

**IN THE HIGH COURT OF JUSTICE
MANCHESTER DISTRICT REGISTRY
KING'S BENCH DIVISION**

1 Bridge Street
Manchester

Before HIS HONOUR JUDGE BIRD

IN THE MATTER OF

ANGLO INTERNATIONAL UPHOLLAND LTD (Claimant)

-v-

WAINWRIGHT & PERSONS UNKNOWN (Defendants)

**MISS LAURA TWEEDY, instructed by Brabners LLP, appeared on behalf of the
Claimant**

THE DEFENDANTS did not attend and were not represented

**JUDGMENT
5th MAY 2023
(AS APPROVED)
Reissue 1**

WARNING: Reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

JUDGE BIRD:

1. This is an application for an interim injunction. It is supported by witness evidence provided by Mr Houghton and by Miss Helena Davies.
2. The claimant is the proprietor of a substantial site in Upholland, near Manchester. The site comprises some 320 acres and has, at its centre, a now abandoned seminary building. The seminary was founded in 1880 but ceased to be used in the 1960's. The building has fallen into a dilapidated state. The dilapidated state of the building means that it is unsafe. Several floors have collapsed in the front corner elevation; coping stones have fallen off the front elevation; lead flashings have been stolen over the years, meaning that there is a great deal of water ingress; and large portions of the roof have collapsed, including a collapse that was drawn to my attention that happened within the last few days. A wooden tower adjacent to part of the roof is leaning sideways and is in danger of further collapse.
3. The building is very large and imposing. It has, since at least the year 2000, attracted a number of trespassers. In recent years, those trespassers have camped out in the building, and have published on social media photos which exhibit its abandoned and perhaps haunting state. There is real concern for the safety of those who enter the site. The claimants have gone to great lengths to secure the site. The annual cost of those steps is, I am told, around £260,000.
4. Mr Peter Houghton has explained in his witness statement what those steps are and has explained that in his professional view the claimants can do no more to prevent trespassers entering. His evidence cites examples of where trespassers have made threats against security guards, inappropriately engaged with security guards, and caused, at the very least, discomfort to them. The evidence also refers to damage to a 2.5 metre perimeter fence placed around the college.
5. It also deals with the involvement of the first defendant, Mr Wainwright. Mr Wainwright is a regular attender at the building. He has been seen on its roof in the company of others. And save for some periods of short duration, he attends on a very regular basis. It is right to say that he has engaged with those who instruct the claimant and has acted in a sensible and proper way to compromise this application. As a result, I am content to make an order against him.
6. In addition to Mr Wainwright, the evidence deals with a large number of unknown other persons who have entered or attempted to enter the college site. There are instances of bells being rung within the building, of large groups of people camping out in the building, and of large groups of people being turned away from the building and telling stories of how they have previously entered. There are also instances of drones being flown over and of photographs being taken; and on at least one occasion, of a drone coming down within the college and persons unknown seeking permission to go in and retrieve it.
7. Neither Mr Wainwright nor any persons unknown have attended at this hearing. But I am satisfied that notice of it has been given to them for the reasons set out in the evidence, and in the thorough and helpful skeleton argument prepared by Miss Laura Tweedy, on behalf of the claimant.
8. I am satisfied that the orders in the amended form before me should be made. I am satisfied that Mr Wainwright and persons unknown ought to be prevented by an interim injunction, from entering into the site of the college and bounded by the fence which I have

