



COURT OF APPEAL
CIVIL DIVISION

Secretary of State for the Home Department

Somani Hotels Limited

v

Epping Forest District Council

[CA-2025-002117]

[CA-2025-002118]

Before:

Lord Justice Bean

Lady Justice Nicola Davies

Lord Justice Cobb

On appeal from [2025] EWHC 2183 (KB)

This is a summary of the judgment of the court, a decision which runs to over 120 paragraphs. In accordance with the court's usual practice the full text will be supplied to the parties' legal teams today for checking for any typographical errors or factual errors (such as for example a wrong date or reference) The judgment is not supplied at this stage for further argument. As soon as the parties have had the opportunity to carry out these checks, the full text will be uploaded to the National Archive and will be published on the judicial website. This summary will be published on the judiciary website as soon as practicable after this hearing.

SUMMARY

29 August 2025

Introduction

1. There are two linked applications for permission to appeal before the court. The applications were listed for oral hearing on 28 August 2025, with the appeals to follow.
2. The first of the applications is brought by the Secretary of State for the Home Department ('Home Secretary') and the second by Somani Hotels Ltd ('Somani'). The respondent to both appeals is Epping Forest District Council ('the Council').
3. The appeals themselves both concern the grant to the Council of a *temporary* (i.e., time-limited) injunction by Mr Justice Eyre ('the judge') on 19 August 2025. That injunction was granted pursuant to section 187B of the Town and Country Planning Act 1990 ('the 1990 Act') to restrain Somani from using the Bell Hotel at High Road, Bell Common, Epping, Essex (the Hotel) as accommodation for asylum seekers.
4. The Council argues in this case that Somani's actions are in breach of planning law. Section 187B of the 1990 Act provides that "where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the court for an injunction...". Section 187B(2) provides the court with a wide discretion in relation to the grant of an injunction (i.e., "as the court thinks appropriate for the purpose of restraining the breach").
5. The temporary injunction granted in this case was to last for only a relatively brief period until the trial of the Council's claim, at which a High Court judge will consider and determine the Council's application for a permanent injunction and declaration.

This is listed for a trial date in mid-October 2025, i.e., approximately seven weeks from now.

6. We should say at the outset what this appeal hearing_is not about: it is not concerned with the merits of Government policy in relation to the provision of accommodation for asylum seekers, in hotels or otherwise.

The issues for determination

7. The issues for determination by this court can be summarised as follows:
 - a. Prior to giving his judgment on the Council's application for the temporary injunction, the judge gave a short oral ruling explaining why he was refusing permission to the Home Secretary to become a party (an 'intervener') to the Council's injunction application. We consider in this appeal whether he was wrong to do so.
 - b. The judge went on to grant the temporary injunction, to restrain the continued provision of accommodation to asylum seekers at the Hotel pending the trial. In this respect too, we consider whether he was wrong to do so.

Background facts

8. The Hotel is situated on the outskirts of the centre of Epping. It is currently owned and run by Somani. The Council is the local planning authority for the district of Epping.
9. The Hotel currently accommodates approximately 138 asylum seekers; the provision of this accommodation is under contract between Somani and Corporate Travel

Management (North) Ltd ('CTM'), a service provider contracted by the Home Office to provide accommodation to asylum seekers.

10. This is the third period in the Hotel's recent history in which it has been used for the provision of accommodation for asylum seekers. Previously it was used in this respect (a) between 22 May 2020 – 4 March 2021, and (b) between October 2022 – April 2024.
11. At no time during these earlier periods (between 2020 and 2024) did the Council take steps to restrain Somani from providing accommodation at the Hotel for asylum seekers.
12. Within the second period referred to at §10(b) above, specifically in February 2023, Somani applied to the Council for planning permission for a temporary change of use (i.e., to accommodate asylum seekers rather than operating the Hotel for paying members of the public); Somani did so without prejudice to its legal position that the Hotel could lawfully temporarily accommodate asylum seekers under contract with the Home Office.
13. For over a year, the Council did not deal with Somani's application, notwithstanding the statutory duty to deal with such an application within 8 weeks. As the contract between Somani and the Home Office came to an end in or about April 2024, Somani withdrew its application for temporary change of use. For about one year the hotel was closed.

