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Case No: KB-2025-002908

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/11/2025

Before :

MR JUSTICE MOULD

Between :

Epping Forest District Council

Claimant

- and -

Somani Hotels Limited

Defendant

-and –

(1) Secretary of State for the Home Department

-and –

(2) Clearsprings Ready Homes Limited

Interveners

Philip Coppel KC & Natasha Peter (instructed by **Sharpe Pritchard LLP**) for the **Claimant**

Jenny Wigley KC & Piers Riley-Smith (instructed by **Richard Buxton Solicitors**) for the

Defendant

James Strachan KC & Katharine Elliot (instructed by **Government Legal Department**) for the

First Intervener

Chris Buttler KC & Jacqueline Lean (instructed by **Clearsprings Group**) for the **Second**

Intervener

Hearing dates: 13-15 October 2025

Approved Judgment

This judgment was handed down remotely at 12pm on Tuesday 11 November 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE MOULD

MR JUSTICE MOULD :

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Introduction

1. The Claimant is the local planning authority for the district of Epping Forest. By these proceedings issued under Part 8 of the Civil Procedure Rules, the Claimant applies for a final injunction pursuant to section 187B of the Town and Country Planning Act 1990 [**“the 1990 Act”**] to restrain the Defendant, Somani Hotels Limited, from using the Bell Hotel, High Road, Bell Common, Epping, Essex [**“the Bell”**] to provide accommodation for asylum seekers. The Claimant’s case is that the use of the Bell for that purpose constitutes a breach of planning control. The Claimant also applies for a declaration that the use of the Bell for the purpose of providing accommodation for asylum seekers is not use of the Bell as a hotel.

The Claimant’s case

2. The Claimant’s case is that until 2020, the Bell had been used for many years, indeed several centuries, as a hotel. There is said to be evidence that the celebrated diarist, Samuel Pepys, may have stayed at the Bell during the seventeenth century. However, during 2020 the Bell ceased to be used as a hotel. Instead, the Defendant entered into arrangements for its use to provide accommodation for asylum seekers and refugees. It has been so used since that date. There have been three periods of active use for that purpose. The first ran between 22 May 2020 and 4 March 2021. The second ran between October 2022 and 26 April 2024. The third period began in early April 2025 and continues to this day.
3. It is not in dispute that the very long-established use of the Bell as a hotel prior to 2020 was lawful for planning purposes. It was lawful because it had been in existence prior to the appointed day, 1 July 1948 and had continued thereafter: see schedule 24, paragraph 12 of the Town and Country Planning Act 1971, which remains in effect by virtue of schedule 3, paragraph 3 of the Planning (Consequential Provisions) Act 1990.
4. The Claimant contends that since 2020 the Defendant has changed the use of the Bell from use as a hotel to an institutional use to provide accommodation for asylum seekers. The Claimant says that the change in the use of the Bell since 2020 is material for two principal reasons. Firstly, there are said to be considerable differences between the attributes of the current use of the Bell and those which characterised its former use as a hotel. Secondly, it is said that the current use of the Bell to accommodate asylum seekers is having and will continue to have serious and harmful impacts on local amenity. In the claim form, the Claimant identifies the following specific matters –
 - (1) The occupants of asylum accommodation are or may be vulnerable with a higher incidence of mental health and safeguarding needs; and typically have greater need to call on local services, such as general practice surgeries, than the occupants of a hotel.
 - (2) Certain occupants of asylum accommodation may, due to difficult and/or traumatic experiences they have suffered, have a greater propensity to anti-social and/or criminal behaviour. As a recent and serious incidence of this occurring in the vicinity of the Bell, the Claimant referred to the arrest on 8 July 2025 of a resident of the Bell who was subsequently charged with serious offences of sexual assault and harassment against a teenage girl.

- (3) Use of the Bell to provide accommodation for asylum seekers has had and continues to have the effect of increasing tensions in the local community. The Claimant referred to public protests against the use of the Bell for that purpose, on nine days between 11 July 2025 and 8 August 2025.
5. The Claimant contends that these matters demonstrate that the use of the Bell as a location for the provision of accommodation for asylum seekers is inappropriate in planning terms. Reliance is placed on the location of the Bell in close proximity to five schools, a residential home and the shops and amenities of the market town of Epping.
 6. The Claimant says that the current use of the Bell to accommodate asylum seekers constitutes development and requires planning permission. Planning permission has not been granted. In the absence of planning permission, the current use of the Bell is in breach of planning control and liable to enforcement action under Part 7 of the 1990 Act. The Claimant considers it to be both necessary and expedient for that breach of planning control to be restrained by injunction, in the exercise of the powers conferred on the court by section 187B of the 1990 Act.
 7. As local planning authority, the Claimant is responsible both for development control decision making under Part 3 and for enforcing planning control under Part 7 of the 1990 Act. The Claimant operates executive arrangements under Part 1A of the Local Government Act 2000. By virtue of regulation 2 of and schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000, the functions of development control decision making and enforcing planning control, including the power to apply for an injunction under section 187B of the 1990 Act, are not to be the responsibility of the Claimant's executive, the Cabinet. Under the Claimant's constitution, those functions are delegated to the Claimant's planning committees and officers pursuant to Part 6 of the Local Government Act 1972.
 8. In particular, the local planning authority's power to apply for an injunction under section 187B of the 1990 Act is delegated under the Claimant's Scheme of Delegation to the Claimant's Legal Services Manager. The current holder of that office is Ms Nicola Sayers. It was Ms Sayers who made the decision to bring this claim. She took that decision on 5 August 2025.

