**IN THE HIGH COURT OF JUSTICE CLAIM No: QB-2020-004363**

**QUEEN’S BENCH DIVISION**

**IN THE MATTER OF SECTIONS 214A AND 187B OF THE TOWN AND COUNTRY PLANNING ACT 1990**

**BEFORE:**

**B E T W E E N:**

**The Claimant and Defendant in an Intended Action**

**NEW FOREST NATIONAL PARK AUTHORITY**

**Applicant**

**-and-**

1. **DAVID QAYUMI**

**First Respondent**

1. **PERSONS UNKNOWN CARRYING OUT OR INSTRUCTING /ASSISTING ANOTHER TO CARRY OUT UNLAWFUL TREE WORKS**

**Second Respondent**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ORDER**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

On the 11th day of December 2020

Before Mrs Justice Yip sitting remotely at the Royal Courts of Justice, Stand, London, WC2A 2LL

On hearing from Counsel for the Applicant by telephone without notice to the Respondents

**IMPORTANT**

**PENAL NOTICE**

**IF YOU DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND BE LIABLE TO IMPRISONMENT, FINE OR SEIZURE OF ASSETS**

Recitals

1. The Court read the draft claim form, application form and witness statements set out in Schedule A to this Order.
2. The Court accepted the Undertakings given by the Applicant set out in Schedule B to this Order.

IT IS HEREBY ORDERED THAT:

1. The Respondents and their contractors, employees, agents and any other person whether through his or their actions or by instructing encouraging or permitting any other person must not cut down, top, lop uproot, wilfully damage, wilfully destroy, damage any tree on the Land, except with prior written consent of the Applicant.
2. The Respondents and their contractors, employees and agents whether through his or their actions or by instructing encouraging or permitting any other person must not do anything in breach of the Tree Preservation Order No. 26/93, except with prior written consent of the Applicant.
3. The Respondents and their contractors, employees and agents whether through his or their actions or by instructing encouraging or permitting any other person must not bring onto the land, or cause or permit another to do so, any tree felling equipment, materials and associated paraphernalia.
4. As this Order was made at a hearing without notice to the First Respondent, there will be a further hearing at which the First Respondent and any other person affected by the order can be present in respect of this Order on 13th January 2021 (‘the return date’) at a time to be fixed. The Applicant to obtain the time and listing arrangements for joining the hearing and to communicate them to any known Respondent on the 11th January 2021 by providing those details directly to them and publishing the details on <http://www.newforestnpa.gov.uk/>.
5. Permission is granted to the First Respondent and any other person affected by this order to apply to vary or discharge the order on 48 hour’s notice to the applicant.

The Land in this order means:

1. The ‘Land’ is South of the A336 Between Junctions with Eadens Lane and Tatchbury Lane, Bartley, SO40 7LA identified by Tree Preservation Order No. 26/93 dated 17 May 1993 on the plan annexed hereto within the green hatched demarcation labelled ‘W1’.

Service

1. Service of this order on the First Respondent shall be effected by delivering a copy of this order to his last known address.
2. Service of this order on persons unknown shall be by fixing a copy of this order in a transparent envelope, or laminated copy, in a prominent position on the Land.
3. A copy of this Order, Part 8 Claim Form, application form and witness statements will be made available on the Applicant’s website at: http://www.newforestnpa.gov.uk/
4. Costs reserved.

**GUIDANCE NOTES**

1. This Order prohibits you from carrying out the acts described in this Order. You should read the terms of this Order and the guidance notes very carefully and you are advised to consult a solicitor or other legal adviser as soon as possible.
2. Anyone served with or notified of this Order may apply to the Court at any time to vary or discharge this Order (or so much of it as affects that person), but they must first inform the Claimant’s solicitors. If any evidence is to be relied upon in support of the application, the substance of it must be communicated in writing to the Claimant’s solicitors in advance.
3. If you disobey this Order you may be held to be in contempt of Court and may be sent to prison or fined or your assets may be seized.
4. A defendant who is an individual who is ordered not to do something must not do it himself/herself or in any other way. He/she must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement. Unless otherwise stated references in this Order to the Defendant mean both or all of them.
5. All communications with the Court about this Order should be sent to QBJudgesListingOffice@Justice.gov.uk

**SCHEDULE A – Evidence**

Witness statement of James Palmer dated 9 December 2020

Witness statement of David Williams dated 9 December 2020

Witness Statement of Rosalind Alderman dated 9 December 2020

Witness Statement of Ian Baker dated 9 December 2020

**SCHEDULE B – Claimant’s undertakings to the Court**

1. The Applicant gave an undertaking to submit particulars of claim by 5th January 2021.
2. The Applicant gave an undertaking to serve the Respondents with a copy of this order as soon as practicable giving no less than 3 clear days before the next hearing date.
3. The Court did not require the Applicant to give an undertaking to pay any damages because it was considered that an injunction necessary to prevent significant environmental damage.

**SCHEDULE C – Name and address of Claimant**

New Forest National Park Authority, Town Hall, Avenue Road Lymington SO41 9ZG, c/o Solicitor and Monitoring Officer

