Neutral Citation Number: [2025] EWHC 1458 (KB)

Case No: KB-2025-001505

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13 June 2025

Before :

ALISON MORGAN KC
(sitting as a Deputy High Court Judge)

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Between :

EAST HERTS DISTRICT COUNCIL	**Claimant**
- and -	
(1) PATRICK JOSEPH FLYNN	
(2) SELINA DIANA O'LEARY	
(3) BJS SPORTS LIMITED	
(4) BILLY JOE SAUNDERS	**Defendants**

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Mark O'Brien O'Reilly (instructed by **Sharpe Pritchard LLP**) for the **Claimant**
Charles King (instructed by **Couchman Hanson Solicitors**) for the **Defendants**

Hearing date: 4 June 2025

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Approved Judgment

This judgment was handed down remotely at 10.30am on 13 June 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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ALISON MORGAN KC

Alison Morgan KC:

1. This is a Part 8 claim in which the Claimant seeks final injunctive relief pursuant to section 187B of the Town and Country Planning Act 1990 ("the Act"). The relief sought is of both a prohibitory and a mandatory nature.

2. The claim concerns land known as Long Leys, Fanshaws Lane, Brickendon, Herfort, SG13 8PG ("the Land"). The title number registered at the Land Registry is HD585515. The registered owner of the Land (according to the Land Registry Title) is the Third Defendant, BJS Sports Limited. The Fourth Defendant, Mr Billy Joe Saunders, was a director of that company for a period of time and Council Tax records indicate that he was the owner of the property. For the reasons that are set out below, proceedings against the Fourth Defendant have now been discontinued.

3. The Land is occupied by the First and Second Defendants who are Mr Patrick Joseph Flynn and Ms Selina Diana O'Leary. They live there together with their two children, aged 10 and 14 years old. Their youngest child goes to a local school and is in her last year of primary school. Their older child goes to a secondary school.

4. Although the Claimant has not always accepted that the Defendants and others associated with the Land have Gypsy and Traveller status for the purposes of the National Planning Policy for Traveller Sites, it appears to be common ground that in the resolution of these proceedings, I can proceed on the basis that the First, Second and Fourth Defendants have Gypsy and Traveller status.

5. The Land is located within the Metropolitan Green Belt and the Brickendon Conservation Area. It is an area of agricultural pastureland, woodland and forms part of the Long Leys Estate. The Land is outside the village of Brickendon and is located close to a Grade II listed property and several residential properties.

6. The Land is currently occupied by a large chalet style caravan; a touring caravan; a large camper van; a number of motor vehicles and a low loader; along with items of residential paraphernalia. An area of hardcore has been laid on the land to provide a base for the chalet style caravan and to provide a parking area.

7. The Claimant submits that there have been actual and apprehended breaches of planning control at the Land. For the reasons set out below, there is now no dispute that such breaches have occurred. The Claimant wishes to use the injunction sought to remedy those breaches to secure compliance with an Enforcement Notice issued in respect of the Land on 4 February 2020.

Chronology

8. A complaint was received of unauthorised laying of hardstanding on the Land in September 2018. The Claimant carried out a site visit in October 2018 and it became apparent that a static caravan/chalet had been placed on the hardstanding.

9. In November 2018, a retrospective planning application was made, seeking planning permission for the creation of a hardstanding and the siting of a mobile home on the Land. This application was refused by the Claimant on 1 February 2019. The reasons given for the refusal were as follows:

> "The development which is the subject of this application constitutes inappropriate development within the Green Belt. In addition to the harm by inappropriateness, other harm is identified in relation to the loss of openness and harm to the character and appearance of the Brickendon Conservation Area. The harm by reason of the inappropriateness and other harm identified, is not clearly outweighed by other material planning considerations such as to constitute the very special circumstances necessary to permit inappropriate development in the Green Belt. The existing development is therefore contrary to policies GBR1, DES4, and HA4 of the East Herts District Plan 2018 and the National Planning Policy framework."

