

IN THE HIGH COURT OF JUSTICE

CLAIM No:

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-

(i) DAVID QAYUMI AND ANY OTHER OWNERS

First Respondent

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

Second Respondent

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Claim Form (CPR Part 8)

In the High Court of Justice
Queen's Bench Division

Claim no.

Fee Account no.

Help with Fees - Ref no. (if applicable) **H W F - -**

Claimant

NEW FOREST NATIONAL PARK AUTHORITY



Defendant(s)

(i) DAVID QAYUMI AND ANY OTHER OWNERS

First Respondent

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

Second Respondent

Does your claim include any issues under the Human Rights Act 1998? Yes No

Details of claim (see also overleaf)

INJUNCTION PURSUANT TO SECTIONS 214A AND 187B OF THE TOWN AND COUNTRY PLANNING ACT
1990 - Particulars of claim to follow within 7 days

Defendant's name and address
David Qayumi
33 Pereira Road
Birmingham
B17 9JB

| | |
|------------------------------|-----|
| | £ |
| Court fee | 528 |
| Legal representative's costs | |
| Issue date | |

For further details of the courts www.gov.uk/find-court-tribunal.
When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

Claim no.

Details of claim *(continued)*

Statement of Truth

*(I believe)(The Claimant believes) that the facts stated in these particulars of claim are true.

* I am duly authorised by the claimant to sign this statement.

Full name Rosalind Alderman

Name of claimant's legal representative's firm n/a

signed _____

*(Claimant)(Litigation friend)
(Legal representative)

position or office held _____

(if signing on behalf of firm or company)

**delete as appropriate*

New Forest National Park Authority
Town Hall
Avenue Road
Lymington
SO41 9ZG

Claimant's or claimant's legal representative's address to which documents should be sent if different from overleaf. If you are prepared to accept service by DX, fax or e-mail, please add details.

Find out how HM Courts and Tribunals Service uses personal information you give them when you fill in a form: <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

STATEMENT OF WITNESS
((Civil Procedure Rules 25.3(2))

STATEMENT OF David Williams Planning Enforcement Manager

Age of witness : Over 18

This statement (2 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

I am employed as Planning Enforcement Manager by the New Forest National Park Authority (the 'NPA'). This witness statement is made in relation to land at Lot 2, Petlake Farm, Ringwood Road, Bartley, Southampton SO40 7LA, known as 'Terry's Patch' (as shown outlined in red on the attached plan at DW1, the 'Property').

The property known as Terry's Patch has been subject of a recent sale and online auction selling the field into circa 16 plots. Following concerns over the potential sub-division of land and multiple land owners and potential landscape implications an immediate Article 4 Direction was served on 9th November 2020. (Exhibit DW2)

The site lies within the New Forest National Park, Forest North East Conservation Area map at Exhibit DW3) and is subject of a woodland tree protection order as well as trees protected by their status in the Conservation Area.

The land is of high intrinsic landscape quality with protection of its National Park status. Trees and woodland being a very significant factor within that landscape and special character. Likewise the trees are a very significant element of the character and appearance of the Conservation Area which would be severely harmed by their removal and widescale felling.

Initial tree works were brought to the attention of the Authority on Sunday 6th December 2020. The Authority's Tree Officer visited the site Monday 7th (next day) and viewed evidence of unauthorised tree felling. That night (7th December) in the hours of darkness workmen were observed by a third party to be at the site with chainsaws and the police were called at 9.30pm. The police report is attached separately. (Exhibit DW4)

The site was visited again Tuesday 8th at 11am with a police officer present and it was observed that further trees had been cut down. Notices were attached to stumps and gate advising of tree protection. Further trees were marked with white crosses within the woodland. Photos taken at visit Exhibit DW5)

Afternoon of Tuesday 8th December a tree contractors van was observed visiting the site and a contractor reading the site notices and leaving the site. At the same time a call was made to the Tree team at NFNPA seeking clarification over status of trees where upon advise was given.

