

Neutral Citation Number: [2022] EWHC 1486 (Ch)

Case No: PT-2022-MAN-000056

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN MANCHESTER
PROPERTY, TRUSTS AND PROBATE LIST (ChD)

Manchester Civil Justice Centre
1 Bridge Street West
Manchester
M60 9DJ

Date: Tuesday, 24th May 2022

Before:

MR JUSTICE FANCOURT
Vice-Chancellor of the County Palatine of Lancaster

Between:

- (1) WALLEYS QUARRY LIMITED
- (2) SHARE PROPERTIES LIMITED
- (3) RED INDUSTRIES (STOKE) LIMITED
- (4) RED INDUSTRIES LIMITED

Claimants

-and-

ANGELA WINT AND OTHERS
(AS SET OUT IN THE AMENDED SCHEDULE OF DEFENDANTS)

-and-

(1) PERSONS UNKNOWN OBSTRUCTING OR INTEFERING WITH ACCESS
TO AND FROM WALLEY'S QUARRY ON CEMETERY ROAD,
NEWCASTLE UNDER LYME

-and-

(2) PERSONS UNKNOWN ENTERING OR ATTEMPTING TO ENTER ONTO
THE LAND AND BUILDINGS KNOWN AS BOROUGH HOUSE, BOROUGH
ROAD, NEWCASTLE UNDER LYME WITHOUT THE PERMISSION OF
THE SECOND OR FOURTH CLAIMANT

-and-

(3) PERSONS UNKNOWN INTENDING OR THREATENING TO ENTER OR
ATTEMPTING TO ENTER ONTO THE PROPERTY KNOW AS SNEYD
HILL TREATMENT AND TRANSFER STATION, UNIT B1 – B3 SNEYD
HILL, STOKE ON TRENT

Defendants

MR NEIL BERRAGAN (instructed by **Cameron Mckenna Nabarro Olswang**) for the
Claimants

Approved Judgment

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MR JUSTICE FANCOURT:

1. I have before me today applications in relation to a property known as Walleys Quarry, Cemetery Road, Silverdale, Newcastle-under-Lyme, Staffordshire. Over a number of months, if not longer, the property has been the subject of sporadic protests by local people complaining about the stench produced by operations on the landfill site there that is operated by the claimant companies. The protests reached a sufficient regularity, both at Walleys Quarry and also at the claimant companies' head office in the town of Newcastle-under-Lyme, that the claimants felt it necessary to come to court in April to seek injunctive relief to restrain the protests insofar as they were interfering with the claimants' ability to conduct their business lawfully on their premises. The claimants rightly accept that, insofar as any of the named defendants or any other persons wish to protest peacefully in the vicinity of those properties, but without either trespassing or creating a nuisance, they are perfectly entitled to do so.
2. The matter came before His Honour Judge Pearce on 28 April 2022, at which hearing Dr Salt, who is also present before me today on behalf of the named defendants, and a number of the other named defendants attended. The claimants sought injunctive relief on that occasion, but Judge Pearce was not satisfied that all the named defendants had been given adequate notice of the hearing, and so he granted relief in favour of the claimants against the named defendants and persons unknown over until a hearing of the matter before me today and tomorrow.
3. In the meantime, Dr Salt and all the other individually named defendants have managed to reach agreement with the claimants, and there was put before me this morning a signed consent order in which the defendants submit to final injunctive relief. This is to be granted up to a date in 2026, which is expected to be the date when the waste disposal operations on Walleys Quarry come to an end. The proceedings have therefore been resolved as between the claimants and the named defendants on the terms that they have agreed, which are essentially injunctive relief in favour of the claimants restraining unlawful activity by any of the defendants at Walleys Quarry, or at the headquarters building in Newcastle-under-Lyme, on the basis that there is no order as to costs.
4. The application as originally brought and pursued before me today is also against persons unknown, whom Dr Salt does not and cannot represent, but the claimant wishes to have relief against persons unknown in case of a further unlawful protest taking place by persons other than the named defendants. By 'unlawful protest' I mean a protest that uses unlawful behaviour – there is no suggestion that protesting of itself is unlawful. The claimants had been hoping to obtain a final injunction today against persons unknown, in the same way that by consent they were able to do so against the named defendants. But, as it has transpired, notice of the hearing today and service of the claim form by substituted service against persons unknown was only effected a few days ago. Therefore, it cannot yet be said that any of the persons unknown are in default of the requirement for acknowledgement of service.
5. In those circumstances, what the claimants seek today is interim injunctive relief in substantially the same terms as the injunctions to be granted against the named defendants. And, in the event that there are no acknowledgements of service by persons currently unknown within 14 days of the deemed service of the claim form on them, then the claimants are of course entitled to make an application for final judgment. I have indicated that in the circumstances they may do so seeking a final order on paper

rather than at a further hearing. Of course, if one of the persons unknown does identify themselves and wishes to defend the claim, then they will be added as a named defendant to the claim and there will have to be a further hearing.

6. So far as today is concerned, I am satisfied that Judge Pearce decided that persons unknown were appropriately served with notice of the original hearing before him, and Mr Berragan has shown me in the evidence that the order that Judge Pearce made for service of his order of 28^h April 2022, which adjourned the application to today's date, was served in accordance with by serving the order first by email to thelandfillstinks@gmail.com, secondly by publication of Judge Pearce's order on the claimant's website, and thirdly by displaying copies of the order at the quarry entrance and outside the entrances to the car park at the claimant's headquarters building. Persons unknown were therefore appropriately on notice of the hearing today, but no-one else has attended and identified themselves seeking to defend the application.
7. In those circumstances, I must consider whether it is appropriate in their absence to grant the injunctive relief sought. I have read the written evidence filed by the claimants, both for the original hearing before Judge Pearce and also further evidence updating matters to today. I am perfectly satisfied, having read that evidence, that there is a proper case for granting injunctive relief. There is certainly an arguable case that some of the activities went beyond what is merely lawful protest, that damages at a later date, if recoverable, would still not be an adequate remedy for the claimants, and that the balance of convenience favours the grant of injunctive relief. I am satisfied that there is a risk of recurrence of unlawful activity by persons unknown and that the grant of an interim injunction against them is appropriate
8. Mr Berragan has taken me through a draft order that he prepared with a view to seeking final injunctive relief against persons unknown, and the Court has indicated various changes that should be made to that draft to make it appropriate for interim injunctive relief.
9. Subject to those points that have been mentioned and will be picked up in a further draft that Mr Berragan or his instructing solicitors will prepare and send to my clerk, I am satisfied that it is appropriate to grant injunctive relief in the terms identified. I am satisfied that the terms of the interim injunction are not such as to restrain lawful protest, and even if Articles 10 and 11 of the Convention are engaged by the attempt to restrain only unlawful activity (given that there is no problem with a lawful protest on the immediately adjoining land), nevertheless the private rights and the Article 1 Protocol 1 rights of the claimants must have priority in these circumstances, given that the only matters that the injunction is seeking to restrain are unlawful activity and legitimate protest can still be carried on in substantially the same locations, but just not on the claimant's property and not in such a way as to create a nuisance to the claimant's occupation of their properties. If it is necessary under Section 12 of the Human Rights Act, because Article 10 rights are engaged, then I am satisfied on the face of it that the claimants are likely, on the balance of probabilities, to succeed at trial, and therefore injunctive relief that impacts on Article 10 rights is permissible at this stage.
10. For all those reasons, I will grant the interim injunction that the claimants seek.

This judgment has been approved by Fancourt J.

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