



Neutral Citation Number: [2021] EWHC 1378 (QB)

Case No: QB-2021-001811

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 24 May 2021

Before :

**THE HONOURABLE MR JUSTICE NICKLIN**

Between :

**City of London Corporation**

**Claimant**

- and -

**Persons Unknown**  
**(as defined in Appendix 1)**

**Defendants**

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**Steven Woolf** (instructed by **Comptroller and City Solicitors Department of the City of London Corporation**) for the **Claimant**  
**The Defendants did not attend and were not represented**

Hearing date: 19 May 2021  
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**Covid-19 Protocol: This judgment was handed down by the judges remotely by circulation to the parties' representatives and BAILII by email. The date of hand-down is deemed to be as shown above.**  
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**Approved Judgment**

I direct that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MR JUSTICE NICKLIN

**The Honourable Mr Justice Nicklin :**

1. On 11 May 2021, the Claimant issued a Part 8 Claim Form against “Persons Unknown”. The Defendants were originally defined in the terms set out in Part A of Appendix 1 to this judgment. Although issued under Part 8, unusually, the Claimant has filed Particulars of Claim dated 10 May 2021.
2. The Claimant originally sought an injunction pursuant to s.222 Local Government Act 1972 (“s.222”) to prevent “*acts of anti-social behaviour*” in parts of Epping Forest to attach a power of arrest, to any injunction the Court granted, pursuant to s.27 Police and Justice Act 2006. During the hearing, the Claimant was forced to adjust its position, quite significantly, upon reconsideration of its standing to bring a claim under s.222.

**Epping Forest**

3. Epping Forest (“the Forest”) comprises some 8,000 acres, the majority of which is made up of conservation land ranging from (i) public amenity land, (ii) sites of special scientific interest, and (iii) a special area of conservation. The Forest is divided into 52 separate Compartments, which are not numbered consecutively, listed in Appendix 2. Following the purchase by the Claimant of the Forest in 1871 and 1872, and the Epping Forest Act 1878, the Forest came to be owned by the Claimant and managed by the Epping Forest Committee as Conservators. By these proceedings, the Claimant seeks an injunction to cover all of the Compartments listed in Appendix 2 excluding those shown struck through (“the Protected Compartments”).
4. Dr Jeremy Dagley, the Claimant’s Head of Conservation for over 26 years, has filed a witness statement which explains that the Forest is an internationally important site for nature conservation, with over 1,600 hectares designated as a Special Area of Conservation. A total of 1,728 hectares is also designated a Site of Special Scientific Interest. The Forest is an ancient wood-pasture with an extensive mosaic of habitats. It supports more ancient trees than any other single site in the UK, with the most ancient beech trees anywhere in western Europe. As a result, Dr Dagley explains that the Forest is one of the most important sites for fungi and insect conservation in the UK. In addition to trees, the Forest also encompasses more than 10% of London’s acid grassland, a scarce and threatened habitat, which nationwide has declined by more than 90% in the last 60 years. The Forest is also home to extensive wetland habitats in the form of large lakes, small ponds and bogs, supporting one of the highest diversities of species at any site in southern England, and is habitat to a substantial number of protected and threatened species.
5. The Claimant is a local authority for the City of London. The Forest is not situated in its administrative area and, in fact, the total area of the Forest falls under the jurisdiction of a total of four other local authorities: Epping Forest District Council and the London Boroughs of Waltham Forest, Newham and Redbridge. The Claimant is therefore bringing these proceedings in respect of the Forest not as the local authority for the area, but as the landowner. This point emerged during the hearing as a result of inquiries about whether any Public Spaces Protection Orders had been made to prohibit anti-social behaviour in the Forest. It was a point of some significance that had a significant impact upon the way that the claim could be framed.

6. As a result, I adjourned the hearing mid-morning to enable Mr Woolf to consider the position. The hearing reconvened in the afternoon. Mr Woolf recognised that an application by the Claimant for an interim injunction could not be made under s.222 and, in consequence, the Claimant could not seek a power of arrest be attached to any injunction under s.27 Police and Justice Act 2006. Mr Woolf presented a revised form of injunction order which recast the claim against 8 categories of defendants as “Persons Unknown” – set out in Part B of Appendix 1 – and modified the terms of the injunction that were sought – set out in Appendix 2. As Mr Woolf immediately recognised, the substantial amendment to the parameters of the Claim (and the Defendants against whom it was brought) would require corresponding amendments to be made to the Claim Form and Particulars of Claim, but I was satisfied that those steps could be taken, if necessary, if the Claimant was successful in obtaining an interim injunction in the terms proposed.

### **Byelaws of the Forest and other powers of the Claimant**

7. Byelaws have been passed in relation to the Forest: the Epping Forest Bye-Laws 1980 and Additional Bye-Laws 1986 (“the Byelaws”). They have been made pursuant to the Epping Forest Acts of 1878 and 1880 and the City of London (Various Powers Act) 1977.
8. The Byelaws contain a comprehensive list of “prohibited acts”, which include, under Byelaw 3:
- “(4) Taking or moving any substance in or from the Forest, save with the previous written consent of the Conservators, PROVIDED that this byelaw shall not apply to the collection in any one day of no more than 12kg of loose, dead or driftwood, of which no piece shall exceed 5cm in diameter and 91cm in length.
  - (5) Damaging or injuring or climbing up or upon any tree or other growing thing in or from the Forest, save with the previous written consent of the Conservators.
  - (6) Making or starting in the Forest any bonfire or other fire of any substance, whether growing or not, and whether intentionally or by negligence without the previous written consent of the Conservators.
  - (7) Placing, throwing, dropping or leaving on the Forest any lighted match or other materials to the danger of the trees or any part of the Forest, whether growing or not.
  - ...
  - (10) Driving, moving, or using a bicycle, tricycle or vehicle upon the Forest to the danger, injury, annoyance or inconvenience of the public.
  - (11) Driving, moving or leaving any vehicle in or on the Forest except:
    - (a) on a highway;
    - (b) within 45 metres of a highway between one hour before sunrise and one hour after sunset for picnic or other pleasure purposes on

the Forest in those parts of the Forest where no notice or sign to the contrary is exhibited by order of the Conservators, PROVIDED that no injury is done to the Forest and provided always that any directions of an officer of the Conservators are obeyed;

- (c) in a vehicle park during those hours prescribed by the Conservators for the parking of vehicles and indicated by notices therein;
- (d) pursuant to a wayleave granted by the Conservators;
- (e) with the prior consent in writing of the Superintendent.

...

(17) (a) Carrying, firing or otherwise discharging any firearm or other weapon of offence, except with the previous written permission of the Conservators or (b) doing anything which may endanger any person or property or (c) acting in any way so as to hinder or interfere with the exercise of their rights of recreation on the Forest.

(30) Dancing in such a manner or accompanied by such a noise that it may be a nuisance or annoyance to the public.

(31) Using or operating any radio, record or cassette-player or other similar instrument in such a manner as to cause a nuisance or annoyance to the public or hinder or annoy them...

(32) Gambling in any form or indulging in indecent or disorderly conduct such as does or is likely to provoke a breach of the peace.

...

(36) Bringing or allowing to be brought or to go upon the Forest, any dog not kept under effective control or not wearing a collar bearing the name and address of the owner.

...

(39) Racing or training or causing to be raced or trained, any horse or any dog upon the Forest. Provided that any dog may be trained in the habits of obedience so long as no nuisance is caused to other users of the Forest.

...

(45) Making any improper or offensive use of any part of the Forest or doing anything tending to the injury or disfigurement thereof or to the defeat of the general purposes of the Epping Forest Act 1878 or these byelaws.

...

- (47) Interfering with or obstructing the Superintendent or any Keeper, Assistant Keeper, Reeve or Assistant Reeve of the Forest or any other office of the Conservators in the execution of his duty.”

Byelaw 5 provides that any person who breaches any of the Byelaws is liable, on summary conviction, to a fine of £200, and in the case of a continuing offence to a further daily penalty not exceeding £20.