10. A second planning application was submitted in similar terms and was refused by the Claimant on 10 December 2019, for similar reasons.

11. An Enforcement Notice was issued by the Claimant, pursuant to section 172 of the Act on 4 February 2020. This Notice was served on the Fourth Defendant, Mr Saunders, the Land and two other named individuals who are not defendants in these proceedings.

12. The Enforcement Notice took effect on 3 March 2020, with four months given for compliance. It required those named to:

    i) Cease the use of the Land as a residential caravan site;

    ii) Remove the caravan from the Land;

    iii) Excavate all the material used to create the hardstanding; and

    iv) Following compliance with (i) to (iii) above, remove from the Land all the resultant debris and restore the Land to its condition prior to the hardstanding being created.

13. An appeal was lodged against the refusal of planning permission and the issuing of the Enforcement Notice. The Fourth Defendant was a party to that appeal. The First and Second Defendants were present during the course of the appeal. The Inspector appointed by the Secretary of State proceeded on the basis that the First and Second Defendants were, at that time, in occupation of the site and had been since 2019.

14. The appeal hearing was held on 19 October 2021. The appeals against planning permission and the issuing of the Enforcement Notice were dismissed on 28 April 2022.

15. The Inspector concluded that although she gave significant weight to the interests of the children in acquiring a settled home on the site, from which the younger child could attend school locally, and that the contribution of the site to meeting the accommodation needs of gypsies and travellers in the area attracted considerable weight, the factors in favour of allowing the appeals were not of such sufficient weight as to clearly outweigh the harm to the Green Belt and other harm arising from the development, such that the necessary '*very special circumstances*' existed to justify allowing the appeals.

16. The Inspector found the development to be inappropriate in the Green Belt because it did not preserve openness and was inconsistent with the Green Belt purpose of safeguarding the countryside from encroachment.

17. The Inspector considered the demand and supply of traveller sites in the Claimant's area. Based on the information provided by the Claimant at that time the Inspector was "*… not persuaded that there is a significant unmet need in the East Hertfordshire district at present, or that the Council has not made adequate provision for a 5 year supply of deliverable sites*" and that "*... it is clear that sites have been coming forward in satisfaction of the relevant policy criteria and I have no grounds to conclude that this could not continue, or that there is any overall policy failure in the district*."

18. The Inspector concluded that it did not seem unlikely that an alternative site could be found, but that this was likely to take some time. In order to minimise any disruption in the schooling of the children of the First and Second Defendants, the Inspector extended the period for compliance by 16 months until 28 August 2023, to allow for the completion of the following academic year.

19. In the 21 months since that date for compliance identified by the Inspector, no steps have been taken by the Defendants to comply with any part of the Enforcement Notice.

20. Although the Enforcement Notice did not identify the First and Second Defendants by name, they were fully aware of the terms of the notice, given their attendance at the appeal, where their interests were taken into consideration by the Inspector. Further, pursuant to section 179(4) of the Act, the First and Second Defendants are in occupation of the Land and therefore have "*control of or an interest in the land to which an enforcement notice relates*". It follows that they were required to comply with the terms of the Enforcement Notice.

The Proceedings

21. The Claim Form was issued on 17 April 2025. Certificates of Service indicate that the papers together with an email informing the Defendants of the hearing date, were served on all of the Defendants on 9 May 2025 with the date of service being 13 May 2025.

22. The Defendants were required to file and serve an Acknowledgment of Service on the Court and the Claimant within 14 days of service of the Claim Form, pursuant CPR 8.3(1)(a), so by 27 May 2025.

23. The Defendants did not file an Acknowledgement of Service. They have not submitted any written evidence at any stage in these proceedings.

24. The Defendants' first engagement in this matter came on 28 May 2025, when solicitors acting on behalf of the Defendants filed with the Court a N434 Notice of Acting. The solicitors indicated that the Defendants would be represented by Counsel at the hearing on 4 June 2025.