The Bell hotel, its location and current use

9. The Defendant is the registered freehold proprietor of the Bell. Prior to its closure under COVID-19 restrictions in March 2020, the hotel had 80 guest bedrooms (51 double rooms, 6 twin bedded rooms, 14 triple rooms and 9 quadruple rooms), two conference/function rooms, two meeting rooms, a reception area, and a bar and restaurant with associated parking. Staff accommodation and hotel bedrooms were located in three detached two-storey wings to the north and north-east of the main reception building. The site is approximately 1.5 hectares in area. The Bell's principal elevation faces onto the High Road, with the hotel building being set back from the road frontage itself. There is a large hard surfaced forecourt which give access to the public highway. There is a car parking area to the side of the hotel building.
10. Prior to closure in March 2020 the hotel was staffed on a 24/7 basis. There were up to 14 members of staff on duty during the day and evening. There was a night porter on duty out-of-hours and throughout the night.

11. The Bell is situated approximately 1.3 kilometres to the south east of Epping town centre. It lies within the Metropolitan Green Belt and the Bell Common Conservation Area. Bell Common itself is a substantial area of well vegetated open space lying to the south of the High Road and opposite the Bell. The Bell Common Conservation Area Character Appraisal records that the Bell and the small group of neighbouring residential properties are open to the High Road. Most of the trees on Bell Common are set well back from the High Road, a characteristic which “*gives the area an open, spacious quality*”.
12. The five schools to which the Claimant refers in its claim form are as follows –
 - (1) Epping St John’s School, a Church of England co-educational school attended by approximately 1,050 students aged between 11 and 18. The school is situated about 800 metres from the Bell.
 - (2) Ivy Chimneys Primary School, a co-educational school attended by approximately 315 children. The school is situated about 1 kilometre from the Bell.
 - (3) Epping Primary School, a co-educational school attended by approximately 400 children. The school is situated about 1.6 kilometres from the Bell.
 - (4) Coopersale Hall School, an independent co-educational day school attended by approximately 280 children aged between two and a half and 16 years. The school is situated about 2.2 kilometres from the Bell.
 - (5) Theydon Garnon Church of England Primary School, a co-educational school attended by approximately 190 children. The school is situated about 3.8 kilometres from the Bell.
13. The Claimant also refers to Wensley House Residential Home, which is located approximately 480 metres from the Bell, on Theydon Road. This is a residential care home which provides care for all ages in the categories of old age, dementia, mental disorder, sensory impairment, epilepsy, Parkinson’s disease and other mental and physical disabilities.
14. The Defendant does not itself carry out the day-to-day operation of the Bell as accommodation for asylum seekers. The Bell is operated for that purpose by Corporate Travel Management (North) Limited [“CTM”] in performance of a contract made between the Home Secretary and CTM, under the terms of which CTM as a registered Home Office service provider, provides contingency accommodation for asylum seekers at hotels. By a contract dated 24 March 2025, for an initial term of 12 months ending on 24 March 2026, the Defendant has agreed to provide CTM with exclusive use of the Bell for that contractual period for the purpose of short-term accommodation for asylum seekers.

The proceedings

15. The Claimant began these proceedings on 11 August 2025. The claim form was served formally on the Defendant on 12 August 2025. The Claimant did not join CTM as a party to its claim. Nor did the Claimant serve CTM with the claim form.