### **Incidents of Anti-social behaviour in the Forest**

9. Martin Newnham is employed by the Claimant as the Head Forest Keeper and Head of Enforcement. He is also a Constable of the Corporation and leads a team of 16 other Constables. Amongst their other duties, the Constables are responsible for enforcement of the Byelaws. Mr Newnham works closely with Essex Police on a daily basis to prevent damage to the Forest and to minimise incidents of anti-social behaviour.
10. Mr Newnham has provided a total of three witness statements in support of the Applications made by the Claimant. The first, dated 4 May 2021, and a second, dated 5 May 2021. A further witness statement – his third, dated 20 May 2021 – was provided after the hearing. Mr Newnham attended the hearing. He was able to provide valuable assistance on points that arose, and he has confirmed information that he provided to the Court during the hearing in his third witness statement. It was apparent to me during the hearing that Mr Newnham has substantial experience, extensive and valuable knowledge and a genuine commitment to the welfare and management of the Forest. He clearly is very concerned about threats to the Forest and anxious to pursue all available avenues to protect it.
11. In his first witness statement, Mr Newnham explained that, in 2018 and 2019, there were approximately 4.5 million visitors to the Forest. That figure rose steeply to some 11 million visitors in 2020. Mr Newnham attributes the increase to the national pandemic. The increase in visitors has not been matched with a commensurate increase in the number of Constables. Mr Newnham states that in the period from June to end of September 2020, the Constables were not able fully to control incidents of anti-social behaviour that occurred. He states that many of these incidents involved acts of public nuisance. He and his team refer to incidents of anti-social behaviour under two categories: (a) spontaneous social gatherings (“SSGs”) and (b) unlicensed music events (“UMEs”).
12. UMEs are capable of amounting to a public nuisance in two particular ways. The first is noise disturbance, the second, as explained by Dr Dagley, is damage caused to areas of the Forest. Dr Dagley’s evidence is that one UME, that took place in an ancient woodland glade, near to Chingford, left the area compacted and bare of vegetation, including the loss of small populations of two scarce and localised plant species.
13. Mr Newnham has exhibited a schedule to his witness statement which records incidents of SSG and UME in the period from 2018. Not all SSG and UME incidents of anti-social behaviour are alleged to amount to a public nuisance. As is apparent from the schedule, a meeting of 2 or more people can be recorded as an SSG, but it is not suggested that small gatherings of people amount to a public nuisance.

14. In 2018, there are several recorded incidents of barbecues in July 2018, but the recorded numbers suggest most were small groups of people. The other most common incident recorded in the schedule is the use of motorbikes, dirt bikes and quad bikes. Use of barbecues (or the lighting of fires) and the off-road use of motorbikes/quad bikes in the Forest are breaches of the Byelaws: see 3(6), 3(10) and 3(11)). Mr Newnham explained, at the hearing, that, in the first instance, the Constables adopt a policy of education and encouragement in respect of those who breach the Byelaws. It is only where these efforts fail that recourse is made to enforcement by way of prosecution. In respect of some breaches of the Byelaws, the Constables can issue fixed penalty notices.
15. A similar pattern emerges for 2019, with a preponderance of motor bike/quad bike incidents and barbecues. The largest attended event was a barbecue on 22 April 2019 with 20 people. There were UMEs recorded on 25 May and on 1 and 21 July. The schedule does not indicate the number of people attending these events.
16. In 2020, with the increase of visitors to the Forest, the number recorded incidents is greater. There are the typical incidents of barbecues and campfires and incidents involving motorbikes etc. There were 14 recorded UMEs in 2020: 29 May, 7 June, 24 and 25 June, 5, 11 and 26 July, 1, 7, 30 and 31 August, 15 September and 1 November 2020. The UMEs on 29 May, 7 and 24 June, 5 and 11 July and 30 August are recorded as having been attended by over 100 people. The police were apparently called in relation to the event on 30 August 2020, which is described as a “rave”. Three of the recorded UMEs took place in Compartments in respect of which the Claimant seeks no injunction: the incident on 29 May, one of the events on 11 July in Great Gregories and the incident on 15 September 2020. I have looked at maps of the areas where the other UMEs took place. Whilst some of them are close to residential areas, others are a substantial distance from any homes. Beyond the estimated numbers in attendance, on the evidence, I have no indication of the scale of the event, the precise location, the duration, the extent of any disturbance that was caused, and whether any complaints that were received from householders or others.
17. No doubt reflecting the regulations imposed during parts of the pandemic, the records also include incidents of people socialising or engaged in activities that did not respect social distancing e.g. “*people having picnics on the golf course*”; and “*group of youths drinking and using gas cannisters, not social distancing*”. Some of the recorded behaviour may have been a breach of the regulations in force at the time, but, from the description in the schedule, the incidents do not appear to fall within the conventional definition of anti-social behaviour or nuisance.
18. It is difficult from this evidence to get an impression of the scale of anti-social behaviour, its seriousness and whether any of the incidents, save perhaps the damaging UME identified by Dr Dagley, amounted to a public nuisance. In his first witness statement, Mr Newnham states:

“The UME events are amongst the most worrying incidents of nuisance and anti-social behaviour. This is because of the numbers involved and the noise that can carry for many miles around the Forest causing considerable disturbance. However, it should not be thought that the SSGs are any less concerning, particularly as they too involve large numbers of people, often fuelled by alcohol intent on gathering for eating and drinking around a bonfire or Bar-B-Q. Of course, the vast majority of such gatherings are perfectly peaceful and reasonable and are

not recorded as an anti-social incident. The 176 incidents [of SSGs] are all those that have breached bye-laws and are deemed antisocial. However, what is clear is that along with the tens of thousands of perfectly reasonable and peaceful gatherings that take place, there are very many gatherings that do disrupt the peaceful and safe use by the majority of the Forest and have to be addressed by the enforcement constables.”

19. Mr Newnham’s use of “deemed” antisocial behaviour means that the recorded incidents of barbecues/campfires, although clearly a breach of the Byelaws and therefore “deemed” to be antisocial, give no impression of whether any of these barbecues/campfires caused any real disruption or inconvenience to any other users of the Forest. In terms of numbers, 26 of the 72 incidents in 2018 involved barbecues or campfires; 30 of the 71 incidents in 2019; and 107 of the 176 incidents in 2020. Mr Newnham quite rightly points out that barbecues and campfires can cause a risk of a fire breaking out in the Forest. He has provided a video recording of one fire incident from the summer of 2020, but I have no information about how this fire was started or the extent of the damage that was caused.
20. In his witness statement, Mr Newnham has specifically noted that a significant proportion of SSG incidents are those involving the use of motorbikes or quad bikes. If those are removed from the figures, then the total number of SSGs for the respective years are 37 in 2018; 33 in 2019 and 142 in 2020. Excluding both motorbike and barbecue/campfire incidents, that leaves the total of other “antisocial” events as 11 in 2018, 8 in 2019 and 35 in 2020. Of those 35 incidents in 2020, some do not immediately appear from their description (and without further information about the relevant event) to amount to serious incidents of anti-social behaviour capable of amounting to public nuisance, for example: on 16 April 2020, “*large group of teenage with dogs congregating, smoking weed and using bad language*”; on 1 August 2020, “*group with food, drink and speakers*”; on 30 August 2020, “*large gathering of people*”; and on 8 December 2020, “*group that are smoking and drinking near the car park*”.
21. I have been provided with video evidence of an incident, on 1 June 2020, at Queen’s Green, High Beech. The footage was recorded by a member of the public and then forwarded to Mr Newnham. Mr Newnham describes the footage as showing “*an extremely aggressive and threatening incident*” and as “*perhaps the worse (sic) example of anti-social behaviour experienced last year*”. Having watched the footage, I would describe it as a flare up of some apparent disagreement that led ultimately to an incident of short-lived violence. The whole recording lasts for only 47 seconds. Mr Newnham has confirmed in his third witness statement that the police were called, and that a person involved in the incident was subsequently prosecuted and convicted of assault by Chelmsford Magistrates’ Court. The Claimant has not sought to join any of the people involved in this incident as a defendant to these proceedings (by description if not by name).
22. Mr Newnham states that there were at least 36 incidents reported where aggressive behaviour was witnessed and that “*on many occasions*” it was enforcement Constables who were the victim of verbally aggressive attack. I have no witness statements from any of the people involved in these incidents and they are not included on Mr Newnham’s schedule. He has confirmed that this is because incidents of verbal or physical abuse are reported separately through the Claimant’s Health & Safety Procedures.