25. Bundles and written submissions were carefully and helpfully created by the Claimant and were submitted to the Court in advance of the hearing.

26. A skeleton argument prepared on behalf of the Defendants was received by the Court on 4 June 2025, the day of the hearing.

27. It is clear that Mr King, acting on behalf of the Defendants, and his instructing solicitor sought to provide as much assistance to the Court as was possible in the circumstances, given the late stage of their instruction and the absence of earlier engagement by the Defendants.

28. The Court is extremely grateful to both Counsel for the assistance provided. As a result of further negotiations between the parties at court on 4 June 2025, an agreement as to the terms of the proposed order for an injunction emerged.

29. On the basis of the pragmatic approach being adopted by the parties at the hearing and the need to make progress in this matter, the Court gave permission for Defendants to take part in the hearing, pursuant to CPR 8.4(2), notwithstanding the failure to serve an Acknowledgement of Service or any written evidence.

30. In the final outcome, the parties provided the Court with an agreed proposed draft of the Injunction Order. Notwithstanding their agreement as to the form of that order, the Court must consider whether or not it should exercise its discretion to make such an order. In order to reach a decision in this regard, I sought further assistance from the parties on some matters of detail which are addressed below.

31. At the conclusion of the helpful oral submissions, I indicated that I would grant the final injunction in the terms of the draft before me, with reasons to follow. These are my reasons.

The Evidence

32. There is no dispute that the evidence relied upon by Claimant establishes that there have been actual breaches of planning control at the Land and that there has been no compliance with the Enforcement Notice.

33. The breaches of planning control identified on the Land are "*the material change of use of land to a residential caravan site including the siting of a large static home, a touring caravan and a motor home and the storage of motor vehicles*" and "*unauthorised operational development on the land in the form of the creation of an area of hardstanding, again without planning permission.*"

34. Paul Johnson, the Claimant's Senior Planning Officer, has provided a statement dated 18 February 2025 and accompanying exhibits, which explain his attendance at the Land on 7 May 2024. Mr Johnson took photographs of the Land showing that the Enforcement Notice had not been complied with. The hardstanding had not been removed. A static caravan (chalet) was positioned on top of the hardstanding. A further mobile home was also on the site, together with other vehicles, a trailer and other residential paraphernalia. The photographs show that the First and Second Defendant were living on the Land with their family.

35. The First Defendant was spoken to and given a letter from the Claimant's Legal Department. Mr Johnson advised the First Defendant that he may require some legal advice. The letter contained a chronology of the contact that had been made with the First and Second Defendants in July and August 2023, in order to provide them with assistance in relation to housing options. The letter also indicated that the Claimant was taking the necessary steps to start injunction proceedings against the Defendants for non-compliance with the Enforcement Notice. It reminded the First and Second Defendants of a telephone number that they could call if they wished to discuss their housing options and recommended that they seek independent legal advice.

36. During the course of the hearing before me, Mr King on behalf of the Defendants indicated that the First and Second Defendants have problems with reading and writing which have limited their ability to engage in these matters in a timely manner. I recognise the significant challenges that this may present for them in many areas of their lives. However, I am not satisfied that this provides a proper explanation for their failure to comply with the Enforcement Notice and for their failure to engage with the Claimant in seeking to resolve this matter.

37. Edward Evans, the Claimant's Planning Enforcement Officer, has provided a statement and accompanying exhibits, setting out his attendance at the Land on 30 January 2025. At the time of his visit, the static caravan (chalet) was still positioned on the hardstanding. No one was obviously present at the time, but it was clear that the caravan was occupied and in use. A further mobile home was on site, along with vehicles and other residential paraphernalia. In short, no steps had been taken to comply with the Enforcement Notice.

38. Mr Evans attended the Land again on 25 February 2025. He spoke to the First Defendant and his son. The First Defendant was provided with welfare information including a GP surgery list and a housing options advice document. The Claimant has indicated to me that this document would have explained to the First Defendant who he needed to contact in order to seek assistance with housing options. Mr Evans asked the First Defendant a number of welfare questions about the occupants of the Land. The First Defendant identified that he had heart problems but was not taking any specific medication at that time and he explained where his children attended school.