16. On 11 August 2025, the Claimant made an application to the court for an interim injunction prohibiting the use of the Bell to accommodate asylum seekers until the trial of its claim or further order. The Claimant also applied for an interim declaration. On 15 August 2025 those interim applications were heard before Eyre J. The Claimant and the Defendant appeared by counsel at that hearing. On 19 August 2025 Eyre J handed down judgment refusing an interim declaration but granting interim relief in the form of an injunction restraining the use of the Bell to accommodate asylum seekers or otherwise than as a hotel, with effect from 12 September 2025 onwards until final judgment or further order of the court: see Epping Forest District Council v Somani Hotels Limited [2025] EWHC 2183 (Admin).
17. Shortly before judgment was handed down on 19 August 2025, the Home Secretary applied to be joined as a party to these Part 8 proceedings. Eyre J refused that application. On 28 August 2025 the Court of Appeal heard applications by the Defendant for permission to appeal against the grant of the interim injunction and by the Home Secretary for permission to appeal against the order refusing to join her as a party to these proceedings. On 1 September 2025, the Court of Appeal handed down judgment granting permission and allowing both appeals: see Somani Hotels Limited v Epping Forest District Council [2025] EWCA Civ 1134. The Court of Appeal ordered that the Home Secretary be joined to these proceedings as an intervener; and that the injunction granted by Eyre J on 19 August 2025 be discharged forthwith.
18. On 8 September 2025, Eyre J gave directions for this claim for a final injunction and declaration to be listed for hearing over 3 days beginning on 15 October 2025. On 19 September 2025 Clearsprings Ready Homes Limited [**“CRHL”**] made an application to be joined as a second intervener in these proceedings. On 3 October 2025 I made an order granting that application.
19. On 26 September 2025 the Defendant made an application under CPR Part 11 for an order declaring that the court had no jurisdiction to try this claim for an injunction under section 187B of the 1990 Act. On 3 October 2025 I adjourned that application for determination at the hearing of this claim. On 15 October 2025, at the beginning of the hearing I drew attention to the time limits in CPR Part 11(4) and (5) and indicated my provisional view that, the Defendant having not made its application within the period allowed, it was to be treated as having accepted the jurisdiction of the court to try the claim. Subsequently, I was informed that the Defendant did not seek to pursue its application. I do not, therefore, need to make a final decision in response to it.

The evidence

20. Evidence in support of the claim in the form of signed witness statements was given by the following persons –
 - (1) Gary Ayres, the Claimant’s Corporate Debt Recovery Manager, in his statement dated 29 September 2025.
 - (2) Barbara Beardwell, the Claimant’s Monitoring Officer and Strategic Legal Adviser, in her statements dated 10 August 2025 and 29 September 2025.
 - (3) Paula Maginnis, the Claimant’s Service Director – Corporate Services, in her statements dated 11 August 2025, 14 August 2025 and 29 September 2025.

- (4) Nicola Sayers, the Claimant's Legal Services Manager, in her statement dated 29 September 2025.
 - (5) James Stubbs, the Claimant's Planning Enforcement and Compliance Manager, in his statements dated 8 August 2025, 12 August 2025 and 29 September 2025.
 - (6) Mandy Thompson, the Claimant's Service Director – Regulatory Services, in her statements dated 11 August 2025, 13 August 2025, 29 September 2025 and 10 October 2025.
 - (7) Holly Whitbread, a member of the Claimant and ward councillor for the local area of the Bell, in her statement dated 10 August 2025.
 - (8) Caroline Wiggins, the Claimant's Director of Specialist Regulatory Services, in her statement dated 10 October 2025.
21. Evidence on behalf of the Defendant, in the form of signed witness statements was given by –
- (1) Dave Salmon, Group Operations Director of Somani Holdings Limited, in his statements dated 14 August 2025, 22 September 2025 and 3 October 2025.
 - (2) Louise Hutchinson-Chambers, General Manager of CTM, in her statements dated 24 September 2025 and 6 October 2025.
 - (3) Lisa Foster, a Partner at Richard Buxton Solicitors, in her statements dated 24 September 2025 and 6 October 2025.
22. Evidence on behalf of the Home Secretary, in the form of signed witness statements was given by –
- (1) Elizabeth Ferdenzi, Head of Service Delivery (CTM) for Asylum Support, Customer Service Group in the Home Office, in her statement dated 6 October 2025.
 - (2) Becca Jones, director of Asylum Support in the Home Office, in her statements dated 18 August 2025 and 24 September 2025.
23. Evidence on behalf of CRHL, was given in the form of a signed witness statement by Steven Lakey, Managing Director of the company.
24. I heard cross-examination of Ms Thompson, Ms Beardwell, Ms Sayers and Mr Stubbs on their witness statements. The Claimant's other witnesses were not required for cross-examination. Of the Defendant's witnesses, I heard cross-examination of Mr Salmon and Ms Hutchinson-Chambers on their statements. Ms Foster was not required for cross-examination. Neither Ms Ferdenzi nor Ms Jones was required for cross-examination on their written evidence. I heard cross-examination of Mr Lakey on his witness statement.
25. Both the Claimant and the Defendant were given permission to file and serve evidence of a planning expert. On behalf of the Defendant, Mr Iain Warner BSc (Hons) of Tetlow King Planning Limited gave evidence in a witness statement signed on 26 September

