



Neutral Citation Number: [2024] EWHC 3142 (KB)

Case No: KB-2024-003851

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/12/2024

Before:

MRS JUSTICE HILL

Between:

LONDON BOROUGH OF ENFIELD

Claimant

- and -

Defendants

(1) Persons Unknown who participate between the hours of 3:00pm and 7:00am in a gathering of 2 or more persons within the London Borough of Enfield, Map Exhibit MR1/1 (attached) at which some of those present engage in motor racing or motor stunts or other dangerous or obstructive driving.

(2) Persons Unknown who participate between the hours of 3:00pm and 7:00am in a gathering of 2 or more persons within the London Borough of Enfield, Map Exhibit MR1/1 with the intention or expectation that some of those present will engage in motor racing or motor stunts or other dangerous or obstructive driving.

(3) Persons Unknown promoting, organising and/or publicising (by any means whatsoever) any gathering between the hours of 3:00pm and 7:00am of 2 or more persons with the intention or expectation that some of those present will engage in motor racing or motor stunts or other dangerous or obstructive driving within London Borough of Enfield, Map Exhibit MR1/1.

Francis Hoar (instructed by **London Borough of Enfield**) for the **Claimant**
The Defendants did not appear and were not represented

Hearing date: 4 December 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 6th December 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE HILL

Mrs Justice Hill:

1. This is an application for an interim injunction in Part 8 proceedings, by which the Claimant, the London Borough of Enfield, seeks to prevent “car cruising” within the borough.
2. The application was made by way of an application notice dated 19 November 2024 supported by a witness statement Martin Rattigan, Head of Regulatory Services within the Claimant, dated 13 November 2024. I was provided with a helpful skeleton argument by Francis Hoar of counsel, amplified by his oral submissions at a hearing on 4 December 2024.
3. I indicated at the end of the hearing that I would grant the injunction sought, subject to certain modifications to the draft which had been discussed in the hearing. These are my reasons for doing so.

The factual background

4. Car cruises are described in the underlying paperwork for the application as “organised or impromptu events at which drivers of motor vehicles race, perform driving stunts, drive dangerously and/or drive in convoy”. It is said that such activities may be “noisy, dangerous, and illegal, obstructing highways and the premises bordering them, damaging property, and putting the safety of spectators and other persons at risk”. Car cruising or ‘street cruising’ was described in similar terms in *Sharif v Birmingham City Council* [2020] EWCA Civ 1488 at [1] and *Wolverhampton City Council and others v Persons Unknown and others* [2024] EWHC 2273 (KB) (“*Wolverhampton (Car Cruising)*”) at [5]-[9].
5. The particular problem of car cruising in the Claimant borough was described in detail in Mr Rattigan’s statement. In summary, there have been many instances of car cruising taking place within the borough, particularly on the A406 (a part of the London North Circular), the A10 and retail car parks. Mr Rattigan’s evidence emphasised the serious risks caused by car cruising in the borough. He referred, for example, to an incident in December 2013, involving a high-speed “cat and mouse” game between several cars on the North Circular Road, in which three people were killed.
6. Mr Rattigan appended video footage from 2022 showing vehicles racing, performing stunts and “donutting”, namely causing a vehicle to rotate around a fixed point (normally the front axle) while not moving-off, causing noise, smoke and tyre marks to be created: see *Wolverhampton (Car Cruising)* at [11].
7. His statement incorporated witness statements from Inspector Richard Lee, dated 1 March 2024, PS Mark Wells dated 2 February 2024, PC Luke Heming dated 22 December 2023, PC Paige dated 17 April 2024 and two anonymous witness statements from members of the public, providing further detail of the serious problems caused by car cruising.
8. He summarised a series of complaints made by members of the public to the police and the Claimant between 3 January 2021 and 28 October 2024. The complaints described regular gatherings of youths with cars and of others gathering to watch them in which the former race cars, do stunts and other dangerous driving; that these activities take

place at night and last until the early hours of the morning; that they often take place in residential areas; and that they are accompanied by anti-social behaviour including rowdiness, fighting, drug taking and sexual activity in cars.