23. More generally, Mr Newnham describes the issue facing the Claimant as follows:

“As a result of the increase in visitor numbers, but without the commensurate increase in the recruitment of more enforcement constables, there were many occasions during the period from the beginning of June to the end of September 2020, where I and my colleagues were simply unable to fully control the incidents of anti-social behaviour at the Forest. Many of the incidents involved acts of public nuisance. These incidents happened throughout the day and night and it was often the case that large social gatherings took place after the sun had set from 10.00pm.”

24. Mr Newnham states that most of the activities that the injunction seeks to prohibit are themselves prohibited under the Byelaws. He adds:

“The Byelaws apply, but the greater need is the way in which it will be enforced and with the benefit of the injunction there is a far greater chance of the terms of the injunction and therefore the Byelaws being complied with”.

25. That section of Mr Newnham’s evidence is somewhat speculative, and insofar as it suggests that an injunction would be a more effective tool than the Byelaws, is not borne out by the historic enforcement of the Byelaws. In his third witness statement, Mr Newnham has confirmed that there have been 43 prosecutions in the period from 2019 to date. Some prosecutions were of more than one person. Of those, 29 were in respect of alleged contraventions of the Environmental Protection Act 1990, largely consisting of prosecutions for the alleged depositing of waste (or ‘fly-tipping’). The remaining 14 prosecutions were for alleged breaches of the Byelaws. 9 people were prosecuted from removing material from the Forest under Byelaw 3(4); 3 people were prosecuted for damaging trees under Byelaw 3(5); 1 person was prosecuted under Byelaws 3(36) and 3(39); 1 person was prosecuted under Byelaw 3(45); and 3 people were prosecuted for obstructing an officer in the execution of his/her duty (Byelaw 3(47)). From that data, it is significant that, in this period, there have been no prosecutions arising from incidents of barbecues and/or the lighting of fires; in respect of off-road use of motorbikes and quad bikes; or in relation to noise nuisance from the playing of loud music. The short point is that the Claimant has not utilised its existing enforcement powers under the Byelaws to tackle the key incidents of anti-social behaviour that it seeks to restrain. It cannot therefore be submitted that these powers are insufficient to deter this behaviour.

26. Another area of concern identified by Mr Newnham is inappropriate parking. There are 58 designated car parks in the Forest that can accommodate a total of 1,006 vehicles. He reports that, in 2020, there was a significant increase in vehicles parking in laybys and on grass verges. The evidence from Mr Newnham and Dr Dagley is that some parking of vehicles outside designated areas can cause damage to the root structure of trees and hedges. During 2020, the Constables issued 397 parking tickets. Mr Newnham complains that the problem of vehicles being parked in the Forest is not helped because Byelaw 3(11) permits parking within 45 metres of the highway. In his third witness statement, Mr Newnham has explained that this Byelaw is under review by the Claimant and is subject to a consultation process in respect of proposed changes. However, Mr Newnham states that this process can take up to 18 months before any change in the Byelaw is effected. As I noted during the hearing, it is a striking feature of this application that the Claimant is seeking a High Court injunction to prohibit something that the Byelaws expressly permit.



27. Mr Newnham has given details of additional measures that have been implemented to combat anti-social events taking place during the night. Funding was obtained in 2020 from the Essex Community Safety Development Fund to instal highway compliant gates at Manor Road. This will enable access to the Forest via Manor Road at night to be restricted.

### **Public Space Protection Order**

28. If anti-social behaviour is prevalent in a particular area, local authorities are also empowered, under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“ASBCPA”), to impose a Public Spaces Protection Orders (“PSPOs”). The power to make a PSPO is contained in s.59. Orders may be made for periods of up to 3 years and may be extended for a period of up to 3 years if the conditions of s.60(2) are met. Before a PSPO is made, extended, or varied, the local authority must carry out a consultation process prescribed by ss.72(3) and 72(4).
29. I was told at the hearing that no PSPO has been imposed in relation to the Forest (or any part of it). The imposition of a PSPO would, of course, be a matter for the relevant local authorities under whose jurisdiction the Forest (or the relevant part of it) falls.

### **The Claim Form and Particulars of Claim**

30. Endorsed on the Claim Form were the following “details of claim”:

“The Claimant seeks injunctions pursuant to Section 222 of the Local Government Act 1972 to prevent acts of anti-social behaviour on the Protected Compartments of Epping Forest

The injunction sought is to prevent the Persons Unknown identified at 1(1)-(8) organising, participating and carrying out the activities listed at (1) to (8) in the Protected Compartments which are acts of anti-social behaviour and a public nuisance

The injunction sought is to prevent the Persons Unknown at (2) drinking alcohol between the hours of 11.00am and 10.00pm in the No Alcohol Compartments identified and highlighted on the map marked ‘C2’”

31. Necessarily, this claim has had to be refocused. The recognition that the claim can only be advanced by the Claimant as the owner of the land means it cannot maintain a claim under s.222 for an injunction to enforce the criminal law to prohibit breaches of the Byelaws. The reformulated claim is now brought to restrain the threat of public nuisance. Of the 52 Compartments making up the Forest, the Claimant seeks no order in respect of Compartments 8, 17, 28, 50-56, 58 and 61-63 as these are said not to attract attention from the public. The order sought in respect of Compartments 14, 16, 20, 24, 26, 34, 36, 37 and 38 treats them as a “No Alcohol Zone” and seeks the restrictions against the Eighth Defendants. The remaining Compartments are the subject of restrictions sought to be imposed in respect of the First to Seventh Defendants.

### **Applications before the Court**

32. The Claimant has filed Application Notices seeking the following orders:

- i) an order dispensing with the requirement to serve the Application Notices on the Defendants;
- ii) an order pursuant to CPR 6.15 permitting the Claimant to serve the Claim Form and Particulars on the Defendants by an alternative method and at an alternative place; and
- iii) an interim injunction against “Persons Unknown”.

I have set out the material terms of the injunction, together with other orders the Claimant asks the Court to make, in Appendix 2.

### **Application to dispense with service of the Application Notice**

33. Subject to any order abridging time under CPR 23.7(4), where an applicant applies for an interim injunction, the Application Notice and evidence in support must be served as soon as practicable after issue and in any event not less than three days before the court is due to hear the application: CPR 23.7(1) and PD 25A §2.2. In cases of urgency, where 3 days’ notice cannot be given, the applicant is nevertheless expected to give informal notice to the respondent: PD 25A §4.3. Only in cases justified by the need for secrecy or other good reason will the court grant an interim remedy where notice has not been given to the respondent: CPR 25.3. These rules reflect the adversarial nature of civil proceedings and fundamental principles of fairness: that a person should usually be afforded an opportunity to be heard before an order is made against him/her. Where notice of an application for an interim injunction is not given to the respondent, the applicant must explain why notice was not given: PD 25A §3.4.
34. The evidence in support of the applications to dispense with service of the Application Notices on the Defendants and for alternative service of the Claim Form is contained in the Application Notice verified by the Claimant’s solicitor, Andrew Cusack. He states, shortly:
  - “2. As a Person Unknown, it is impractical to serve the Application Notice and evidence in support in advance of the Hearing.
  3. As a Person Unknown, it is impossible to serve the Part 8 Claim Form, the Particulars of Claim and documents relevant to the injunction application on any individual personally in accordance with CPR 6.5
  4. The Claimant therefore seeks an order, dispensing with the need to serve the Application Notice and evidence in support and permitting it to serve the Claim Form and Particulars of Claim on the Defendant by an alternative method and at an alternative place.
  5. It is proposed that the alternative method would be by placing the Part 8 Claim Form and Particulars of Claim in a transparent envelope and to attach the transparent envelope at various locations including posts, gates, fences and hedges around the Protected Compartments of Epping Forest.
  6. It is averred that because the Defendants are unknown there is good reason to serve by this alternative means in the manner set out in the paragraph above.

