

Lawrence Lane: Frequently Asked Questions December 2021

What is the current situation with the Injunction.

On 8th December 2021 Margaret Obi (sitting as a Deputy High Court Judge) in The High Court of Justice, Queen's Bench Division, held a further Hearing of the issues and a continuation of the Interim Injunction was granted by the High Court.

A copy of the Order is attached to these notes.

What is now allowed and controlled?

- Any additional unauthorised development is prevented.
- The occupation of 5 plots can continue, but no more.
- No further portable structures etc. can be brought onto the land in breach of planning control.
- No waste / hardcore / similar material can be brought onto the land in breach of planning control.
- Generally, no further works can be undertaken at the site in breach of planning controls.

What has the judge stipulated that the occupants must do?

- The Judge decided that if the occupants intend to appeal the refusal of Planning Permission issued on 19th November 2021, the occupants must make any appeal to the Planning Inspectorate against that refusal, within a shorter timescale than is usually allowed. If they appeal, the occupants have undertaken to do so in line with this timetable
- If there is to be an appeal it has to be made within two months of the Judge's decision (so by 8th February 2022). This is instead of being within the usual 6 months of the Council's decision to refuse i.e. by 19th May 2022 in this case.
- The terms of the new order are supported by a penal notice, which means that any breach of the Order could amount to a contempt of court, punishable by a fine, imprisonment, or the seizure of assets. This is a much stronger position than normal Planning Enforcement action would achieve to cover the time periods and compliance with the undertakings.

What if there is no appeal against the Planning Refusal?

- If an appeal isn't submitted by 8th February 2022 the occupants must, and have undertaken to, leave the land on or before 8th April 2022.

What will happen if there is an appeal?

- If an appeal is submitted, the Council will notify local people and explain the type of appeal chosen and the particular process and timetable to be followed. Anyone may comment on the applicants' grounds for appeal. Whichever appeal type is chosen, an independent Planning Inspector will visit the site and will consider the merits of the proposal, and take into account representations made by the Council and any interested third parties, including local residents.
- During the process the Planning Inspector will expect the Council to suggest conditions that it thinks are necessary if the final decision was to allow the appeal and allow the site to remain. In doing so, it is accepted by all parties that the Council will not be condoning the situation, nor undermining its case for the refusal of the proposed residential use.
- The nature of formal appeals and the associated timetables set by the Planning Inspectorate may mean that the conclusion to this process could be during 2023.

What happens after the appeal has been decided by the Planning Inspectorate?

- If the appeal is allowed (development approved), the occupants will be able to stay on site within the controls imposed by the Planning Inspector. The control of the development will be based on the detail of the original planning application, and on any conditions that the Planning Inspector considers are necessary.
- If the Planning Appeal is upheld (development refused) by the Planning Inspector, the Judge has accepted an undertaking from the occupants that they will cease the residential use and remove their caravans and residential paraphernalia from the land within 2 months of the final determination of any appeal regarding the planning application.
- This is a beneficial position, if the development is turned down at appeal, because it negates the need to enter into Enforcement action under the Planning Acts, the prescribed procedures for which would take much longer to get through than the 2 months stipulated by the Judge. The penalty for non-compliance is more easily applied and of greater impact.

What happens next?

- 5 of the pitches are likely to be occupied throughout the period referred to above.
- The current residents of the site will continue to be responsible for managing their own waste, and for removing that from the site.
- Although the Injunction restricts movement of caravans, it is likely that as a normal consequence of the lifestyle of the residents, there will be periods spent travelling and staying away from the site. The Council will accept this as part of the rights of the occupants, but will not accept additional numbers on site caused by visitors.

- It is likely that the occupants will make requests to improve their accommodation provision for the duration of the period that the Judge has allowed residential use. The Council will look at these requests on their merits and make separate judgements on each specific request.

What do I do if I become aware of activity or changes that I think might contravene what has been allowed by the Court?

- In these cases we ask you to continue to provide only written descriptions and information to us, using the direct email to Planningenforcement@westberks.gov.uk. Please do not take or supply photographs.