2025. Mr Warner holds a Diploma in Town Planning and is a Chartered Member of the Royal Town Planning Institute. He said that he had been approached by the Defendant to give his professional view on whether there has been a material change of use in relation to the day-to-day operations of the Bell. Mr Warner signed the requisite expert declaration. I note that in paragraph 66 of his witness statement, he characterised his witness statement as being made *“in support of the defence by the Defendant to the Claimant’s assertion relating to whether or not there has been a material change of use from hotel to a hostel”*. He concluded that there had not been such a change, as a matter of fact and degree. Mr James Rogers, the Claimant’s Applications and Appeals Team Manager in the Development Management Team, gave evidence in a witness statement signed on 29 September 2025. Mr Rogers holds a Postgraduate Masters Degree in Urban and Regional Planning and is also a Chartered Member of the Royal Town Planning Institute. Mr Rogers did not sign the requisite expert’s declaration, instead signing his statement as a witness of fact. Nevertheless, he offers his opinion on two matters: firstly, whether a material change of use has occurred; and secondly, whether he would recommend that the planning permission be granted or refused, were an application for planning permission now to be made for permission to use the Bell to provide accommodation for asylum seekers. On 6 October 2025, Mr Warner signed a second witness statement responding matters raised in Mr Rogers’ witness statement.

26. I indicated during the hearing of this claim that I did not consider that I would be assisted by hearing cross-examination of either Mr Warner or Mr Rogers. I read their respective witness statements with care and am grateful for their observations, particularly in identifying particular aspects of the former and correct use of the Bell which may inform the question whether there has been a change made in its use and, if so, whether that change is material for planning purposes. Counsel for the Claimant and the Defendant were able to draw on those aspects in advancing their written and oral submissions. I gained rather less help from the discussion as to whether a future application for planning permission to retain the use of the Bell as accommodation for asylum seekers would be successful.
27. At the hearing of this claim, the Claimant was represented by Mr Philip Coppel KC and Ms Natasha Peter. The Defendant was represented by Ms Jenny Wigley KC and Mr Piers Riley-Smith. The Home Secretary was represented by Mr James Strachan KC and Ms Katharine Elliot. CRHL was represented by Mr Chris Buttler KC and Ms Jacqueline Lean. I am grateful to them all for their very helpful written and oral submissions; and to those supporting them for their assistance to the court.

Legal principles

(1) Development - Material change of use

28. Planning permission is required for the carrying out of any development of land: section 57(1) of the 1990 Act.
29. Section 55(1) of the 1990 Act defines development. There are two limbs, operational development and material changes in the use of buildings or land –

“55(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building,

engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”.

30. Section 55(2) identifies certain operations or uses of land which are not to be taken to involve development of the land. Insofar as relevant for present purposes, they include –

“(f)in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class”.

31. Article 3(1A) of the Town and Country Planning (Use Classes) Order 1987 [**“the UCO”**] provides –

“(1A) Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in—

(a) Part B or C of Schedule 1, or

(b) Schedule 2,

the use of that building or that other land, or if specified, the use of part of that building or the other land (“part use”), for any other purpose of the same class is not to be taken to involve development of the land”.

32. Class C1 of schedule 1 to the UCO specifies –

“Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided”.

33. Article 3(6) of the UCP provides –

“No class specified in Schedule 1 or 2 includes use –

...(i) as a hostel”.

34. Neither “hotel” nor “hostel” is defined in the 1990 Act or the UCO.

35. Whether there has been a change made in the use of a building or land and, if so, whether that change in its use is material, are questions of fact and degree. Those questions are to be answered on the basis of the evidence in the given case. See East Barnet Urban District Council v British Transport Commission [1962] 2 QB 484, 492.

36. In considering whether there has been a material change in the use of a building or land, what is to be considered is the character of the use of the building or land, rather than the particular purpose of a particular occupier: see Westminster City Council v Great Portland Estates plc [1985] 1 AC 661, 669H. It is relevant to consider both the on-site and off-site effects of the character of the use of land: see Hertfordshire County Council

v Secretary of State for Communities and Local Government [2012] EWCA Civ 1473; [2013] JPL 560 at [25] –

“In assessing whether there is a change of character in the use, its impact of the use on other premises is a relevant factor. It is necessary, on the particular facts, to consider both what is happening on the land and its impact off the land when deciding whether the character of the use has changed”.

37. The effect of section 55(2)(f) of the 1990 Act is that certain changes of use as specified in the UCO are not to be treated as development for the purposes of the 1990 Act. The intended purpose of the UCO is to “*put outside the ambit of*” the 1990 Act a change of use that has taken place within the same specified use class: see Rann v Secretary of State for the Environment (1979) 40 P&CR 113, 117. It does not follow that a change in the use of a building falling within a specified use class to a use which falls outside the scope of that use class is necessarily material. To illustrate that point, in Ipswich Borough Council v Fairview Hotels (Ipswich) Limited [2022] EWHC 2868 (KB); [2023] JPL 630 [*“Ipswich”*] at [71] Holgate J said –

“Where the use of land changes from a hotel to a hostel, the only effect of the UCO is that that change is not excluded from development control. The UCO cannot be used to treat that change as representing in itself a material change in the use of the land. Whether that is so will depend on a case-specific assessment of the effect of the change on the character of the use of the land, in other words, the planning consequences of the change”.