7. The Claimant is confident that by adopting this alternative method of service all Persons Unknown will have the opportunity of reviewing the paperwork and decide whether they are persons to whom the proceedings are addressed and whether they wish to be joined as named Defendants to the proceedings.”
35. Paragraph 2 of Mr Cusack’s evidence states that it is “*impractical*” to serve the Application Notice on the respondent “Persons Unknown” and Paragraph 5 of his statement only deals with the Claimant’s proposal to serve the Claim Form by alternative means. Nevertheless, the Claimant has posted a “*Public Notice*” notifying people generally that the Claimant is applying to the Court for an injunction. I was told at the hearing that the Notices were put up in each of the Protected Compartments between 13-14 May 2021. The Notice contained the following:

“The City of London Corporation has applied to the High Court for two injunctions against Persons Unknown to prevent various behaviours on Epping Forest

**Attached to this notice are copies of the two Application Notices with a Notice of Hearing.**

The hearing of the applications will take place at the Royal Courts of Justice, London WC2A 2LL on 19 May 2021.

The court documents and evidence in support of the applications can be found at: [website address given]

Alternatively, copies of the court documents and evidence in support of the applications can be requested from the following email address: [address given].”

36. I am satisfied that the Claimant has taken such steps that are available to it in a genuine attempt to notify as many of the respondents to the applications as possible. The difficulty that confronts the Claimant (and the Court) is that, such is the width of the definition of “Persons Unknown” sought to be made defendants to the proceedings and respondents to the application, it is impossible to have any confidence that the Notice will have come to the attention of anything other than a fraction of those who could potentially fall into the category of “Persons Unknown”. Whilst this is a matter of concern for service of the Application Notices, it is a more significant issue when it comes to service of the Claim Form. I am not prepared to dispense with service of the Application Notice, but I am prepared to proceed to hear the application on the basis of the efforts the Claimant has taken to give notice of the Applications.

### **Application for permission to serve the Claim Form by alternative means under CPR 6.15**

37. CPR 6.15 provides:

“(1) Where it appears to the court that there is a good reason to authorise service by a method or at a place not otherwise permitted by this Part, the court may make an order permitting service by an alternative method or at an alternative place.

- (2) On an application under this rule, the court may order that steps already taken to bring the claim form to the attention of the defendant by an alternative method or at an alternative place is good service.
- (3) An application for an order under this rule –
  - (a) must be supported by evidence; and
  - (b) may be made without notice.
- (4) An order under this rule must specify –
  - (a) the method or place of service;
  - (b) the date on which the claim form is deemed served; and
  - (c) the period for –
    - (i) filing an acknowledgment of service;
    - (ii) filing an admission; or
    - (iii) filing a defence.”

38. Service of the Claim Form on defendants to a civil claim is fundamental. As noted in ***LB Barking & Dagenham -v- Persons Unknown [2021] EWHC 1201 (QB)***:

[32] In relation to service of the Claim Form on “Persons Unknown”, whilst there may be difficulties in effecting personal service of a Claim Form under CPR 6.5 on “Persons Unknown”, an identifiable but anonymous defendant can be served with the Claim Form, if necessary, by alternative service under CPR 6.15. This is because it is possible to locate or communicate with the defendant and to identify him as the person described in the Claim Form: ***Cameron -v- Liverpool Victoria Insurance Co Ltd [2019] 1 WLR 1471 [15]***.

...

[34] Reflecting the fundamental principle of justice, that a person cannot be made subject to the jurisdiction of the court without having such notice of the proceedings as will enable him to be heard, an order for alternative service of the Claim Form can only be made where the Court is satisfied, on evidence, that the proposed method of alternative service “*can reasonably be expected to bring the proceedings to the attention of the defendant*”: ***Cameron [21]***.

...

[46] ... In a claim against “Persons Unknown”, the method of alternative service of the Claim Form that the Court permits must be one that can reasonably be expected to bring the proceedings to the notice of *all* of those who fall within the definition of “Persons Unknown”. Without that safeguard, there is an obvious risk that the method of alternative service will not be effective in bringing the proceedings to a (perhaps significant) number of those in a

broadly defined class of “Persons Unknown”. By dint of the alternative service order, they would be deemed to have been served, when in fact they have not (a point that becomes important when the Court comes to consider granting final relief against “Persons Unknown”). Such an outcome offends the fundamental principle of justice that each person who is made subject to the jurisdiction of the court had sufficient notice of the proceedings to enable him to be heard...

[47] The unfortunate history of service of the Claim Form on “Persons Unknown” defendants (or lack of it) ... demonstrates very clearly that the Court must adopt a vigilant and more rigorous process when considering applications under CPR 6.15 for alternative service of the Claim Form on “Persons Unknown”. If the requirements of *Cameron* cannot be met, permission for alternative service should be refused. Such applications are typically, if not inevitably, made *ex parte*, so advocates presenting such applications will be under a duty to ensure that the Court is fully aware of all relevant authorities and any arguments that could be raised by the absent party. In practical terms, the advocate will be expected to demonstrate, by evidence filed in compliance with CPR 6.15(3)(a), how the proposed method of alternative service on the Person(s) Unknown can reasonably be expected to bring the proceedings to the attention of *all* of those who are sought to be made defendant(s). The greater and more ambitious the width of the definition of “Persons Unknown” in the Claim Form correspondingly the more difficult it is likely to be to satisfy the requirements for an order for alternative service.

[48] Save in respect of the exceptional category of claims brought *contra mundum*, it is difficult to conceive of circumstances in which a Court would be prepared to grant an order dispensing with the requirement to serve the Claim Form upon “Persons Unknown” under CPR 6.16... Consequently, if the Court refuses an order, under CPR 6.15, for alternative service of the Claim Form against “Persons Unknown”, the jurisdiction of the Court cannot be established over the “Persons Unknown” defendants. Without having established jurisdiction, there will be no viable civil claim against them. With no civil claim, there can be no question of granting (or maintaining) interim injunctive relief against “Persons Unknown”...

39. The evidence relied upon by the Claimant in support of its application for permission to serve the Claim Form by an alternative method is that set out in [34] above from Mr Cusack. The method proposed by Mr Cusack in his witness statement is to place the Part 8 Claim Form and Particulars of Claim in a transparent envelope and to attach the transparent envelope at various locations including posts, gates, fences and hedges around the Protected Compartments of Epping Forest. However, the method proposed in the revised draft order is simply to post a Notice (a) at various (unspecified) locations in and around the Compartments covered by the injunction order; (b) on the Claimant’s website; and (c) the Epping Forest website. The relevant website would include a link to the “documentation”.
40. It is not necessary for me to resolve the conflict between these two proposed methods of alternative service as I am not satisfied that either method would be one that could reasonably be expected to bring the proceedings to the attention of the individuals sought to be made defendants.