referred to. The precise area will be shown delineated on a map which will be served with the order. The draft order seeks a prohibition on the flying drones over the site. Following the hearing, I have had the benefit of further submissions from Miss Tweedy on this issue. My attention has been drawn to section 76 of the Civil Aviation Act 1982. It provides that “*no action shall lie in respect of trespass..... by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable....*”. For the purposes of this application, I accept that a drone is an aircraft and that section 76 applies. It follows (if the drone flies at a height above the ground which having regard to the wind, whether and all the circumstances of the case is reasonable), that by operation of the statute, the simple act of flying over the college site does not give rise to a claim in trespass. I do not regard section 76 as barring any interim relief in respect of drones on the facts of the present case. The basis of complaint is not the simple act of flying, but rather what is happening during the flight. Photographs and videos taken by cameras mounted on drones facilitate and encourage further trespass and potentially endanger life. Such footage and photographs can be used to work out new ways to enter the site. The only reason to fly a drone over the site is to facilitate trespass in the way I have described. Alternatively, if the specific use of the drone is not sufficient to warrant interim relief for the reasons set out above, then flying a drone so that footage can be taken means, in my judgement, that its height above ground could not be said to be (in the language of section 76) “reasonable”. It would follow that section 76 has no application and so the flight would be a trespass. In my judgement either because of the use to which the drone is put (if section 76 applies) or the trespass (if section 76 does not apply because the height of the drone is not reasonable), it is appropriate and proportionate to make an order preventing drone flights at the site. I am also satisfied, given the matters which are set out in the evidence, that it is appropriate to make an order that the defendant should not engage in threatening, destructive or abusive behaviour on the current site and that that should include, but not be limited to, those instances set out in the order.

9. Miss Tweedy, on behalf of the claimant, has been careful to ensure that she does not invite me to make an order that would be disproportionate or that goes beyond that which is reasonably necessary to preserve the integrity of the site and to ensure the safety of anybody named in these proceedings.

10. I am satisfied that it would be right for me to make an order that would prevent the capturing of any photograph, video or other visual or audio recording or media files of the college or the perimeter fence and of the college site from inside the college site. I would be concerned that in the absence of such an order, that someone trespassing at the site in breach of the order may well encourage others to do the same. It is right to spell out that prohibition in the clearest of terms.

11. This is an interim injunction, and so I have been addressed on the future conduct of the matter. Miss Tweedy has suggested, and I accept, that it is appropriate to have a long return date. I accept that a return date of some two years from now would be appropriate. I have been persuaded of that because it is hoped that in the next two years some progress will be made with the site. It may be developed in one way or another, or it is possible that it will be subject to further securing.

12. I have considered if such a long return date is unfair to Mr Wainwright or the second defendant. I have come to the conclusion that it is not because the order will make express provision for Mr Wainwright or others to make an application to set aside or vary this order.

13. Mr Wainwright, as I have said, once aware of these proceedings, has acted responsibly; and the claimants were keen for that to be put front and centre. That conduct on Mr Wainwright's part gives me some comfort that going forward there will be no further need for the court to intervene. If, however, the defendants, or any of them, feels there is any basis upon which any part of this injunction should be changed, they are at liberty to make an application. Although it is fair to say, that by making any application they would, of course, put themselves at the risk – and I put it no higher than that – of an adverse costs order.

14. For those reasons, and on the legal basis set out within the claimant's skeleton argument, which I accept, I make the orders in the form which will, in due course, be sealed by the court.

15. I am content that service should be affected on the second defendants in the manner set out in the draft order. 10 copies of the order with the relevant plan attached will be displayed in hardcopy around the perimeter fence. Copies of the order will also be sent to specified email addresses. I am content that copies of the application bundle and the unapproved draft judgement should be made available electronically through a QR code displayed with each copy of the order and also sent to the relevant email addresses. In my judgement this is a proportionate and effective way to ensure that the relevant documents come to the attention of persons unknown. Affording access to electronic documents is a means of ensuring that large numbers of persons unknown should it be necessary will have access to the relevant documents. The operation of QR codes is widely understood and such codes are commonly used. I accept there is a slight risk that someone at the site faced with a copy of the interim order may wish to peruse the application bundle and judgement but be unable to do so because they do not have a smart phone. The risk in my judgement is small. The availability of the documents online means that they can easily be transmitted between those who are interested.

This transcript has been approved by the Judge