14. In March 2025, Somani entered into a contract with CTM to provide exclusive use of the Hotel for one year for the purpose of short-term accommodation for asylum seekers. The Council was aware of this plan and confirmed its agreement to a maximum of 138 residents for the Hotel.
15. In April 2025, the Hotel re-opened, providing accommodation for up to 138 single adult male asylum seekers. The Council informed Somani that it would need to seek permission for a change of use of the Hotel. On 15 May 2025, Somani, having taken advice from the Home Office, informed the Council in writing that it would not be submitting a temporary application for a change of use. The Council did not reply.
16. On 11 August, without any prior pre-action notice (either formal or informal) to Somani or the Home Office, the Council issued injunction proceedings against Somani under section 187B of the 1990 Act to restrain the use of the Hotel (as a matter of planning control) for accommodating asylum seekers. The Council also sought a temporary (interim) injunction pending trial. It sought a declaration that the current use of the Hotel does not amount to use as a hotel (which is the permitted use of the premises for the purposes of planning control). The documents were formally served on Somani on 12 August.
17. Since April 2025 three arrests have been made by the police in respect of individuals accommodated at the Hotel, and criminal charges have been brought against the individuals. One incident is reported to have occurred on 8 July, and involved alleged sexual assaults, incitement of a girl to engage in sexual activity, and harassment without

violence. This has unsurprisingly attracted considerable interest in local and national media.

18. Since July 2025, there have been largely continuous protests outside the Hotel; the focus of the protests is that the Hotel should no longer be used to house asylum seekers. Some of the protests have involved violent and disorderly incidents. As of 3 August 2025 the police reported that 25 people had been arrested in connection with offences at these protests and 16 people had been charged with criminal offences.

The application for an injunction under section 187B of the Town & Country Planning Act 1990

19. The hearing of the Council's application for a temporary injunction was listed before the judge on Friday 15 August 2025. By this time the Home Office had received informal notice of the application but was neither present nor represented at the hearing.
20. The judge reserved his judgment in relation to the application for the temporary injunction until 2pm on Tuesday 19 August.
21. On Monday 18 August, the Government Legal Department issued an application for the Home Secretary to be joined as a party to the litigation. This application was considered by the judge on 19 August 2025, prior to the delivery of his reserved judgment. The application was supported by Somani, but opposed by the Council. In a short oral judgment, the judge gave his reasons for refusing the Home Secretary's application for party status; in short, he concluded that it was not 'desirable' (a term used in the Civil Procedure Rules) for the Home Secretary to be a party to the litigation.

22. The judge then went on to hand down his reserved judgment; in that judgment, he gave his reasons for granting the Council the temporary injunction. Under the terms of the injunction, Somani was restrained from using the Hotel “for accommodating asylum seekers (howsoever described)”, or for using the Hotel otherwise than as a hotel.
23. The upshot of the injunction is that all 138 asylum seekers currently resident at the Hotel will need to be relocated by 12 September 2025 pending the final hearing in October.
24. The Home Secretary and Somani promptly issued applications for permission to appeal to this court. They were listed before us for hearing yesterday. Given the importance and urgency of the matter we are giving judgment today.

The Court of Appeal’s decision on the Home Secretary’s appeal relating to joinder as an intervener to the Council’s application

25. The Court of Appeal grants the Home Secretary’s application for permission to appeal against the decision dismissing her application for party status.
26. The Court of Appeal further grants the Home Secretary intervener status in the litigation between the Council and Somani.
27. The Home Secretary has clear statutory duties towards asylum seekers in this country under the Immigration and Asylum Act 1999; these include the duty to provide support to them and their dependents, and to prevent destitution among this cohort. Given these duties, in addition her constitutional role relating to public safety, the Home Secretary

is plainly directly affected by the issues in this case, and specifically by the grant (or not) of an injunction to restrain the provision of accommodation for the asylum seekers at the Hotel.