9. In February 2021 the Claimant imposed a Public Spaces Protection Order (“PSPO”) to prohibit the activity, but this has not reduced the incidence of car cruising. The PSPO expired on 3 February 2024. While the Claimant is engaging in a consultation before deciding whether to make a further PSPO, no such PSPO is currently in force.
10. Mr Rattigan explained that despite the existence of the PSPO, between August 2022 and September 2023 there were 30 car “meets” at the former B&Q car park, Great Cambridge Road (A10), known as the Coliseum Retail Park, EN1 1TH. As a result, an agreement was reached for the Park’s agents to implement physical barrier measures, to prevent racing and stunts. The area was initially restricted by a barrier at the entrance which was subsequently vandalised. Concrete blocks have now been placed strategically to prevent the vehicles from being able to race and perform stunts. However, this does not prevent car meets and cruising arising on the surrounding roads in this area
11. Mr Rattigan explained that the Claimant seeks an injunction because (i) there is a pressing need to be able to take enforcement action to prevent the dangerous behaviour inherent in car cruising pending the necessary consultation process before re-introducing the PSPO; and (b) the PSPO did not, at least alone, appear to have a sufficient deterrent effect on the participants, which is evidenced by the considerable number of complaints about dangerous driving, racing and cruising within the duration of the PSPO. The Claimant considers that it would be reasonable to impose an injunction that would have the consequence that any person found to be in breach of the injunction would face imprisonment.

The structure of the injunction sought

12. The focus of the draft injunction is car cruises involving gatherings of two or more persons between the hours of 3 pm and 7 am within the borough.
13. It seeks to restrict the activities of three groups of Persons Unknown involved in car cruising: first, those who participate in car cruises where some of those present actually engage in motor racing or motor stunts or other dangerous or obstructive driving; second, those who participate in car cruises by attending with the intention or expectation that some of those present will engage in those activities; and third, those who promote, organise or publicise (by any means whatsoever) car cruises again, with the intention or expectation that some of those present will engage in those activities.
14. It does so, in summary, by forbidding the participation in “Prohibited Activities” defined in Schedule 2, and the promotion, organising or publicising of events with the intention or expectation that some of those present will engage in a “Prohibited Activity”.
15. It seeks a power of arrest under the Police and Justice Act 2006, s.27.

Notice and service issues

16. The Claimant sought an order dispensing with the requirement to serve the claim and application before it was considered, on the grounds that the Persons Unknown cannot be reliably identified.
17. However, the Claimant made clear that before the hearing, it would publish the Claim Form, Particulars, draft order, witness statement of Mr Rattigan and counsel's skeleton argument on its website, together with the notification of the hearing. A statement from Balbinder Kaur, Assistant Principal Lawyer within the Claimant, dated 3 November 2024, confirmed that this documentation had been published on the Claimant's website at around 11.30 am the day before the hearing.
18. Given the currently unknown nature of the Defendants, the efforts to publicise the application thereby giving informal notice of it and the right within the draft order for anyone affected by it to apply to the court for it to be varied or discharged, on 48 hours' notice, I considered that it was appropriate to determine the application.
19. For the same reasons as are set out at [16] above, the Claimant sought permission under CPR 6.15, 6.27 and 81.4(2)(d) to serve the claim form, application notice and supporting documents by the alternative means set out in Schedule 3 of the draft order. The Claimant also sought dispensation from the requirement of personal service under CPR 81.4(2)(d); and permission to serve the injunction and power of arrest by the alternative methods specified in Schedule 3.
20. The alternative methods of service set out in Schedule 3 are: (i) signs informing people of the order and the area in which it has effect in prominent locations through the borough, particularly at its boundaries on major roads and in areas where the Claimant knows car cruising has been particularly prevalent; (ii) publication in the local newspaper; (iii) publication on the Claimant's social media channels and those of the local police; (iv) publication in other relevant social media sites; and/or in any other like manner as appears to the Claimant to be likely to bring the proceedings and the order to the attention of persons likely to be affected by it.
21. The sites in (iv) above included "motorheadz.uk"; "Cruise-Herts" Facebook and Instagram pages; "Herts Car Society" Facebook page; "Herts BMW Owner Club" Facebook page; "Royal Herts Statics" Facebook page; "Static Takeover" Facebook page.
22. I am satisfied that alternative service in these forms is appropriate, given the nature of the Defendants and of the claim: this amounts to a "good reason to authorise service by a method or at a place not otherwise permitted by this Part" for the purposes of CPR 6.15. The methods of service are similar to those used in other Persons Unknown cases, including *Wolverhampton (Car Cruising)*.
23. By CPR 6.27, my order under CPR 6.15 applies to any document in the proceedings as it applies to a claim form and reference to the defendant in that rule is modified accordingly.
24. For the same reasons it is appropriate to dispense with personal service of the injunction and power of arrest. I extend time for serving the claim form, application notice and supporting documents, pursuant to CPR 7.6, until such time as the sealed injunction can be served.