41. In *Cameron*, Lord Sumption explained the importance of being able to identify the “Persons Unknown” so that they can be served with the Claim Form:

- [12] ... The critical question is what, as a matter of law, is the basis of the court's jurisdiction over parties, and in what (if any) circumstances can jurisdiction be exercised on that basis against persons who cannot be named.
- [13] In approaching this question, it is necessary to distinguish between two kinds of case in which the defendant cannot be named, to which different considerations apply. The first category comprises anonymous defendants who are identifiable but whose names are unknown. Squatters occupying a property are, for example, identifiable by their location, although they cannot be named. The second category comprises defendants, such as most hit and run drivers, who are not only anonymous but cannot even be identified. The distinction is that in the first category the defendant is described in a way that makes it possible in principle to locate or communicate with him and to know without further inquiry whether he is the same as the person described in the claim form, whereas in the second category it is not.
- [14] This appeal is primarily concerned with the issue or amendment of the claim form. It is not directly concerned with its service, which occurs under the rules up to four months after issue, subject to extension by order of the court. There is no doubt that a claim form may be issued against a named defendant, although it is not yet known where or how or indeed whether he can in practice be served. But the legitimacy of issuing or amending a claim form so as to sue an unnamed defendant can properly be tested by asking whether it is conceptually (not just practically) possible to serve it. The court generally acts in personam. Although an action is completely constituted on the issue of the claim form, for example for the purpose of stopping the running of a limitation period, the general rule is that “service of originating process is the act by which the defendant is subjected to the court's jurisdiction”: *Barton -v- Wright Hassall llp* [2018] 1 WLR 1119 [8]. The court may grant interim relief before the proceedings have been served or even issued, but that is an emergency jurisdiction which is both provisional and strictly conditional...
- [15] An identifiable but anonymous defendant can be served with the claim form or other originating process, if necessary by alternative service under CPR r 6.15. This is because it is possible to locate or communicate with the defendant and to identify him as the person described in the claim form. Thus, in proceedings against anonymous trespassers under CPR r 55.3(4), service must be effected in accordance with CPR r 55.6 by attaching copies of the documents to the main door or placing them in some other prominent place on the land where the trespassers are to be found, and posting them if practical through the letter box. In *Brett Wilson llp -v- Persons Unknown* [2016] 4 WLR 69 alternative service was effected by e-mail to a website which had published defamatory matter, Warby J observing ([11]) that the relevant procedural safeguards must of course be applied. In *Smith -v- Unknown Defendant Pseudonym “Likeicare”* [2016] EWHC 1775 (QB) Green J made the same observation ([11]) in another case of internet defamation where service was effected in the same way. Where an interim injunction is granted and can be specifically enforced against some property

or by notice to third parties who would necessarily be involved in any contempt, the process of enforcing it will sometimes be enough to bring the proceedings to the defendant's attention. In *Bloomsbury Publishing Group* [2003] 1 WLR 1633, for example, the unnamed defendants would have had to identify themselves as the persons in physical possession of copies of the book if they had sought to do the prohibited act, namely disclose it to people (such as newspapers) who had been notified of the injunction. The Court of Appeal has held that where proceedings were brought against unnamed persons and interim relief was granted to restrain specified acts, a person became both a defendant and a person to whom the injunction was addressed by doing one of those acts: *South Cambridgeshire District Council v Gammell* [2006] 1 WLR 658 [32]. In the case of anonymous but identifiable defendants, these procedures for service are now well established, and there is no reason to doubt their juridical basis.”

42. *Gammell* does not suggest that an entire claim can be advanced on a contingent basis that, at some point in the future, a defendant may do an act that would bring him/her into the category of “Persons Unknown”. If no person did the relevant act, then there would be no defendants to the claim. Save in the exceptional category of *contra mundum* claims, a civil claim requires a defendant. In *Gammell* there were named defendants to the Claim as well as “Persons Unknown”. In *LB Barking & Dagenham*, I said this about the operation of the *Gammell* principle as a basis for adding defendants to a civil claim:

[172] As has been recognised in subsequent authorities, there can be no objection to the operation of the *Gammell* principle at the interim stage. Providing the Court’s jurisdiction has been established over a defendant by service of the Claim Form (whether a named defendant or a “Person Unknown” in respect of whom service of the Claim Form can be effected by an alternative service order), then there is jurisdiction to grant an interim injunction in terms which will apply not only to those who have already carried out the allegedly wrongful acts but also newcomers who may commit the wrongful acts in the future. Similarly, at the interim stage, there is no objection, in principle, to adding further defendants to the claim, even if that is done in the dynamic way endorsed by the *Gammell* principle.

43. A civil claim can be brought on two bases: either someone has committed a tort or other civil wrong, or there is evidence that s/he is threatening to do so. In order to bring a claim, a person in either category has to be identified. Whilst the evidence of the Claimant does lead to the conclusion that *someone* will probably do one of the acts that is sought to be restrained at some point in the future, that is not enough for an injunction. The person has neither done the act nor is s/he threatening to do it in the sense required for a *quia timet* injunction. The best that the Claimant can say is that the person is a member of a class (which for these purposes is everyone visiting the Forest) some of whom may breach the relevant Byelaws. Beyond that, it is impossible to identify any of these persons. Applying Lord Sumption’s analysis from *Cameron*, they are all category 2 defendants: people who are not only anonymous but cannot even be identified. It is not permissible to bring a civil claim against category 2 defendants:

“The impossibility of service in such a case is due not just to the fact that the defendant cannot be found but to the fact that it is not known who the defendant is. The problem is conceptual, and not just practical. It is true that the publicity

attending the proceedings may sometimes make it possible to speculate that the wrongdoer knows about them. But service is an act of the court, or of the claimant acting under rules of court. It cannot be enough that the wrongdoer himself knows who he is”: *Cameron* [16].

44. Applying this analysis, there is clear scope for *quia timet* injunctions against “Persons Unknown”. During the hearing, I gave the example of persons who were organising an illegal rave in the Forest, whose plans were learned as a result of a discovery of a flyer advertising the event. This evidence converts these individuals from the unidentifiable class of speculative would-be rave organisers into tangible – and more importantly, identifiable – defendants. They may be presently anonymous, but they can be served with the proceedings, for example via an email address or mobile telephone number advertised on the flyer in the example.
45. But, in my judgment, it is not permissible to start a claim, and obtain an injunction, in the hope that a person may arrive, at some point in the future, and do something which qualifies him/her to become a defendant to the proceedings under the operative definition of “Persons Unknown”. It is one thing to have established the jurisdiction of the court over defendants by service of the Claim Form – as in *Gammell* – and have been granted an interim injunction the terms of which include a category of “Persons Unknown” which may lead to new defendants being added to the claim in the period before trial. It is something completely different to bring a claim when presently it is impossible to identify and serve any defendant. The court would be granting an interim injunction in such a case without having established jurisdiction over anyone. The Court does, of course, have the power to grant an injunction even before the Claim Form has been issued, but, as Lord Sumption noted in *Cameron*, this is “*an emergency jurisdiction which is both provisional and strictly conditional*” [14]. It is conditional because the claimant must, thereafter, serve the Claim Form on the defendant in order to establish the Court’s jurisdiction to determine the claimant’s claim against the defendant. If a claimant fails to serve the Claim Form on the defendant, jurisdiction will not have been established and any interim injunction will be refused or is liable to be discharged: *LB Barking & Dagenham* [164].
46. All of these problems stem from the fact that the Claimant is trying to fashion a remedy, using the *inter partes* procedures of the court, not against identifiable defendants, but against the world at large. The interim injunction sought by the Claimant seeks to regulate the conduct of every person who visits one of the Protected Compartments of the Forest. According to the evidence, some 11 million people visited the Forest in 2020. Such is the width of the definition of “Persons Unknown” adopted by the Claimant that, for all practical purposes, it is seeking a *contra mundum* injunction. This is not an appropriate use of civil litigation; it is asking the Court effectively to legislate to prohibit the conduct generally. Worse, in respect of the injunction to restrict parking, the injunction seeks to impose restrictions on activity which the local Byelaws expressly permit. The civil courts exist to determine disputes between the parties to litigation and to determine whether any party is entitled to any form of relief as a result of a proved or admitted civil wrong: see *LB Barking & Dagenham* [230].
47. None of the people, whom it is alleged have been guilty of anti-social behaviour in the past, is sought to be identified as a defendant to the proceedings. Further, the Claimant has not identified anyone who is either presently carrying out the activities that would bring him/her into a category of “Persons Unknown” or is credibly threatening to do



so. In short, it is impossible to identify any defendant to these proceedings. Without a target to aim at, there is no way of devising a method of alternative service of the Claim Form that the Court can be satisfied is reasonably likely to bring the proceedings to his/her attention. It is conceptually impossible to identify the defendants to the claim because none of them presently exists.