28. On an application for party status, the court will consider whether “it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings” (CPR rule 19.2(2)). The judge failed to give this rule the “wide interpretation” it required which led to his erroneous conclusion that the Home Secretary’s application should be refused. He failed to have any or any adequate regard to the range of “issues” which would be likely to arise if the injunction were granted; these included, but were not limited to, the significant practical challenge of relocating a large number of asylum seekers in a short space of time and possibly only for a matter of a few weeks between 12 September and mid-October when the trial is to take place. If the Council’s application were to fail at trial, the Hotel would be permitted to continue to operate as it is at present.

29. The judge denied himself the opportunity to consider the wider range of public interest factors which would be relevant to this application; these, in our view, rendered it more than just merely ‘desirable’ that the Home Secretary be enabled to participate in the court process. The judge needed to put himself in a position to determine the application from the most informed perspective.

30. The Home Office was in a strong position to provide evidence relevant to the disputes and issues before the court at this interim stage, and at the final hearing. We were unpersuaded that it would be sufficient for the Home Office to provide evidence for

Somani to file; the provision of key evidence by someone outside the litigation to someone within the litigation hardly meets the expectation of a ‘right to be heard’.

31. Moreover, the judge appeared to apply a test of necessity to the question of joinder, which placed the bar for joinder too high.

32. While the judge was entitled to be concerned that the Home Office had applied very late for the Home Secretary to be made a party to the litigation; that did not, in our view, justify excluding her from the proceedings.

33. We turn now to the substantive issue of whether an interim injunction should have been granted.

The grant of the temporary injunction

34. This court takes as its starting point that an interlocutory injunction is a discretionary remedy.

35. It is not open to this court to set aside the exercise of the judge’s discretion simply because the three of us would have exercised it differently. It is our role to review that decision, and only interfere with it if we identify a flaw or flaws in the judge’s treatment of the question to be decided, such as an error of law, a gap in logic, or a failure to take account of some material factor, which undermines the cogency of the conclusion.

36. We conclude that the judge made a number of errors of principle which undermine his decision.

37. *The wider picture:* The provision of accommodation for asylum seekers pursuant to the Home Secretary's statutory duty is a national issue requiring a structured response. Ad hoc interim injunction applications seeking closure of particular sites may each have some individual merit, but the judge's approach ignores the obvious consequence that closure of one site means that capacity needs to be identified elsewhere in the system, and may incentivise local planning authorities who wish to remove asylum accommodation from their area to apply to the court urgently before capacity elsewhere in the system becomes exhausted. The potential cumulative impact of such ad hoc applications was a material consideration within the balance of convenience, but was not considered by the judge, perhaps because he did not have the advantage in reaching his decision of evidence and submissions from the Home Office.

38. The written arguments on behalf of the Home Secretary in this appeal included the contention that "the relevant public interests in play are not equal" and that one aspect of this is that the Home Secretary's statutory duty is a manifestation of the UK's obligations under Article 3 of the European Convention on Human Rights. This point was not pursued in oral argument. Any argument in this particular context about a hierarchy of rights is in our view unattractive.

39. *The incentivisation of protests:* We were told by counsel for Epping that the protests operated as a 'trigger' for the application for the injunction. The fact of protests outside a building is not obviously a matter falling within planning control. While we accept that the judge was right to exercise considerable caution before attaching weight to the fact of the protests including unlawful protests outside the Hotel, he nonetheless gave weight in his evaluation to the fact that protests were occurring and weighed them in

the balance as a factor in favour of granting the injunction. These are worrying aspects of the judgment. If an outbreak of protests enhances the case for a planning injunction, this runs the risk of acting as an impetus or incentive for further protests, some of which may be disorderly, around asylum accommodation. At its worst, if even unlawful protests are to be treated as relevant, there is a risk of encouraging further lawlessness. The judge does not appear to have considered this risk, again perhaps because he had denied himself the advantage of hearing submissions on the merits from counsel for the Home Secretary.