The situation remains fluid with attempts to contact the agent, alleged new site owner and other interested parties. The threat remains that further tree works will be undertaken. Communication with the selling agent and contact attempts with contact given by the police are on going and a Requisition for Information under Section is also being pursued.

The works appear to be facilitating a separate new access through the strip of woodland to serve the lower end of the field which is believed to be have been sold off separately by one or more separate parties. Land Registry has applications pending.

The threat of further tree works, which would enable laying of tracks, importation of hardcore remains and this has the potential to cause immense harm to the protected landscape. The trees are of a mature age and comprise largely oaks which would take many years to re-establish and the harm would be medium to long term even with replacement tree notices served.

The tree works and tree felling would not be supported were they subject of a planning or tree works application and would be harmful to the intrinsic character of the Conservation Area and National Park contrary to planning policies DP2, SP16, SP17, and SP7 of the New Forest National Park Local Plan (Adopted Aug 2019) policies.

It has not been possible to establish or formally interview the alleged new owner although a call with a contact provided to the Authority by the Police has verbally advised the named person of the protection afforded by the planning policies effecting the site, followed up by a written warning. The threat of further tree removal remains very high in light of unknown factors and the very recent history of works at the site. Other powers are not likely to be 'enough' i.e. there is a flagrant breach despite it being a criminal offence to carry out authorised tree works - this is a case where nothing short of penal sanctions is likely to abate the unlawful tree works

Signed:*David Williams*..... (witness)

Date:09.12.20.

Exhibit DW1

Location plan and Site plan with TPO marked



**NEW FOREST
NATIONAL PARK**

New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

Tel: 01590 646600
Fax: 01590 646888

Date: 09/12/2020

LOCATION PLAN

Land at Lot 2
Petlake Farm
Ringwood Road
Bartley
Southampton SO40 7LA
known as 'Terry's Patch'

SCALE: 1:2500



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**NEW FOREST
NATIONAL PARK**

New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

Tel: 01590 646600
Fax: 01590 646666

Date: 09/12/2020

Land at Lot 2
Petlake Farm
Ringwood Road
Bartley
Southampton SO40 7LA
known as 'Terry's Patch'

SCALE: 1:2500

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Exhibit DW2 Article 4 direction

NEW FOREST NATIONAL PARK AUTHORITY

TOWN AND COUNTRY PLANNING
(GENERAL PERMITTED DEVELOPMENT) (ENGLAND)
ORDER 2015, AS AMENDED

DIRECTION MADE UNDER ARTICLE 4(1)
(WITH IMMEDIATE EFFECT)

WHEREAS the New Forest National Park Authority (the Authority) being the appropriate local planning authority within the meaning of article 4(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), is satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on the land shown edged red on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 (as amended).

AND WHEREAS the said Authority considers that the development of the said description would be prejudicial to the proper planning of its area and would constitute a threat to the amenities of its area.

NOW THEREFORE the said Authority in pursuance of the power conferred on it by article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, hereby directs that the permission granted by Article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below.

THIS DIRECTION is made under article 4(1) of the said Order and, in accordance with article 4(4) and Schedule 3, shall remain in force until 2 May 2021 (being six months from the date of this direction) and shall then expire unless it has been confirmed by the local planning authority in accordance with article 2(6) of Schedule 3 of the said Order before the end of the six month period.

Cont'd...

SCHEDULE

The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within **Class A of Part 2 of Schedule 2 to the said Order** and not being development comprised within any other Class.

MADE UNDER THE COMMON SEAL OF THE NEW FOREST NATIONAL PARK AUTHORITY

This 3rd day of November 2020

The Common Seal of the New Forest National Park Authority was affixed to this Direction in the presence of



Solicitor and Monitoring Officer
New Forest National Park Authority



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CONFIRMED UNDER THE COMMON SEAL OF THE NEW FOREST NATIONAL PARK AUTHORITY

This day of 202

The Common Seal of the New Forest National Park Authority was affixed to this Direction in the presence of

.....

