cost involved in recovering and restoring land that has been the subject of an encampment, whether involving fly-tipping or not can be extremely significant and can have a long-term detriment to the community in terms of budget restrictions for other programmes and responsibilities that fall within the Council's remit. In addition, the time involved in recovering land is lost, when officers and other agencies would be better engaged in advancing positives in the Council.

11. It is with that balance in mind that myself, together bths00.34ir 59 (402 ()-om ()-59 (in)-Td[r149 (fa

12. In reliance upon the conclusions reached by the Assessment, the Council has decided to apply for a fresh preventative protective injunction over the Common. It is hoped that based on the very positive experience found by the Council over the last three years, following the obtaining of the 2019 Injunction, the Council will be able to maintain the success it has experienced thus ensuring its direct and indirect costs associated with unlawful encampments and fly-tipping, do not return to the levels experienced prior to November 2019. In doing so, the Council can spend time, energy and money on positives to enhance the Common for all users.

The County of Surrey and Chobham Common:

13. The County has a population of approximately 1.2 million. A huge amount of the County is green space. The Common is approximately 1620 acres in size. It is located in the north of the County. I now have produced and shown to me at page 1 and 2 of Exhibit "IH4" a local map, identifying the Common and its location within the greater area of Surrey and a plan with the Common edged in red, but with areas marked in green. The areas marked in green are not owned by the Council and are not to be part of the injunction application. I also attach Office Copy Entries at pages [3- **IH4** the various parcels of land that make up the Common; namely Title No. SY676014 (Common land at Chobham), Title No. SY779824 (land on north east side of Windsor Road) and Title No. SY676315 (common land at Chobham Common).
14. Although the Common is owned by the Council, it is managed on our behalf by the Surrey Wildlife Trust, albeit the Council retains responsibility for incursions of the types described in this statement.
15. The Common is a site of Special Scientific Interest. It is a Grade 1, [Nature Conservation Review Site](#) and a [National Nature Reserve](#). It is part of the Thames Basin

been experienced in the past, as that will inform the Court as to whether there is a risk of

21. As I have indicated the Common has suffered damage, particularly as a result of waste depositing and fly-tipping. It has also suffered damage due to the being driven on by

£1000 plus per day in revenue to the fly-tippers who collect a vehicle load for £200 plus and then discard it on open sites owned by the Council and other private landowners.

of the blockers and the desire not to return to their use, that this fresh injunction into protect the Common is being pursued.

A Balanced Approach for the Future:

29. Obviously obtaining a protective injunction over the Common will reduce the green space that Persons Unknown and in particular the Gypsy & Traveller Community can occupy, however even with the Common protected there would be many other green spaces within the County that could be occupied as an alternative, which would not have such an adverse effect on a site designated of special interest and natural beauty. This application is not of the type that I am aware other authorities have applied for, which covers all green spaces in the area. I am obviously not inviting acts of trespass, but I appreciate that the particular nomadic lifestyle that the Gypsy and Travelling Community adopt has to be respected, but not on the Common.

30. It is also important that the Court is made aware that if, following the grant of a fresh injunction Persons Unknown come onto the Common, the Council will recognise that they still have an ongoing responsibility to undertake an assessment to determine whether there is any possible health and welfare needs that need to be addressed. It should not be thought that just because we may secure the future protection of the Common by virtue of a fresh injunction, we will not carry out our duties and undertake appropriate enquiries and assessments so as to ensure where a particular need arises it is properly addressed. For that reason, the proposed Injunction Order, makes clear that even if someone comes onto the Common, the Council will undertake a welfare assessment. This will include properly assessing any person who is in need, even if they have come onto the Common, in breach of this Order.

Seeking an Injunction

31. I am advised that when a Court considers an interlocutory injunction, whether the injunction is seeking to prevent a trespass or breach or is reacting to an act of trespass or breach, the Court is obliged to have regards to the tests set out in the case of *American Cyanamide v Ethicon* which broadly states that (1) if there is a serious issue is identified which cannot be add (spa)3rt05.(by29 (a)4)-37 (c05.((ga)-(on)¶ ()-4ry29 (a6)¶J (a6)d(m)-2ag(th

32. There can be no question that a serious issue is before the Court; namely the strong probability that with the expiry of the 2019 Injunction, the problems that that injunction so successfully addressed could arise again. That would be very unfortunate because there can be no doubt that any acts of occupation or waste depositing by persons trespassing and causing a nuisance on the Common, would seriously affect the quality of the Common. . This arises not just by virtue of the trespassing encampments being established, but also as a result of littering and fly-tipping. Even if, which of course is not the case, the trespass could be met by the payment of fees, giving the person a right to occupy, the devastation to the lawful users of the Common could not be reimbursed to the Council. Nor obviously could damages ever reimburse for the ecological damage to the vegetation and animals on the Common.

The Proposed Order

33. Since there is very clearly a serious issue, where damages cannot act as an adequate remedy and the balance of convenience is firmly in the Council's favour, I do respectfully request the Court grant the fresh injunction sought in the terms of the draft Order presented as part of the application paperwork.
34. The proposed Order seeks to prevent vehicles such as caravans and mobile homes as well as vans and lorries coming onto the Common for the purposes of residing or depositing waste. Nothing in the proposed Order restricts driving on the Common, to gain access to various areas of natural beauty. It is simply seeking to prevent the Common from being occupied as an encampment and / or waste depositing. The proposed Order does not have the effect of restricting in any way the lawful activities of anyone outside the terms of the Order.
35. The proposed Order is sought for an initial period of 3 months. I understand that this is slightly longer than is commonly the case where an initial interim injunction is obtained. The three-month period will enable the Council to assess whether the injunction is working. It will also assist anyone who wishes to join the proceedings as a defendant to prepare for a hearing. Of course, there would be nothing to stop any individual applying on short notice (the Order proposes 72 hours) to the Court to set aside or vary the existing Order if it felt the order was unfair and needed to be set aside as having been wrongly obtained over all the protected areas or specified areas.

42. I confirm the contents of this Witness Statement is true.



.....

IAN HORGAN

Dated 16th day of August 2022