39. Jon Wragg is the Claimant's Planning Enforcement Team Leader. He has provided a statement and accompanying exhibits. He carried out checks for Land Registry and Council Tax information. In his statement, Mr Wragg sets out what he refers to as 'Human Rights/Equality Considerations'. He makes reference to the Claimant's public sector quality duty under section 149 of the Equality Act 2010, requiring the Claimant to have due regard to the elimination of unlawful discrimination, to advance equality of opportunity and to foster good relations with those who have a protected characteristic. He has considered the potential impact of the making of a prohibitory injunction on those from the Gypsy and Traveller community. In particular, Mr Wragg has provided an updated summary of the Claimant's current position in terms of the accommodation needs of Gypsies, Travellers and the Travelling Show community in the Claimant's district, together with the East Herts Gypsy and Traveller Accommodation Needs Assessment dated May 2022.

40. As Mr O'Brien O'Reilly accepted on behalf of the Claimant, these documents indicate that there is a current inability to meet all of the identified accommodation

needs of the Gypsy and Traveller community in the Claimant's area. This differs somewhat to the position as it was understood by the Inspector in early 2022, who proceeded on the basis that there was no clear evidence of an inability to meet the accommodation needs of that community. The Claimant submits that there are policies in place which seek to address this shortfall and further, that there is always the option for the Defendants to move to an alternative site and then to make a planning application in relation to that site, a step which has not been attempted by the Defendants to date.

41. The Claimant also submits that the Defendants have provided no evidence as to the steps that they have taken to secure alternative accommodation and any difficulties that they have encountered. On behalf of the Defendants, Mr King has indicated that the First and Second Defendants do not know where they plan to move to at this time. They are engaging with the housing services, but there is a shortage of supply at present.

42. Mr Wragg's statement also indicates that consideration was given as to whether the Claimant should take steps to carry out the required work to remove the breaches of planning control, pursuant to section 178 of the Act. The Claimant submits that this would be an unnecessary expense for the public purse and that it is reasonable for the Claimant to expect the Defendants to undertake the required works.

43. Notwithstanding the lack of compliance with the Enforcement Notice, the Defendants have not been prosecuted for non-compliance pursuant to section 179 of the Act. In addressing this issue at the hearing, the Claimant submitted that a criminal prosecution was not an effective remedy to the problem presented by the Defendants' actions. Whilst it may have resulted in a criminal sanction against one or more of the Defendants, by way of a fine, it would not have resulted in the removal of the matters that are in breach of planning control from the Land.

The Fourth Defendant

44. At the hearing, the parties agreed that the Fourth Defendant, Mr Billy Joe Saunders, was no longer a director of the Third Defendant company, nor was he an owner or occupant of the Land. It was accepted that Council Tax records suggesting that he was the owner of the relevant Land were no longer up to date. As a consequence, it was agreed that the proceedings against the Fourth Defendant should be discontinued and that there should be no order of costs in respect of the Fourth Defendant. This approach is reflected in the terms of the final Injunction Order.

The Statutory Framework and Legal Principles

45. Section 55(1) of the Act defines "development" as "the carrying out of building, engineering, mining or other operations in, on, over or under land" (operational development) or "the making of any material change in the use of any buildings or other land" (material change of use).

46. Section 57(1) of the Act provides that "planning permission is required for the carrying out of any development of land."

47. Section 171A(1)(a) of the Act provides that "carrying out development without the required planning permission" is a breach of planning control.

48. Section 172(1) of the Act provides that a Local Planning Authority ("LPA") may issue an Enforcement Notice "where it appears to them — (a) that there has been a breach of planning control; and (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations."