Executive Director Strategy and Planning



**NEW FOREST
NATIONAL PARK**

New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

Tel: 01590 846600
Fax: 01590 846666

Date: 12/10/2020

ARTICLE 4 DIRECTION

Land south of A36 Ringwood Road
Bartley
SO40 7LA



[Handwritten signature]

SCALE: 1:2500

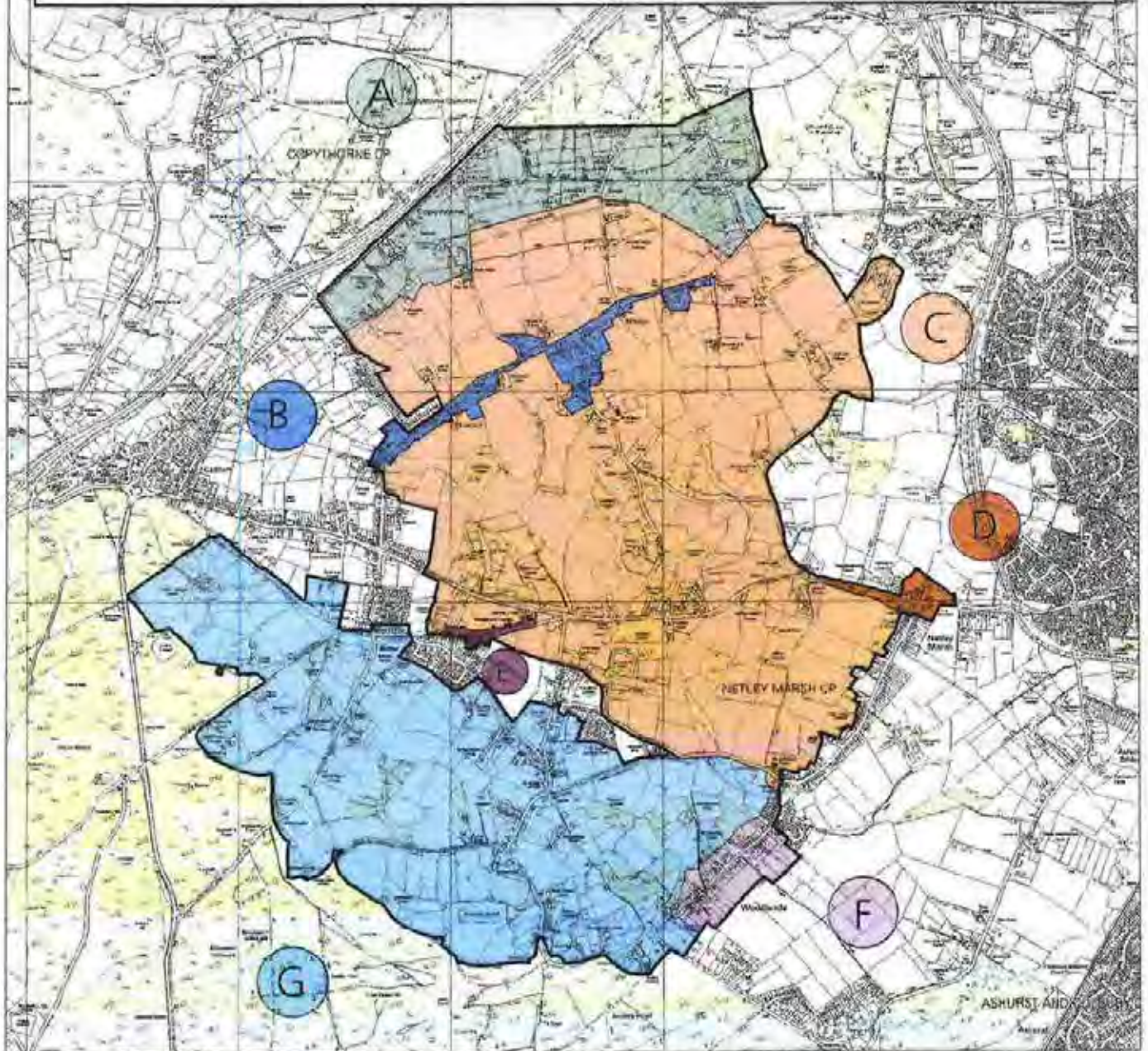
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Exhibit DW3