40. Further and in any event, in this regard the judge failed to consider whether there would have been alternative measures to mitigate the disruption, such as the use of police powers under the Public Order Act 1986, or an application by the Council to restrain unlawful protests.
41. *Epping's delay*: For much of the period of four years from 2020-2024 Somani had been running the Hotel as accommodation for asylum seekers without enforcement action from the Council. When, in 2023, Somani sought planning consent to change its use, for over a year Epping did not process the application, notwithstanding the statutory duty upon it to do so within eight weeks. The Council was aware by February 2025 that the Hotel was once again to be used to house asylum seekers, and by its letter of 15 May 2025 Somani made clear that it had been advised by the Home Office that a planning application was unnecessary.
42. The Council took no steps in response to this letter whether by issuing an enforcement notice or otherwise. There was no threat of court proceedings.

43. Somani was first made aware of any step of this kind when it received the court papers and a court bundle running to over 1600 pages together with a detailed skeleton argument prepared by leading and junior counsel. The tactics used on the Council's behalf in this regard were not only procedurally unfair to Somani, but ought to have reinforced the argument that the delay was a significant factor in the balance *against* the grant of interim relief.

44. *Somani's actions wrongly characterised as 'deliberate'*: The judge found as a fact that Somani had acted "deliberately" in declining to seek change of use permission under planning law after April 2025; he was critical of them for taking this line. He was wrong in both respects. Those undeserved criticisms (which were repeated several times in the judgment) plainly played a material part in the judge's ultimate decision. If the Council had considered Somani to be in breach of planning laws, it could have taken enforcement measures provided for within the 1990 Act. It did not do so. In short, the judge's exercise of discretion in this case was seriously flawed by his erroneous reliance on the "deliberate breach" as a significant factor in favour of the grant of an interim injunction.

45. *The temporary nature of the injunction*: We emphasise here, as we did at the outset, that the issue for the judge in August was whether to grant a *temporary* injunction until the trial in October. The judge appears to have given very little weight to the desirability of preserving the status quo until that point. The risk of injustice to the residents of the Hotel by being dispersed by 12 September, when the trial of the claim was to take place only some six weeks later, seems to have had oddly little resonance with the judge.

Conclusion

46. In all of the circumstances we consider on these issues that the judge's approach to the balance of convenience exercise was seriously flawed in principle. The exercise of his discretion can therefore be reviewed on appeal.

47. The Epping residents' fear of crime was properly taken into account by the judge as a factor in favour of the grant of an injunction; he described it as being of limited weight. The appellants do not say it was irrelevant; the Council does not say it should be decisive. We agree that it is relevant, but in our view it is clearly outweighed, in the *American Cyanamid* balancing exercise, by the undesirability of incentivising protests, by the desirability in the interests of justice of preserving the status quo for the relatively brief period leading up to the forthcoming trial, and by the range of public interest factors which we have discussed in our judgment.

48. Therefore:

- a. We grant permission to appeal, both to Somani and to the Home Secretary, against the grant of the interim injunction;
- b. We allow the appeals and we set aside the injunction imposed on 19 August 2025.
- c. The case management directions given by the judge can remain in force subject to any amendment necessitated by the joinder of the Home Secretary as an intervener.
- d. We direct that submissions on costs are to be exchanged and filed by 12 noon on Monday 1 September 2025.

49. We end by recording our gratitude to counsel for their helpful submissions.

NOTE: This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Find Case Law - The National Archives](#)