38. There have been a number of cases in which the court has offered guidance on matters that may be considered to be relevant to the question whether, in the circumstances of a given case, a building is being used as a hotel or a hostel, or some other kind of residential accommodation. I shall return to that line of cases later in this judgment.

(2) Enforcing planning control

39. Primary responsibility for enforcing planning control lies with local planning authorities. Part 7 of the 1990 Act provides a range of powers whose general purpose is to enable a local planning authority to take such enforcement actions as they consider to be necessary and appropriate to remedy a breach of planning control.

40. Section 171A(1) of the 1990 Act explains what is meant in this statutory context by a breach of planning control –

“(1) For the purposes of this Act, -

(a) carrying out development without the required planning permission; or

(b) failing to comply with any condition or limitation subject to which planning permission has been granted,

constitutes a breach of planning control”.

41. The normal method of taking enforcement action against a breach of planning control consisting of carrying out development without the required planning permission, is the

issue by the local planning authority of an enforcement notice pursuant to section 172 of the 1990 Act –

“The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them -

(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations”.

42. As is clear from the terms of section 172(1), even in a case in which it appears to a local planning authority that a building or land is being used in breach of planning control, they may nevertheless judge it not to be expedient to take enforcement action, having considered the relevant policies of the development plan and any other material consideration which bear upon that judgment.
43. In any case where a local planning authority does issue an enforcement notice, they are required to serve the notice on the owner of the land to which it relates, on the occupier and other person having an interest in the land which, in the authority’s opinion, is materially affected by the notice: section 172(2) of the 1990 Act.
44. The contents of an enforcement notice are prescribed by section 173 of the 1990 Act as supplemented by regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002. The notice must state the matters which appear to the local planning authority to constitute the breach of planning control. The notice must specify the steps required to be taken or the activities required to cease, in order to achieve (wholly or in part) the purposes stated in section 173(4) –

“Those purposes are -

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach”.
45. Section 173(4) states that an enforcement notice may require the alteration or removal of any buildings or works; or that any activity on land not be carried out except to the extent specified in the enforcement notice. The notice must state when it will take effect. It must also state the period for compliance with its requirements.
46. Regulation 4 of the 2002 Regulations requires the local planning authority to specify the reasons why they consider it expedient to issue the enforcement notice; and all policies and proposals in the development plan which are relevant to their decision to issue the notice.
47. Section 174 of the 1990 Act confers a right of appeal to the Secretary of State against an enforcement notice. The right of appeal is enjoyed by any person having an interest in the land to which the notice relates; and any licensee in occupation of the land. The

grounds on which an appeal may be brought are specified in section 174(2) of the 1990 Act. They include –

“(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed”.

48. By virtue of section 175(4) of the 1990 Act, where an appeal is brought against an enforcement notice, the notice is of no effect pending final determination or withdrawal of the appeal.
49. The majority of appeals against enforcement notices are determined by planning inspectors appointed by the Secretary of State. The Secretary of State may recover such an appeal for his or her own determination. Many enforcement appeals are determined on the basis of written representations. However, should the appellant or the local planning authority so desire, the Secretary of State must give each of them the opportunity of appearing before and being heard by the appointed inspector: section 175(3) of the 1990 Act. The hearing may in appropriate cases take the form of a local inquiry. Whatever the choice of procedure, it is governed by procedure rules which provide for representations from third parties and, in the case of hearings and local inquiries, for publicity to be given of the proceedings.
50. Section 177 of the 1990 Act empowers the Secretary of State to grant planning permission and issue certificates when determining an appeal against an enforcement notice –

“On the determination of an appeal under section 174, the Secretary of State may -

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;

...

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

...

(1C) Subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

...

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

...

(5) Where—

(a) an appeal against an enforcement notice is brought under section 174, and

(b) the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control”.

51. Section 177(7) states that in relation to a grant of planning permission or a determination under section 177(1), the Secretary of State’s decision shall be final. The validity of such a decision may be challenged by way of an application to this court made in accordance with section 288 of the 1990 Act. An appeal from the decision of the Secretary of State on an enforcement notice appeal may be made to this court on a point of law, in accordance with section 289 of the 1990 Act.
52. Where a local planning authority considers it expedient that any activity specified in an enforcement notice should cease before the expiry of the period for compliance with that notice, they may serve a stop notice prohibiting the carrying out of that activity, pursuant to section 183 of the 1990 Act. A stop notice may be served at the same time as the enforcement notice or thereafter, However, a stop notice may not prohibit the carrying out of any activity if that activity has been carried out (whether continuously or not) for a period of more than four years ending with the service of the stop notice: section 183(5) of the 1990 Act.
53. Section 171E of the 1990 Act confers power on a local planning authority to issue a temporary stop notice. That power arises in a case where the authority thinks that there has been a breach of planning control in relation to any land; and that it is expedient that the activity which amounts to the breach is stopped immediately: see section 171E(1) of the 1990 Act. Exercise of the power is not dependent upon the prior issue of an enforcement notice. A temporary stop notice must specify the activity which the authority think constitutes a breach of planning control, prohibit the carrying on of that activity and set out the authority’s reasons for issuing the notice. The notice takes effect immediately, but may not continue in effect beyond a period of 56 days. As with a stop notice issued in conjunction with an enforcement notice under section 183 of the 1990

