

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 MARGARET OBI

(Sitting as a Deputy Judge of The High Court)

:

B E T W E E N:



NEW FOREST NATIONAL PARK AUTHORITY

Claimant

-and-

(i) DAVID QAYUMI

First Defendant

**(ii) PERSONS UNKNOWN CARRYING OUT OR INSTRUCTING
/ASSISTING ANOTHER TO CARRY OUT UNLAWFUL TREE WORKS**

Second Defendant

ORDER

On 13 January 2021

Before Ms Margaret Obi (sitting as a Deputy Judge of the High Court) for the hearing which was held remotely at the Royal Courts of Justice, Strand, London, WC2A 2LL

On hearing counsel Ms Pattni for the Claimant and the First Defendant who represented himself

RECITALS

1. The Court heard the Claimant's application for a final injunction order, the court read the documents set out in Schedule A to this Order.
2. The Court was satisfied that the Claimant had duly served known interested or affected parties as set out in Schedule B to this Order with the documents set out in Schedule A to this Order.
3. The Court noted that the First Defendant had been advised to obtain legal representation after the interim injunction order was made on the 11 December 2020, but he had chosen to represent himself.
4. The Court explained to the First Defendant that the Claimant will pursue a criminal investigation into the unlawful tree works that had already taken place and that the proceedings were being recorded. The First Defendant confirmed that he understood.
5. The Court gave the First Defendant a further opportunity to obtain advice (whether by speaking to a lawyer or a friend) which he declined.
6. The First Defendant was invited to address the Court on the application. The First Defendant made the following averment regarding tree works which had already been carried out: "*I was not aware of the need for permission from the [Claimant]*". It was then explained to him that the Claimant was concerned about further tree works to which he said: "*I have already said I won't*".
7. The First Defendant confirmed that he was prepared to give an undertaking to the court in the same terms as the requirements of this order.
8. The Court therefore gave permission for the First Defendant to be discharged from this court order if he returns a signed undertaking to the Claimant, a copy of which will be provided to the Court by the Claimant, within 7 days of this order.

9. The Court was satisfied that the grounds for making a final order were met and applied the tests in Barnsley Metropolitan Borough Council v Hadfield [2018] EWHC 866 (QB); and South Bucks District Council v Porter [2003] 2 AC 558 [2003] UK HL 26.

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

IT IS HEREBY ORDERED THAT:

1. The Defendant and its 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 identified on the PLAN, except with prior written consent of the Claimant.
2. The Defendant and its 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 Claimant.
3. The Defendants and its 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 identified on the PLAN, or cause or permit another to do so, any tree felling equipment, materials and associated paraphernalia, except with prior written consent of the Claimant.
4. The Defendants and its 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 identified on the PLAN, or cause or permit another to do so, any hardstanding, building materials and associated paraphernalia, except with prior written consent of the Claimant.

The Land in this Order means:

5. 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 shown on the PLAN annexed hereto within the green hatched demarcation labelled 'W1' (**Annex to Order**).
6. This order shall expire at 4pm on 13 January 2026.

Service

7. Service of this order on the First Defendant shall be effected by delivering a copy of this order to his last known address.
8. 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.
9. A copy of this Order will be made available on the Applicant's website at:
<http://www.newforestnpa.gov.uk/>
10. No order for costs.

Dated 13 January 2021

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 using the details provided in Schedule C to this Order.
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. Any Defendant and any other person 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 – Documents List

Claim Form and Application Form and Interim Order dated 11 December 2020,
Witness statements of James Palmer, David Williams,
Rosalind Alderman and Ian Baker dated 9 December 2020 and exhibits attached thereto
Particulars of Claim dated 4 January 2021

SCHEDULE B – Service

On 12 December 2020, a copy of the order was attached to the side of the gate at the entrance to the Land and copies were affixed to two tree stumps on the Land where trees had been felled.

On 12 January 2021, the Particulars of Claim and notice of hearing were published on the Claimant's website <https://www.newforestnpa.gov.uk/news/high-court-injunction-awarded-to-protect-trees/>.

On 13 January 2021, a link to the hearing was sent electronically by email to known interested or affected parties: Mr and Mrs Patching, Mr David Qayumi, Ms Helen Greenaway and Mr Michael Joyce and Exclusive Auctioneers.

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

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

NEW FOREST NATIONAL PARK AUTHORITY

(Claimant)

-and-

(i) DAVID QAYUMI

(First Defendant)

**(ii) PERSONS UNKNOWN CARRYING OR INSTRUCTING /ASSISTING
ANOTHER TO CARRY OUT UNLAWFUL TREE WORKS**

(Second Defendant)

**ANNEX TO ORDER – LOCATION PLAN OF W1 AREA (THE AREA SHOWN
EDGED AND HATCHED IN GREEN AND LABELLED 'W1')**