The legal framework

25. The court's power to grant an injunction derives from the Senior Courts Act 1981, s.37(1). The High Court may grant an interlocutory or final injunction "in all cases in which it appears to the court to be just and convenient to do so".
26. In making the application the Claimant is exercising a series of statutory powers, principally the Local Government Act 1972, ss. 111 and 222, the Highways Act 1980, s.130, the Localism Act 2011, s.1, the Crime and Disorder Act 1998 and ss.6 and 17.
27. Injunctions against Persons Unknown described in almost identical terms to the Defendants in this claim were granted by Julian Knowles J in *Wolverhampton (Car Cruising)*. I made the original interim injunction in that case: see [4] of his judgment.
28. These applications are - at least in part - for precautionary relief, to prevent future car cruising. I gratefully adopt Julian Knowles J's summary of the principles pertinent to such relief, and for the use of the s.222 power, set out in *Wolverhampton (Car Cruising)* at [33]-[43].
29. In *Wolverhampton City Council and others London Gypsies and Travellers and others* [2023] UKSC 47; [2024] 2 WLR ("*Wolverhampton (Travellers)*") the Supreme Court considered the basis on which it can be appropriate to grant an injunction in the terms sought against groups of unknown persons including those whose identities were not known or knowable. Again, I adopt Julian Knowles J's summary of the relevant principles in *Wolverhampton (Car Cruising)* at [46]-[51].
30. I have also taken into account the judgment of Ritchie J in *High Speed Two (HS2) Ltd and another v Persons Unknown and others* [2024] EWHC 1277 (KB).
31. Some earlier cases relating to injunctions prohibiting car cruising are relevant. In *Sharif v Birmingham City Council* ([2020] EWCA Civ 1488; [2021] 1WLR 685) the Court of Appeal dismissed an appeal against an injunction prohibiting this activity. The Court rejected the submission that *Birmingham City Council v Shafi* [2009] 1 WLR 1961 suggested that the Court should not impose injunctions when there was an alternative statutory means under statute, such as a PSPO, by which the activity prohibited by an injunction. Rather, the Court held, *Shafi* was authority for the proposition that where a statutory remedy (in that case an Anti-Social Behaviour Order) was available, that would grant identical or almost identical terms and means of punishment of those in breach, that means should be adopted. However, as the Court held in *Sharif*, that was not the case with a PSPO. Such an order can only be put in place by a local authority after a lengthy consultation process; breach of it is a non-arrestable offence carrying only a financial sanction; and it is therefore likely to be ineffective in this context: *Sharif* at [37] and [39]. Julian Knowles J applied *Sharif* in *Wolverhampton (Car Cruising)* at [73].
32. The principles applicable to the granting an interim injunction are well known, and derived from *American Cyanamid Co v Ethicom Ltd* [1975] AC 396.

The merits of the injunction application

33. Having considered the evidence and submissions from the Claimant, I am satisfied that they are all met.
34. *First*, Mr Rattigan's evidence shows that there is plainly a serious issue to be tried (at the very least) to the effect that the Defendant groups of Persons Unknown have repeatedly raced other cars at high speeds and dangerously; used car parks and other areas to do dangerous stunts; engaged in that behaviour in residential areas; caused gatherings of people; done these activities at night and created a high volume of noise, including until the early hours of the morning; engaged in sexual activity in cars; fought with each other; and caused a considerable nuisance to local residents, including vulnerable and elderly people and families with young children. In so doing, they have been responsible for anti-social behaviour; and caused a public nuisance.
35. *Sharif and Wolverhampton (Car Cruising)* at [73] indicated that the fact that there has been a PSPO in place prohibiting these activities, and that there may be a future PSPO imposed, is not a reason against the grant of an injunction. As Mr Hoar highlighted, aside from the general point made in *Sharif* that a PSPO is unlikely to create sufficient deterrence to reduce car cruising because of the non-custodial penalties for breaches it imposes, there is specific evidence here, from Mr Rattigan, that occurrences of car cruising in this borough have increased since the PSPO was first imposed in 2021.
36. *Second*, the balance of convenience justifies an injunction against car cruising, including injuncting newcomers.
37. The various criteria set out by the Supreme Court in *Wolverhampton (Travellers)* are pertinent here. I address these in turn, by reference to Mr Hoar's helpful distillation of them.

Is there a compelling need for the protection of civil rights or the enforcement of public law not adequately met by any other available remedies?

38. In my judgment, there is: the Claimant has a lawful right to control the public highway, protect its residents from anti-social behaviour and from the risk of personal injury and death that car cruising poses.