Act, a temporary stop notice does not prohibit the carrying out of any activity if that activity has been carried out (whether continuously or not) for a period of more than four years ending with the service of the stop notice: section 171F(2) of the 1990 Act.

54. Where it appears to a local planning authority that there may have been a breach of planning control in respect of any land, they may serve a planning contravention notice ["PCN"] under section 171C of the 1990 Act. The authority may serve a PCN on any person who owns or occupies the land, or is carrying out operations on the land or using the land for any purpose. A PCN may require the person served to give information specified therein as to –
- (1) Any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and
 - (2) Any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted.
55. By virtue of section 171C(4) of the 1990 Act –
- “(4) A [PCN] may give notice of a time and place at which –*
- (a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from carrying out any operations or activities or to undertake remedial works; and*
 - (b) any representations which he may wish to make about the notice,*
- will be considered by the authority, and the authority shall give him an opportunity to make in person any such offer or representations at that time and place”.*
56. Failure to comply with the requirements of a stop notice, a temporary stop notice and a PCN are criminal offences punishable by a fine: see sections 187, 171G and 171D of the 1990 Act.
57. Part 3 of the 1990 Act empowers a local planning authority to grant planning permission on a retrospective basis. Section 73A(1) of the 1990 provides –
- “(1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application”.*
58. That power applies to development carried out without planning permission, that is to say, in breach of planning control. Planning permission may be granted for such development so as to have effect from the date on which the development was carried out: see section 73A(2) and (3) of the 1990 Act.
59. Section 191 of the 1990 Act enacts a certification procedure under which the lawfulness of an existing use of land or buildings may be conclusively established. Sections 191(1), (2), (4) and (6) provide –
- “(1) If any person wishes to ascertain whether—*

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful;
or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force

...

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

...

(6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed”.

60. Section 195 of the 1990 Act provides a right of appeal to the Secretary of State against the refusal of an application for a certificate under section 191. The Secretary of State’s decision on such an appeal is final: section 196(3). The validity of that decision may be challenged only by way of an application to this court pursuant to section 288 of the 1990 Act.

(3) Section 187B of the 1990 Act

61. Section 187B of the 1990 Act provides –

“(1) 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, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.

(2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.

(3) Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.

(4) In this section “the court” means the High Court or the county court”.

62. Section 37(1) of the Senior Courts Act 1981 provides –

“The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so”.

(4) The South Bucks case

63. The principles which are to be followed by the court in exercising the power conferred by section 187B of the 1990 Act are stated in South Bucks District Council v Porter [2003] 2 AC 558 [**“South Bucks”**]. In that case, the House of Lords determined appeals brought by gypsies against the grant by this court of injunctions under section 187B restraining them from using land for the stationing of caravans for residential occupation. It was not in dispute that the activities restrained by the injunctions were being carried on in breach of planning control. The gypsies had succeeded on appeal before the Court of Appeal. The local planning authorities’ appeals to the House of Lords were dismissed.

64. In [11]-[12] of his speech, Lord Bingham analysed the statutory framework for the control of development and the enforcement of planning control enacted in parts 3 and 7 of the 1990 Act. In [13]-[16] he summarised the background to the enactment of the power to grant an injunction to restrain an actual or apprehended breach of planning control, which was inserted as section 187B of the 1990 Act by section 3 of the Planning and Compensation Act 1991. In particular, he referred to the report by Mr Robert Carnwath QC entitled “Enforcing Planning Control” (1989) in which Mr Carnwath had recommended that a local planning authority should be able to apply for an injunction in respect of any breach or threatened breach of planning control, whether or not an enforcement notice or stop notice has been served. Mr Carnwath said that there were likely to be two sets of circumstances where such a power would be especially useful. Firstly, it could provide an urgent remedy in cases where there was a threatened or actual breach of planning control which presented a serious threat to amenity, whose timely and effective enforcement was otherwise problematic under the enforcement and stop notice regimes. Secondly, it could provide a stronger back-up power in cases where the existing remedies had proved or were likely to prove inadequate. Nevertheless, it would be a mistake to attempt to prescribe too closely the circumstances in which the remedy would be available. Recent experience suggested that the merit of the remedy was its flexibility and its ability to evolve to meet changing needs.

