



SELBORNE CHAMBERS

Newcomer Injunctions: A new tool for tackling trespass to land cases

Wolverhampton City Council and others v London Gypsies and Travellers and others [2024] 2 WLR 45

© 2024, Barnaby Hope, Selborne Chambers. All rights reserved.

The Supreme Court's decision in *Wolverhampton City Council and others v London Gypsies and Travellers and others* [2024] 2 WLR 45 considered the fundamental question of whether a court can grant an injunction against a "newcomer", defined as a person who at the time of the grant of the injunction were neither defendants nor identifiable persons and who had not, at the time of grant, committed or even threatened unlawful behaviour.

In summary, the appeals related to proceedings brought by local authorities against travellers/gypsies to restrain them from remaining on land. Sometimes, the travellers were in actual occupation; sometimes they been previously and then had moved on. The unavailability of a newcomer injunction would, in many cases, mean that the local authority would have no option but to wait for further unlawful possession by identifiable travellers before seeking injunctive relief, thereby resulting in a potentially endless cycle of litigation.

Unsurprisingly, the Court held that such jurisdiction did exist, although it paid tribute no doubt to the industry of the legal teams involved by considering the jurisdictional issue in depth (see paragraphs 14–166).

Despite the depth of this analysis, the key ratio of the judgment is set out in paragraph 167. The Court found that newcomer injunctions may be granted in principle, but because they differed from any other type of remedy and, 5 specific hurdles needed to be crossed before a court ought to grant such injunction.

The summary below adds content from paragraphs 188—236, which expand upon those considerations, where relevant

1. There was a compelling need for the protection of civil rights in the locality not adequately met by any other measures available to the applicant local authority. If, for example, the local authority could not demonstrate a real risk the land would continue to be occupied by newcomers (probably based on past history) it is unlikely this requirement would be met.
2. There were procedural protections in place for the newcomers, such as taking all reasonable steps to draw their attention to the application and any order made, as well as a generous provision for liberty to apply to vary or discharge the order.
3. A duty of full and frank disclosure in respect of the application.
4. The injunctions must be limited in duration and location. It would not be possible, for example, to obtain a newcomer injunction over a whole borough, nor in perpetuity. Anything over a year was regarded as unusual.
5. As always, it is just and convenient on the facts to make an order.

The slightly frustrating aspect of this judgment for practitioners is that it is directed specifically towards injunctions concerning travellers and local authorities (see paragraph 235 for the ‘disclaimer’). Although it is clear the Court was saying the door is never closed to the development of new types of injunctions, it remains to be seen the extent to which the threshold requirements at paragraph 167 and the detailed practical guidance given in support of them apply to other species of newcomer injunctions.

Nonetheless, this is very helpful guidance for any practitioners instructed by local authorities (or indeed other landowners) where there has been a history of issues concerning trespass to their land. A careful application of the 5 factors above should enable parties to take a more reasoned view as to whether the relatively exceptional (author’s words) newcomer injunction is likely to be a remedy available to them on the facts.



Barnaby Hope
CALL: 2011

Key Contacts:

Paul Bunting

Senior Clerk

paul.bunting@selbornechambers.co.uk

Darren Madle

Senior Clerk

darren.madle@selbornechambers.co.uk