48. Rather like the position in *LB Barking & Dagenham* ([44]), a simple cross-check as to whether the method of alternative service can reasonably be expected to bring the proceedings to the attention of the defendant is to ask *when* the proceedings are likely to come to his/her attention. CPR 6.15(4) requires any order for alternative service of the Claim Form to state the date on which the claim form is deemed served. Mr Woolf proposed that the order should deem the Claim Form served on the “Persons Unknown” within 48 hours of the documents being posted around the Protected Compartments. This will not do. As *Cameron* holds, it is a fundamental principle of justice that a person cannot be made subject to the jurisdiction of the court without having such notice of the proceedings as will enable him to be heard. In this case, an order “deeming” service of the Claim Form would be almost a complete fiction. Even if Notices, and copies of the Claim Form, were placed conspicuously in multiple places in the Protected Compartments of the Forest, they would only be likely to come to the attention of those who visit these areas before the deemed date of service. As noted above, that would be tiny fraction of those whose conduct would then be regulated by any injunction.
49. As noted in *LB Barking & Dagenham* [47], “*the greater and more ambitious the width of the definition of “Persons Unknown” in the Claim Form correspondingly the more difficult it is likely to be to satisfy the requirements for an order for alternative service.*” The Claimant has failed to demonstrate that the proposed method of alternative service can reasonably be expected to bring the proceedings to the attention of the defendants. This is not for want of ingenuity in devising a method of alternative service, it is a product of the inescapable reality that there are presently no defendants to be served. I refuse the Claimant’s application for permission to serve the Claim Form on the Defendants.
50. No application has been made to dispense with service of the Claim Form pursuant to CPR 6.16. No doubt this reflects a realistic assessment of the likelihood of success of such an application: see *Cameron* [25]. The Claim Form remains valid, but unserved. It will be open to the Claimant to amend the Claim Form, if it can, to seek to bring a claim against identifiable defendants. If it does so, it can make a further application under CPR 6.15 and/or for an interim injunction.

### **Interim Injunction Application**

51. In light of my refusal of the application for permission to serve the Claim Form on the Defendants by an alternative method, there can be no question of the Court granting an interim injunction: there are no defendants over whom the Claimant has established (or is likely to establish) the Court’s jurisdiction. I refuse the application for the injunction on that ground.
52. Even had the Claimant established jurisdiction over a defendant, I would nevertheless have refused to grant the interim injunction in the terms sought by the Claimant. As this is not the primary basis for my decision, I can state these reasons shortly.

53. There are presently no people who are committing a tortious or other civil wrong, and I am not satisfied, on the evidence, that there is a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief: ***Canada Goose -v- Persons Unknown* [2020] 1 WLR 2802** [82(2)]. The civil cause of action relied upon to justify the grant of an interim injunction is public nuisance. The evidence of Mr Newnham does not demonstrate clearly that there have been historic acts that amount to public nuisance. The high-point of the evidence is Dr Dagley's evidence of the harm caused by one UME. As Mr Woolf frankly recognised in his skeleton argument, it is open to debate whether all the activities relied upon amount to a public nuisance. Such a question can only really be resolved by considering actual evidence of the relevant incident. Overall, the evidence does not present a sufficiently strong case to justify a *quia timet* injunction in the wide terms that are sought. The terms of the injunction would have the effect of restraining acts were not likely to amount to a public nuisance. In short, the terms would be disproportionate in their effect. In my judgment, if the Claimant considers that enforcement of the Byelaws is insufficient to tackle incidents this summer, the procedures of the civil courts would be better deployed on a targeted basis against actual or threatened acts of public nuisance against identified defendants.

## **Appendix 1: Definition of “Persons Unknown”**

### **Part A: Original definition of “Persons Unknown” Defendants in Claim Form and original draft Injunction Orders**

The Claim Form defines the “Persons Unknown” Defendants as follows:

- “(1) Persons Unknown in the 38 Protected Compartments of Epping Forest identified on the attached Master Map marked C1 who are:
- a. organising, attending or participating in an unlicensed music event and/or rave; and/or
  - b. playing loud music; and/or
  - c. urinating and/or defacating (sic) other than when making use of the toilet facilities designed for this purpose; and/or
  - d. lighting fires, fireworks, stoves, barbecues, and/or naked flames (with the exception of a cigarette lighter); and/or
  - e. bringing any engine (apart from those within vehicles); and/or
  - f. parking vehicles apart from those areas specifically designated as areas for the parking of vehicles; and/or
  - g. leaving litter in areas other than in the designated refuse bins; and/or
  - h. threatening or using violence or engaging in abusive behaviour towards members of the public or employees or agents or contractors of the Claimant who question or challenge their engagement in any of the behaviour described above;
- (2) Persons Unknown in the no alcohol compartments of Epping Forest identified and highlighted on the attached map marked “C2” who are drinking alcohol between the hours of 11.00am and 10.00pm and who are:
- a. organising, attending or participating in an unlicensed music event or rave; and/or
  - b. playing loud music; and/or
  - c. lighting fires, fireworks, stoves, barbecues, and/or naked flames (with the exception of a cigarette lighter); and/or
  - d. threatening or using violence or engaging in abusive behaviour towards members of the public or employees or agents or contractors of the Claimant who question or challenge their engagement in any of the behaviour described above.”

**Part B: Revised definition of the “Persons Unknown” Defendants in the amended draft Injunction Order**

- “(1) Persons unknown in the protected compartments of Epping Forest identified on the map marked “C1” who are organising, attending or participating in an unlicensed music event and/or rave and/or playing loud music whether or not amplified, through the use of equipment which includes musical instruments, free-standing speakers, sound systems, loudspeakers, microphones, DJ sets, ear-phones or generators;
- (2) Persons unknown in the protected compartments of Epping Forest identified on the map marked “C1” who are organising, attending or participating in an unlicensed music event and/or rave urinating and/or defecating other than when making use of the toilet facilities designed for this purpose
- (3) Persons unknown in the protected compartments of Epping Forest identified on the map marked “C1” who are organising, attending or participating in an unlicensed music event and/or rave and who are littering the protected compartments
- (4) Persons unknown in the protected compartments of Epping Forest identified on the map marked “C1” who are lighting fires, fireworks, stoves, barbeques, and/or naked flames (with the exception of a cigarette lighter)
- (5) Persons unknown in the protected compartments of Epping Forest identified on the map marked “C1” who are lighting fires, fireworks, stoves, barbeques, and/or naked flames (with the exception of a cigarette lighter) and who are littering the protected compartments;
- (6) Persons unknown in the protected compartments of Epping Forest identified on the map marked “C1” who are driving moving or leaving any vehicle with an engine in the protected compartments except on a highway
- (7) Persons unknown in the protected compartments parking vehicles apart from those areas specifically designated as areas for the parking of vehicles;
- (8) Persons unknown in the no alcohol compartments of Epping Forest identified and highlighted on the attached map marked “C2” who are drinking alcohol between the hours of 11.00am and 10.00pm and who are organising, attending or participating in an unlicensed music event and/or rave and/or playing loud music whether or not amplified, through the use of equipment which includes musical instruments, free-standing speakers, sound systems, loudspeakers, microphones, DJ sets, ear-phones or generators.