65. In his speech at [20], Lord Bingham quoted Simon Brown LJ’s analysis of the approach to section 187B of the 1990 Act in [38]-[42] of his judgment in the Court of Appeal. Those of particular relevance to the present case are –

“38. It seems to me perfectly clear that the judge on a section 187B application is not required, nor even entitled, to reach his own independent view of the planning merits of the case. These he is required to take as decided within the planning process, the actual or anticipated breach of planning control being a given when he comes to

exercise his discretion. But it seems to me no less plain that the judge should not grant injunctive relief unless he would be prepared if necessary to contemplate committing the defendant to prison for breach of the order, and that he would not be of this mind unless he had considered for himself all questions of hardship for the defendant and his family if required to move, necessarily including, therefore, the availability of suitable alternative sites. I cannot accept that the consideration of these matters is, as Burton J suggested was the case in the pre-1998 Act era, 'entirely foreclosed' at the injunction stage. Questions of the family's health and education will inevitably be of relevance. But so too, of course, will countervailing considerations such as the need to enforce planning control in the general interest and, importantly therefore, the planning history of the site. The degree and flagrancy of the postulated breach of measures have failed over a prolonged period of time to remedy the breach, then the court would obviously be readier to use its own, more coercive powers. Conversely, however, the court might well be reluctant to use its powers in a case where enforcement action had never been taken. On the other hand, there might be some urgency in the situation sufficient to justify the pre-emptive avoidance of an anticipated breach of planning control. Considerations of health and safety might arise...

39. Relevant too will be the local authority's decision under section 178B(I) to seek injunctive relief. They, after all, are the democratically elected and accountable body principally responsible for planning control in their area. Again, however, the relevance and weight of their decision will depend above all on the extent to which they can be shown to have had regard to all the material considerations and to have properly posed and approached the article 8(2) questions as to necessity and proportionality.

40. Whilst it is not for the court to question the correctness of the existing planning status of the land, the court in deciding whether or not to grant an injunction (and, if so, whether and for how long to suspend it) is bound to come to some broad view as to the degree of environmental damage resulting from the breach and the urgency or otherwise of bringing it to an end. In this regard the court need not shut its mind to the possibility of the planning authority itself coming to reach a different planning judgment in the case.

41. True it is, as Mr McCracken points out, that, once the planning decision is taken as final, the legitimate aim of preserving the environment is only achievable by removing the gipsies from site. That is not to say, however, that the achievement of that aim must always be accepted by the court to outweigh whatever countervailing rights the gipsies may have, still less that the court is bound to grant injunctive (least of all immediate injunctive) relief. Rather I prefer the approach suggested by the 1991 Circular: the court's discretion is absolute and injunctive relief is unlikely unless properly thought to be "commensurate" – in today's language, proportionate....

42. I do not pretend that it will always be easy in any particular case to strike the necessary balance between these competing interests, interests of so different a character that weighing one against the other must inevitably be problematic. This, however, is the task to be undertaken by the court and, provided it is undertaken in a structured and articulated way, the appropriate conclusion should emerge".

66. At [38] in his speech, Lord Bingham said that the guidance given by the Court of Appeal in those paragraphs of Simon Brown LJ's judgment was "judicious and accurate in all essential respects" and he would endorse it.

67. In *South Bucks* at [27], Lord Bingham said that the jurisdiction of this court under section 187B of the 1990 Act is original. It is not supervisory. It is nevertheless open to the defendant in resisting the local planning authority's claim to seek to impugn the validity of the decision to apply for an injunction on public law grounds –

*“27. The jurisdiction of the court under section 187B is an original, not a supervisory, jurisdiction. The supervisory jurisdiction of the court is invoked when a party asks it to review an exercise of public power. A local planning authority seeking an injunction to restrain an actual or apprehended breach of planning control does nothing of the kind. Like other applicants for injunctive relief it asks the court to exercise its power to grant such relief. It is of course open to the defendant, in resisting the grant of an injunction, to seek to impugn the local authority's decision to apply for an injunction on any of the conventional grounds which may be relied on to found an application for judicial review. As Carnwath J observed in *R v Basildon District Council, Ex p Clarke* [1996] JPL 866, 869:*

“If something had gone seriously wrong with the procedure, whether in the situation of the injunction proceedings or in any other way, it was difficult to see why the county court judge could not properly take it into account in the exercise of his discretion to grant or refuse the injunction”

But a defendant seeking to resist the grant of an injunction is not restricted to reliance on grounds which would found an application for judicial review”.