49. Section 174(1) of the Act provides for the right to appeal to the Secretary of State against an Enforcement Notice. The grounds of appeal are set out in section 174(2) of the Act. An appeal must, pursuant to section 174(3), be made before the Enforcement Notice takes effect.

50. Section 178(1) of the Act provides the LPA with the power, "Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice", to enter the Land to "take the steps" and "recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so."

51. Section 179(1) of the Act provides that "Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice."

52. Section 179(2) of the Act provides that "Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence."

53. Section 179(4) of the Act provides that "A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on."

54. Section 179(5) of the Act provides that "A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence."

55. Section 181(2) of the Act provides that "Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice."

56. Section 285(1) of the Act provides that "… The validity of an enforcement notice shall not, except by way of an appeal under Part VII, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought."

57. Section 187B(1) of the Act provides that "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."

58. Section 187B(2) of the Act provides that "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."

59. Section 37(1) of the Senior Courts Act 1981 provides that "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."

60. The leading authority on the application of section 187B of the Act is *South Buckinghamshire District Council v Porter & Others* [2003] 2 A.C. 558 ("*South Bucks*"). As was noted by Lord Bingham at §§27-28:

> "27. The jurisdiction of the court under section 187B is an original, not a supervisory, jurisdiction. The supervisory jurisdiction of the court is invoked when a party asks it to review an exercise of public power. A local planning authority seeking an injunction to restrain an actual or apprehended breach of planning control does nothing of the kind. Like other applicants for injunctive relief it asks the court to exercise its power to grant such relief. …
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> …
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> 28. The court's power to grant an injunction under section 187B is a discretionary power. The permissive "may" in subsection (2) applies not only to the terms of any injunction the court may grant but also to the decision whether it should grant any injunction. It is indeed inherent in the concept of an injunction in English law that it is a remedy that the court may but need not grant, depending on its judgment of all the circumstances. …"

61. In *South Bucks* it was also held at §31 that:

> "… When an application is made to the court under section 187B, the evidence will usually make clear whether, and to what extent, the local planning authority has taken account of the personal circumstances of the defendant and any hardship an injunction may cause. If it appears that these aspects have been neglected and on examination they weigh against the grant of relief, the court will be readier to refuse it. If it appears that the local planning authority has fully considered them and none the less resolved that it is necessary or expedient to seek relief, this will ordinarily weigh heavily in favour of granting relief, since the court must accord respect to the balance which the local planning authority has struck between public and private interests. …"

62. Lord Scott, who agreed with Lord Bingham, observed as follows at §99:

> "The criteria that govern the grant by the court of the injunction make clear, in my opinion, that the court must take into account all or any circumstances of the case that bear upon the question whether the grant would be "just and convenient". Of particular importance, of course, will be whether or not the local planning authority can establish not only that there is a current or apprehended breach of planning control but also that the ordinary statutory means of enforcement are not likely to be effective in preventing the breach or bringing it to an end. In a case in which the statutory procedure of enforcement notice, prosecution for non-compliance and exercise by the authority of such statutory self-help remedies as are available had not been tried and where there was no sufficient reason to assume that, if tried, they would not succeed in dealing with the breach, the local planning authority would be unlikely to succeed in persuading the court that the grant of an injunction would be just and convenient."

63. In *Ipswich Borough Council v Fairview Hotels (Ipswich) Limited* [2022] EWHC 2868 (KB) ("*Ipswich*"), Holgate J summarised the effect of the *South Bucks* case as follows [§88]:

> "… an LPA cannot exercise the power to apply for an injunction under s. 187B unless they consider it "necessary or expedient" to restrain a breach of planning control by injunction. Based on the clear language of the statute, it was common ground that the claimants in this case had to be satisfied not only that it was necessary or expedient to take enforcement action … but also that it was necessary or expedient to do so in this particular way, by seeking an injunction, rather than by other methods of enforcement. …"

64. Holgate J adopted Lord Bingham's analysis of the statutory framework in *South Bucks*. At §93, of *Ipswich*, he then summarised the principles from the judgment as follows:

> "i) The need to enforce planning control in the general interest is a relevant consideration and in that context the planning history of the site may be important. The "degree and flagrancy" of the breach of planning may be critical. Where conventional enforcement measures have failed over a prolonged period the court may be more ready to grant an injunction. The court may be more reluctant where enforcement action has never been taken;
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> ii) On the other hand, there might be urgency in the situation sufficient to justify the avoidance of an anticipated breach of planning control;
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> iii) An anticipatory interim injunction may sometimes be preferable to a delayed permanent injunction, for example, where stopping a gypsy moving on to a site in the first place, may involve less hardship than moving him out after a long period of occupation;
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> iv) While it is not for the court to question the correctness of planning decisions which have been taken (e.g. decisions to refuse a planning permission or to dismiss an appeal), the court should come to a broad

view as to the degree of environmental damage resulting from the breach and the urgency or otherwise of bringing it to an end;

v) The achievement of the legitimate aim of preserving the environment does not always outweigh countervailing rights (or factors). Injunctive relief is unlikely to be granted unless it is a "commensurate" remedy is [*sic*] the circumstances of the case;

vi) It is the court's task to strike the balance between competing interests, weighing one against the other."

65. In relation to the best interests of any children affected by the Part 8 claim, in *ZH v Secretary of State for the Home Department* [2011] UKSC 4 ("*ZH*"), the Supreme Court held that although the best interests of a child have to be treated as "a primary consideration", that is not the same as "the primary consideration" or "the paramount consideration" [§25].

66. *ZH* was applied in a planning context in *Stevens v Secretary of State for Communities and Local Government* [2013] EWHC 792 (Admin) where the High Court held that [§69(iv)]:

> "Once identified, although a primary consideration, the best interests of the child are not determinative of the planning issue. Nor does respect for the best interests of a relevant child mean that the planning exercise necessarily involves merely assessing whether the public interest in ensuring planning controls is maintained outweighs the best interests of the child. Most planning cases will have too many competing rights and interests, and will be too factually complex, to allow such an exercise."

67. I have considered the following additional authorities: *Great Yarmouth Borough Council v Al-Abdin* [2022] EWHC 3476 (KB); *Vale of White Horse District Council v Winter* [2022] EWHC 2313 (QB); *Epping Forest DC v Halama* [2023] EWHC 2906 (KB); and *Chelmsford City Council v Mixture* [2024] EWHC 1006 (KB). These have been of assistance in addressing the core principles that I must apply in this case.

Whether the injunction should be ordered

68. As indicated above, it is agreed that I should make the injunction order in the terms agreed by the parties.

69. Notwithstanding this agreement, I have considered whether or not it would be proportionate to grant the injunction, taking into account all of the circumstances of the case.

70. I have considered whether it is necessary and expedient for the Claimant to seek to restrain the accepted breaches of planning control by way of an injunction, rather than by other methods of enforcement.

71. I have considered the degree and flagrancy of the breaches of planning control involved in this case.

72. The First, Second and Third Defendants have all been aware that their activities in relation to the Land constituted a breach of planning control from 2019 onwards. Any ambiguity in this regard was resolved emphatically by the dismissal of their appeals against the refusal of planning permission and the Enforcement Notice in April 2022. The Inspector's decision was clear and it made specific allowance for the additional time that might be needed by the Defendants to leave the site and to find suitable accommodation elsewhere, avoiding unnecessary disruption for the children involved.

73. The Defendants did not comply with the Enforcement Notice and took no steps to secure alternative accommodation. They ignored the assistance offered to them by the Claimant in 2023 to find alternative housing. They also ignored the warning that was given in May 2024 as to the prospect of an injunction being sought if there was no compliance with the Enforcement Notice.