## Appendix 2 – Compartments in the Epping Forest

Those shown struck through are the Compartments in respect of which no injunction is sought

Those shown italicised are the Compartments in respect of which are in the proposed “No Alcohol Zone”

1. Epping Long Green
2. Galleyhill
3. Lower Forest
4. Upshire
5. Epping Thicks & Bell Common
6. St. Thomas Quarters
7. Long Running & Ambresbury Banks
- ~~8. Genesis Slade~~
9. Honey Lane Quarters
10. Wake Valley
11. Great Monk Wood & Deershelter Plain
12. The Tippa Burn
13. Birch Wood & Oak Hill
14. *Pillow Mounds & Comical Corner*
15. Warren Plantation
16. *Blackweir Hill*
- ~~17. Fernhills to High Beach Church~~
18. Paul’s Nursery
19. Loughton Camp
20. *Loughton Brook & Staples Hill*
21. Hill Wood
22. Fairmead & Whitehouse Plain
23. Strawberry Hill
24. *Bury Wood*
25. Yarley Hill & Pole Hill
26. *Chingford Plain & Golf Course*
27. Connaught Water
- ~~28. Warren & Hill & Powell’s Forest~~
29. Barn Hoppit & Whitehall Plain
30. Hatch Forest & Plain
31. Knighton Wood
32. Lords Bushes
33. Highams Park
34. *Walthamstow Forest*
35. Gilbert’s Slade & Rising Sun Wood
36. *Leyton Flats*
37. *Wanstead Park*
38. *Wanstead Flats and Bush Wood*
- ~~50. Galleyhill Wood~~
- ~~51. Kennel Wood & Monkams Hall Field~~
- ~~52. Warlies Estate~~
- ~~53. Woodredon Estate (North)~~
- ~~54. Copped Hall (North)~~

- 55. ~~Copped Hall (South) & Raveners~~
- 56. ~~Coppersale~~
- 57. Woodredon Estate (South)
- 58. Great Gregories
- 59. Deer Sanctuary
- 60. Loughton Golf Course
- 61. ~~Trueloves~~
- 62. ~~North Farm~~
- 63. ~~Swaines Green~~

### **Appendix 3: Terms of the injunction orders sought by the Claimant**

#### **Part A(1): Original Order sought against the First Defendant:**

- “1. The First Defendants, unless the Claimant has given prior written permission, are forbidden, whether by themselves or by instructing or encouraging others, from:
  - (1) Organising, participating or carrying out any of the following activities in the 38 Compartments (the Protected Compartments) shown as the area shaded in red and numbered 1 to 7, 9 to 16, 18 to 27, 29 to 38, 57, 59 and 60 on the attached map marked “C1”:
    - (a) unlicensed music events and/or Raves;
    - (b) the playing of loud music, whether or not amplified, through the use of equipment which includes but is not limited to musical instruments, free- standing speakers, sound systems, loudspeakers, microphones, DJ sets or generators;
    - (c) urinating or defecating other than when making use of toilet facilities designed for such use;
    - (d) the lighting of fires, fireworks, stoves, barbeques and/or naked flames (with the exception of a cigarette lighter);
    - (e) bringing any engine (apart from those within vehicles) or generator onto any part of the prescribed area;
    - (f) parking any vehicles on any part of the Protected Compartments apart from those areas specifically designated as areas for the parking of vehicles;
    - (g) leaving litter in the Protected Compartments;
  - (2) Threatening or using violence, or engaging in abusive behaviour, towards any member of the public or any employee, agent or contractor of the Claimant who questions or challenges behaviour by them which is referred to in paragraph 1 above.
2. A power of arrest shall be attached to paragraph 1 of this Order.
3. This interim injunction order and power of arrest shall last until 4pm on [Friday 8 October 2021] [or such other date] unless extended, varied or discharged by further order of the Court.
4. Pursuant to CPR 6.15(2), service of the Claim Form and Particulars of Claim is deemed to have been effected by the following alternative means, namely the placing of the Public Notice found in Schedule 2 of this Order:

- (a) at various locations in and around the Protected Compartments;
  - (b) on the Claimant's Website to include a link from which the documentation can be accessed;
  - (c) on the Epping Forest Website to include a link from which the documentation can be accessed.
5. Personal service of this injunction is dispensed with pursuant to CPR 81.8. Service of this interim injunction order and accompanying power of arrest shall be effected by:
  - (a) placing a shortened version of this interim injunction order, map and power of arrest in various locations in and around the Protected Compartments;
  - (b) posting copies of a shortened version of this interim injunction order and power of arrest, and a link from which the documentation can be accessed on the Claimant's Website;
  - (c) posting copies of a shortened version of this interim injunction order and power of arrest, and a link from which the documentation can be accessed on the Epping Forest Website;
  - (d) the shortened version of the injunction order to be posted in accordance with (a), (b) and (c) above shall include the map at C1 of this Order.
6.
  - (a) The Claim Form will be deemed to have been served on the First and Second Defendants on [.....] unless any person(s) in the category of Persons Unknown demonstrates that s/he was not served with the Claim Form and was unaware of the proceedings; and
  - (b) The time for acknowledging of service required by CPR 8.3 is to be calculated by the deemed date of service.
7. The Notice of Injunction to be used can be found at Schedule 2 of this Order.
8. Any committal application issued in respect of a breach of any injunction order made by the court, may be supported by witness statements in place of affidavits.
9. The final determination of the Claim ("the Hearing") will take place before a High Court Judge in the week commencing 12 October 2020 with a time estimate of one day. Dates of availability should be submitted by [.....] with a view to fixing the date for the Hearing.
10. Any Person Unknown who wishes to participate in these proceedings should inform the Claimant's solicitor by email [address given] as soon as reasonably practicable. They should also inform the Court in writing.
11. Subject to any directions to the contrary which are agreed by the parties or made by the Court on application in writing by the Claimant or any Person Unknown:



- (1) Upon a Person Unknown notifying the Claimant's solicitor pursuant to paragraph 10 above, they will be provided with copies of the Claim Form and Particulars of Claim, the Application Notice which have been issued in the proceedings and the evidence in support of those applications as well as any witness statements or other documentary evidence on which the Claimant relies or which is disclosable pursuant to CPR 31.6;
  - (a) As soon as reasonably practicable and in any event not less than 14 days before the final determination of the Claim any Person Unknown who wishes to resist the Claim will:
    - (i) notify the Claimant's solicitor in writing as to whether they resist the Claim in whole or in part and, if so, give details of the basis on which they do so; and
    - (ii) provide the Claimant's solicitor with copies of any witness statement, documentary or other evidence, and any written arguments on which they rely.
- (2) Not less than 7 days before the Hearing the Claimant will file with the Court and serve on any Person Unknown who intends to participate in the Hearing:
  - (a) The evidence of service of this Order on which the Claimant relies;
  - (b) Any additional evidence on which the Claimant relies for the purposes of the Hearing;
  - (c) A skeleton argument and draft of the final Order which it seeks.
12. Any person becoming aware of this Order can apply to the Court for this Order to be varied or discharged.
13. Liberty to apply."

**Part A(2): Original Order sought against the Second Defendant:**

- "1. The Second Defendants, unless the Claimant has given prior written permission, are forbidden from:
  - (1) Drinking alcohol in the No Alcohol Compartments identified and highlighted in yellow on the attached map marked "C2" between the hours of 11.00am and 10.00pm and
    - (a) attending an unlicensed music events and/or Raves;
    - (b) playing of loud music, whether or not amplified, through the use of equipment which includes but is not limited to musical instruments, free-standing speakers, ear-phones, sound systems, loudspeakers, microphones, DJ sets or generators;

- (c) lighting of fires, fireworks, stoves, barbeques and/or naked flames (with the exception of a cigarette lighter);
  - (d) leaving litter;
- (2) Drinking alcohol and threatening or using violence, or engaging in abusive behaviour, towards any member of the public or any employee, agent or contractor of the Claimant who questions or challenges behaviour by them which is referred to in paragraph 1 above.
- 2. A power of arrest shall be attached to paragraph 1 of this Order.
- 3. This interim injunction order and power of arrest shall last until 4pm on [Friday 8 October 2021] [or such other date] unless extended, varied or discharged by further order of the Court.
- 4. Pursuant to CPR 6.15(2), service of the Claim Form and Particulars of Claim is deemed to have been effected by the following alternative means, namely the placing of the Public Notice found in Schedule 2 of this Order:
  - (d) at various locations in and around the Protected Compartments;
  - (e) on the Claimant's Website to include a link from which the documentation can be accessed;
  - (f) on the Epping Forest Website to include a link from which the documentation can be accessed.
- 5. Personal service of this injunction is dispensed with pursuant to CPR 81.8. Service of this interim injunction order and accompanying power of arrest shall be effected by:
  - (e) placing a shortened version of this interim injunction order, map and power of arrest in various locations in and around the Protected Compartments;
  - (f) posting copies of a shortened version of this interim injunction order and power of arrest, and a link from which the documentation can be accessed on the Claimant's Website;
  - (g) posting copies of a shortened version of this interim injunction order and power of arrest, and a link from which the documentation can be accessed on the Epping Forest Website;
  - (h) the shortened version of the injunction order to be posted in accordance with (a), (b) and (c) above shall include the map at C1 of this Order.
- 6. (a) The Claim Form will be deemed to have been served on the First and Second Defendants on [.....] unless any person(s) in the category of Persons Unknown demonstrates that s/he was not served with the Claim Form and was unaware of the proceedings; and