Are there procedural protection for the rights of persons unknown who might be affected by the injunction, including rights under the European Convention for the Human Rights, built into the application and the injunction?

39. In my view no Convention rights are engaged here. The Article 8 right to a private and family life does not extend to anti-social behaviour with others. The Article 11 right to association is not engaged either: this behaviour is not a part of association for the means of campaigning or protesting, as occurs in some other cases involving Persona Unknown.
40. The application and hearing date was publicised on the Claimant's website and the draft injunction makes provision for further publication of the relevant documents by a range of alternative methods of service. Those affected by the injunction can apply to the court for it to be varied or discharged, on 48 hours' notice. Their procedural rights are therefore protected to the extent necessary.

Has the Claimant complied in full with the disclosure duty which attached to the making of a without notice application?

41. Mr Rattigan explained the recent history of the attempts by the Claimant to prevent this behaviour by a PSPO.
42. I accept Mr Hoar's assurance that the Claimant is unaware of any other disclosure that may affect the merits of the application; and that it will, as is to be expected, keep the issue under review.

Has the Claimant showed that, on the particular facts, it is just and convenient in all the circumstances that the injunction sought should be made?

43. In my judgment, the Claimant has, given the factual context I have outlined. During the hearing some sensible modifications to the list of Prohibited Activities in the draft injunction were conceded by Mr Hoar, so as to make sure that it, and the power of arrest, is suitably focussed on the elements of car cruising that cause serious harm and nuisance to local residents.

Does the draft injunction spell out clearly and in everyday terms the full extent of the acts it was prohibiting, corresponding as closely as possible to the actual or threatened unlawful conduct?

44. This test is met: the wording of the injunction follows closely that of those prohibiting car cruising that have been upheld by the High Court and the Court of Appeal in other cases; and sets out in detail the activities that are prohibited, where and when. This is especially so given the modifications agreed by Mr Hoar during the hearing.

Does it extend no further than the minimum necessary to achieve the purpose for which it was granted?

45. This test is also met, again given the modifications made to the draft.

Is it subject to strict temporal and territorial limits?

46. The injunction will last for no more than a year before the court will have an opportunity to review it, following the precedent of *HS2*.
47. It will be restricted to the Claimant's borough. Its territorial limits are made clear by the map exhibited to the injunction at MR1/1.

Will it be actively publicised by the applicant so as to draw it to the attention of all actual and potential respondents?

48. This will occur by way of the various alternative means of service I have set out above.

Does it include generous liberty to any person affected by its terms to apply to vary or discharge the whole or any part of the injunction; and that, accordingly, it followed that the challenge to the court's power to grant the impugned injunctions at all failed?

49. The proposed order would allow an application to vary and discharge on 48 hours' notice, which is a reasonable period.

50. Returning to the remaining *American Cyanamid* criterion, I accept the Claimant's submission that it is able to satisfy any damages awarded to the Defendants in the future should the injunction later be set aside or not granted on a final basis. In any event, there is authority for the proposition that it is unnecessary for cross-undertakings in damages to be given where an interim injunction was imposed on the application of a claimant local authority: *Cambridge City Council v Traditional Cambridge Tours Ltd* [2018] EWHC 1304 (QB), per Whipple J (as she then was). There is also force in Mr Hoar's submission that it is, realistically, inconceivable (or at least highly unlikely) that damages could be given to a person for being unable to engage in the activities prohibited.
51. For all these reasons I was satisfied that it was appropriate to make the interim injunction sought.

The power of arrest

52. The Claimant also invoked the Police and Justice Act 2007, s.27. This provides in s.27(2) that if the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may attach a power of arrest to any provision of the injunction. The power is triggered if one of the conditions in s.27(3) is met, namely that the court is satisfied that the conduct in question "consists of or includes the use or threatened use of violence" or "there is a significant risk of harm" to a person mentioned in s.27(2).
53. In light of Mr Rattigan's evidence, I was satisfied that the second condition in s.27(3) is met. The harm in question is the risk of personal injury or death from Prohibited Activities in the injunction.
54. The power of arrest is appropriately limited, at least for present purposes, to those participating in a Prohibited Activity who are the driver of, or a passenger in, any Motor-Vehicle (as defined in the injunction).

Future directions

55. As to the future conduct of the claim, I am content to adopt the same course that has been taken in other injunctions of this kind, namely to list a return date in one year, with a direction that the Claimant file and serve (by publishing it on its website) updating evidence about the compliance and non-compliance with the injunction and details of enforcement. The usual provisions would apply, allowing any person affected to apply at short notice to vary or set it aside, as noted above.