74. In the year that has followed, they have taken no steps to comply with the Enforcement Notice.

75. I note that the Claimant did not seek to remedy the position itself by removal of the site. Nor did it seek to prosecute any or all of the Defendants for non-compliance of the Enforcement Notice. Whilst these are steps that could have been taken by the Claimant as alternatives to seeking an injunction, I accept the submission of the Claimant that neither route would have led to an appropriate or proportionate remedy in the circumstances of the case. The former would have involved considerable public expenditure. The latter would have involved a criminal sanction and would not have achieved the objective of removing the materials from the site which amounted to breaches of planning control. I consider that there was good and sufficient reason for the Claimant to conclude that neither remedy was an appropriate way of dealing with the breaches.

76. I have considered the three planning decisions that have been made in relation to the Land, in particular the fully reasoned decision of the Inspector appointed by the Secretary of State. Whilst it is not for the Court to determine the merits of those planning decisions, the Court must consider whether the appropriate balance is struck between the public interest in securing the enforcement of planning policy and any private interests of individuals who are allegedly in breach of the planning control.

77. The Land is located outside of the village boundary of Brickendon which is defined by the East Herts District Plan 2018 as a Group 2 Village. This policy designation means that development should only take place within the settlement boundary as defined on the Policies Map. The unauthorised development is not within that boundary. The Land is also located within the Brickendon Conservation Area and within the Metropolitan Green Belt. Planning permission was refused because the development constituted inappropriate development within the Green Belt for which very special circumstances had not been demonstrated.

78. I am satisfied that the material change of use of the Land for the stationing of caravans used for residential purposes is harmful to the intrinsic character and appearance of the area.

79. Plainly, the needs of the First and Second Defendants' children and the overall accommodation needs of the family are extremely important countervailing

considerations. I must balance these interests in determining whether it is proportionate to order the injunction sought. The interests of the First and Second Defendants' family are an important matter impacting on the way in which the Court exercises its discretion, but they cannot be determinative of the outcome. I must balance these features against the necessity and expediency of the relief sought in arriving at a proportionate outcome. I note in this regard that there is no evidence which has been placed before the Court by the Defendants as to any particular hardship that they will encounter as a result of the injunction.

80. The proposed order has been amended to extend the period for compliance by nine months. This envisages allowing six months for removal of the static home/chalet and other paraphernalia on the site, followed by a further three months to remove the hardstanding. I am satisfied that this period of time will allow the First and Second Defendants to seek alternative accommodation and to address the schooling needs of their children.

81. I have concluded that the proposed injunction is necessary in order to uphold the integrity of the planning system as conventional enforcement measures have proven ineffective in resolving what is a clear breach of planning control.

82. Whilst I acknowledge that the injunction will impact on the lives of the First and Second Defendants and their family, I consider that it is a commensurate and proportionate remedy in the circumstances.

Conclusion

83. The evidence demonstrates that the breaches of planning control will continue unless and until effectively restrained by the Court and that nothing short of an injunction will provide effective restraint.

84. An injunction is necessary to prevent further harm from occurring and to address the harm which has occurred. The injunction, in the draft order placed before me, is proportionate having had regard to the interests of the Defendants.

85. For these reasons, I will grant a final injunction, with both prohibitory and mandatory elements.

Costs

86. On behalf of the Defendants, Mr King accepts that the Claimant is entitled to its costs of the claim. However, he has disputed the justification for some of the matters set out in the Claimant's Statement of Costs. In particular, he has disputed the fees claimed on behalf of counsel, Mr O'Brien O'Reilly.

87. I have considered the Claimant's Statement of Costs, the sum apportioned to counsel and the 'Schedule of work done on documents'.

88. In my view, the work conducted by counsel was entirely necessary, given that Mr O'Brien O'Reilly was required to prepare this case on the basis that the Part 8 Claim was to be contested. The amount of work conducted by counsel is evident from the

detailed written submissions and the bundles that have been produced for the Court. Further, the fees claimed for this work are reasonable and proportionate.

89. As indicated in the proposed order, costs of £16,609 are payable by the First and Second Defendants within 14 days, by 27 June 2025.