- (b) The time for acknowledging of service required by CPR 8.3 is to be calculated by the deemed date of service.
7. The Notice of Injunction to be used can be found at Schedule 2 of this Order.
8. Any committal application issued in respect of a breach of any injunction order made by the court, may be supported by witness statements in place of affidavits.
9. The final determination of the Claim (“the Hearing”) will take place before a High Court Judge in the week commencing [.....] with a time estimate of one day. Dates of availability should be submitted by [.....] with a view to fixing the date for the Hearing.
10. Any Person Unknown who wishes to participate in these proceedings should inform the Claimant’s solicitor by email [address given] as soon as reasonably practicable. They should also inform the Court in writing.
11. Subject to any directions to the contrary which are agreed by the parties or made by the Court on application in writing by the Claimant or any Person Unknown:
- (1) Upon a Person Unknown notifying the Claimant’s solicitor pursuant to paragraph 10 above, they will be provided with copies of the Claim Form and Particulars of Claim, the Application Notice which have been issued in the proceedings and the evidence in support of those applications as well as any witness statements or other documentary evidence on which the Claimant relies or which is disclosable pursuant to CPR 31.6;
- (a) As soon as reasonably practicable and in any event not less than 14 days before the final determination of the Claim any Person Unknown who wishes to resist the Claim will:
- (iii) notify the Claimant’s solicitor in writing as to whether they resist the Claim in whole or in part and, if so, give details of the basis on which they do so; and
- (iv) provide the Claimant’s solicitor with copies of any witness statement, documentary or other evidence, and any written arguments on which they rely.
- (2) Not less than 7 days before the Hearing the Claimant will file with the Court and serve on any Person Unknown who intends to participate in the Hearing:
- (a) The evidence of service of this Order on which the Claimant relies;
- (b) Any additional evidence on which the Claimant relies for the purposes of the Hearing;
- (c) A skeleton argument and draft of the final Order which it seeks.

12. Any person becoming aware of this Order can apply to the Court for this Order to be varied or discharged.
13. Liberty to apply.”

**Part B: Revised terms of the Injunction Order sought against the Defendants**

- “1. The First Defendant, unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging others, from organising, attending or participating in an unlicensed music event and / or rave and / or playing loud music whether or not amplified, through the use of equipment which includes musical instruments, free-standing speakers, sound systems, loudspeakers, microphones, DJ Sets, Ear-phones or Generators;
2. The Second Defendant unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging others, from organising, attending or participating in an unlicensed music event and / or rave and urinating and / or defecating other than when making use of the toilet facilities designed for this purpose;
3. The Third Defendant unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging others, from organising, attending or participating in an unlicensed music event and / or rave and littering the protected compartments
4. The Fourth Defendant unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging others, from lighting fires, fireworks, stoves, barbeques, and / or naked flames (with the exception of a cigarette lighter)
5. The Fifth Defendant unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging others, from lighting fires, fireworks, stoves, barbeques, and / or naked flames (with the exception of a cigarette lighter) and who are littering the protected compartments;
6. The Sixth Defendant unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging others, from driving moving or leaving any vehicle with an engine in the Protected Compartments except on a highway;
7. The Seventh Defendant unless the Claimant has given prior written permission, is forbidden in the Protected Compartments of Epping Forest identified on the Map marked “C1”, whether by themselves or by instructing or encouraging

others, from parking vehicles apart from those areas specifically designated as areas for the parking of vehicles;

8. The Eighth Defendant unless the Claimant has given prior written permission, is forbidden in the No Alcohol Compartments of Epping Forest identified on the Map marked "C2", whether by themselves or by instructing or encouraging others, from drinking alcohol between the hours of 11.00am and 10.00pm and who are organising, attending or participating in an unlicensed music event and/or rave and/or playing loud music whether or not amplified, through the use of equipment which includes musical instruments, free-standing speakers, sound systems, loudspeakers, microphones, DJ sets, Ear-phones or generators;
9. This interim injunction shall last until 4pm on [Friday 8 October 2021] [or such other date] unless extended, varied or discharged by further order of the Court.
10. Pursuant to CPR 6.15(2), service of the Claim Form and Particulars of Claim is deemed to have been effected by the following alternative means, namely the placing of the Public Notice found in Schedule 2 of this Order:
  - (a) at various locations in and around the Protected Compartments;
  - (b) on the Claimant's Website to include a link from which the documentation can be accessed;
  - (c) on the Epping Forest Website to include a link from which the documentation can be accessed.
11. Personal service of this injunction is dispensed with pursuant to CPR 81.8.
12.
  - (a) The Claim Form will be deemed to have been served on the First and Second Defendants on [.....] unless any person(s) in the category of Persons Unknown demonstrates that s/he was not served with the Claim Form and was unaware of the proceedings; and
  - (b) The time for acknowledging of service required by CPR 8.3 is to be calculated by the deemed date of service.
13. The Notice of Injunction to be used can be found at Schedule 2 of this Order.
14. Any committal application issued in respect of a breach of any injunction order made by the court, may be supported by witness statements in place of affidavits.
15. The final determination of the Claim ("the Hearing") will take place before a High Court Judge in the week commencing 11 October 2021 with a time estimate of one day. Dates of availability should be submitted by [.....] with a view to fixing the date for the Hearing.
16. Any Person Unknown who wishes to participate in these proceedings should inform the Claimant's solicitor by email [address given] as soon as reasonably practicable. They should also inform the Court in writing.

17. Subject to any directions to the contrary which are agreed by the parties or made by the Court on application in writing by the Claimant or any Person Unknown:
- (1) Upon a Person Unknown notifying the Claimant's solicitor pursuant to paragraph 16 above, they will be provided with copies of the Claim Form and Particulars of Claim, the Application Notice which have been issued in the proceedings and the evidence in support of those applications as well as any witness statements or other documentary evidence on which the Claimant relies or which is disclosable pursuant to CPR 31.6;
    - (a) As soon as reasonably practicable and in any event not less than 14 days before the final determination of the Claim any Person Unknown who wishes to resist the Claim will:
      - (i) notify the Claimant's solicitor in writing as to whether they resist the Claim in whole or in part and, if so, give details of the basis on which they do so; and
      - (ii) provide the Claimant's solicitor with copies of any witness statement, documentary or other evidence, and any written arguments on which they rely.
  - (2) Not less than 7 days before the Hearing the Claimant will file with the Court and serve on any Person Unknown who intends to participate in the Hearing:
    - (a) The evidence of service of this Order on which the Claimant relies;
    - (b) Any additional evidence on which the Claimant relies for the purposes of the Hearing;
    - (c) A skeleton argument and draft of the final Order which it seeks.
18. Any person becoming aware of this Order can apply to the Court for this Order to be varied or discharged.
19. Liberty to apply."

**DEFINITIONS used in both draft orders:**

“**Music**” includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

“**Rave or raves**” means a gathering of persons on land in the open air (whether or not trespassers) at which amplified music is played (with or without intermissions) and is by reason of its loudness, duration and the time at which is played, likely to cause serious distress to the inhabitants of the locality, and for this purpose such a gathering continues during intermissions in the music.

**‘Vehicle’** includes the operation of any engine or generator, for the avoidance of doubt bicycles are not vehicles for the purposes of this Order.”