Conservation area map

Forest North East Character Areas

- | | | |
|---|------------|------------------------------------|
| A: Copythorne | B: Winsor | C: Dispersed farms and arable land |
| D: Netley Marsh | E: Bartley | F: Woodlands |
| G: Historic edge of forest encroachment | | |



NEW FOREST
NATIONAL PARK

New Forest National Park Authority
South Efford House
Milford Road
Everton
SO41 0JD

Tel: 01590 646600
Fax: 01590 646666

Date: 06/03/08

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Forest North East
Conservation Area

Not to Scale



Exhibit DW4

Etract of police report

Email dated 08.12.20 from Hampshire Police report

From: [REDACTED]@hampshire.pnn.police.uk>
Sent: 08 December 2020 08:23
To: [REDACTED]@newforestnpa.gov.uk>; [REDACTED]
<[REDACTED]@forestryengland.uk>; [REDACTED]@naturalengland.org.uk>
Subject: 44200472903 - MESSAGE FROM HAMPSHIRE POLICE
Importance: High

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

This isn't about the A31.

We attended an incident last night where a male appears to have bought some woodland and decided to chop down a vast amount of trees. We attended last night after receiving a call from a concerned member of the public.

The informant lives at [REDACTED] and describes woodland as between Cadnam and Neltey Marsh off of Ringwood Road. The officers write up (minus the GDPR stuff) is below. I specifically note the new owners intention to turn this piece of woodland into a truck stop!

At 2145 on Monday 7th December, Police were called to a report of men cutting down trees with chain saws in a copse in Ringwood Road, between Cadnam and Neltey Marsh. Information was received that a Mercedes Vito van - BV67*** was at the location.
Officers attended at 2300 and passed the Mercedes Van - BV67*** driving in the opposite direction. This was stopped and two occupants spoken to.
Officers attended the location of the tree cutting and saw a large amount of trees had been cut, and three males were present. Officers spoke with David ****.
David stated that he was the owner of the land, and that he had bought four acres of the woodland in an auction a couple of weeks ago. He stated that he bought the land for £228,000 from an Auctioneers in London called "Exclusive". David stated that he lives in Birmingham and had come down at night to specifically cut down the trees on his land with the two other males, as it was too dangerous during the day as the road (Ringwood Road) was so busy. He stated that he had cut the trees down in order to create an access area into his land, although there was an access road and metal five bar gate leading into his land about 100 metres away. He stated that he had no plans on how or when to remove the cut down trees.
David stated that he planned to build a truck stop with fuel service station on the land. He was asked whether he had permission to cut down the trees, and he stated that it was his land, so he didn't think he needed any permission. He stated that he had sent the NFDC a letter that day informing them that he will be cutting down trees on his land for access purposes, but stated that he had not waited for any response. David stated that he had not submitted any planning permission for his truck stop nor had he submitted any submission form to enquire about any TPO's in the area of his purchased land.
David stated that he had brought the two males with him down from Birmingham to cut down the trees. The two males were from Afghanistan and did not speak very good English. None of the males were wearing any Health and Safety equipment, and did not have any lighting - cutting the trees in the dark. David confirmed that he did not have a felling licence to cut down the large amount of trees.
The two other males from the Mercedes van returned and confirmed that they had been assisting David cutting down the trees.
David was told to stop the work, and informed that his details would be passed to NFDC.

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Exhibit DW5
Site photo's
taken 08.12.20