68. At [28], Lord Bingham said that the power of this court to grant an injunction under section 187B is discretionary, as is the case with any application to the court for the remedy of an injunction, as is made clear by section 37 of the Senior Courts Act 1981 –

“28. The court's power to grant an injunction under section 187B is a discretionary power. The permissive “may” in subsection (2) applies not only to the terms of any injunction the court may grant but also to the decision whether it should grant any injunction. It is indeed inherent in the concept of an injunction in English law that it is a remedy that the court may but need not grant, depending on its judgment of all the circumstances. Underpinning the Court's jurisdiction to grant an injunction is section 37(1) of Supreme Court Act 1981, conferring power to do so “in all cases in which it appears to the Court to be just and convenient to do so”. Thus the Court is not obliged to grant an injunction because a local authority considers it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction and so makes application to the court”.

69. At [29], Lord Bingham said that the court's discretion must nevertheless be exercised judicially, with proper regard to the purpose for which the power to grant an injunction was conferred under section 187B of the 1990 Act –

“29. The Court's discretion to grant or withhold relief is not however unfettered ... The discretion of the Court under section 187B, like every other judicial discretion, must be exercised judicially. That means, in this context, that the power must be exercised with due regard to the purpose for which the power was conferred: to restrain actual and threatened breaches of planning control. The power exists above all to permit abuses to be curbed and urgent solutions provided where these are called for.

Since the facts of different cases are infinitely various, no single test can be prescribed to distinguish cases in which the court's discretion should be exercised in favour of granting an injunction from those in which it should not. Where it appears that a breach or apprehended breach will continue or occur unless and until effectively restrained by the law and that nothing short of an injunction will provide effective restraint ... that will point strongly towards the grant of an injunction. So will a history of unsuccessful enforcement and persistent non-compliance, as will evidence that the defendant has played the system by wilfully exploiting every opportunity for prevarication and delay, although section 187B(1) makes plain that a local planning authority, in applying for an injunction, need not have exercised nor propose to exercise any of its other enforcement powers under Part VII of the Act. In cases such as these the task of the court may be relatively straightforward. But in all cases the court must decide whether in all the circumstances it is just to grant the relief sought against the particular defendant."

70. At [30] Lord Bingham said that the original jurisdiction conferred on this court under section 187B does not operate as an invitation to exercise those development control and enforcement decision making functions which are conferred on local planning authorities and the Secretary of State under the comprehensive statutory code enacted by the 1990 Act –

"30. As shown above the 1990 Act, like its predecessors, allocates the control of development of land to democratically accountable bodies, local planning authorities and the Secretary of State. Issues of planning policy and judgment are within their exclusive purview. As Lord Scarman pointed out in Pioneer Aggregates (UK) Ltd v Secretary of State for the Environment [1985] AC 132, 141, "Parliament has provided a comprehensive code of planning control". In R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions [2001] 2 WLR 1389, [2001] UKHL 23, paragraphs 48, 60, 75, 129, 132, 139-140, 159 the limited role of the court in the planning field is made very clear. An application by a local planning authority under section 187B is not an invitation to the court to exercise functions allocated elsewhere. Thus it could never be appropriate for the court to hold that planning permission should not have been refused or that an appeal against an enforcement notice should have succeeded or (as in Hambleton [1995] 3 PLR 8) that a local authority should have had different spending priorities. But the court is not precluded from entertaining issues not related to planning policy or judgment, such as the visibility of a development from a given position or the width of a road. Nor need the court refuse to consider (pace Hambleton) the possibility that a pending or prospective application for planning permission may succeed, since there may be material to suggest that a party previously unsuccessful may yet succeed, as the cases of Mr Berry and Mrs Porter show. But all will depend on the particular facts, and the court must always, of course, act on evidence."

71. Lord Clyde expressed similar views in [67]-[68] of his concurring speech –

"67. The principal theme in the appellants' argument as it seemed to me was the concern that the court should not trespass into areas with which it has no concern. I certainly accept that it is for the planning authorities and not for the courts to see to the preparation and administration of plans and policies for the use of land. What uses should or should not be allowed of lands within the area of the authority, what developments should or should not be permitted to take place upon such lands, are

questions for the planning authorities and not for courts of law to resolve. The expression "planning matters" may be too uncertain a use of language in this context. I also find the expression "planning code" which was sometimes used in the argument lacking in precision. The expression "planning merits" seems to me to be more exact, but I would prefer to identify the forbidden ground as comprising matters of "planning judgment".

*68. The factors which require to be considered in the making of a planning judgment are potentially many and varied. They include matters relating to the economic and social needs of the locality, the interests of the public and of the individual members of it who live there, the preservation of the environment and the protection of amenity. Lord Hoffmann observed in *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, at p 780H: "If there is one principle of planning law more firmly settled than any other, it is that matters of planning judgment are within the exclusive province of the local planning authority or the Secretary of State." The courts may consider the legality of a planning judgment but not the merits of the planning decision. In *R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions* [2001] 2 WLR 1389 this distinction was recognised and held to be consistent with article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. If the courts were to embark upon a reassessment of matters of planning judgment they would, to use the language of Lord Hoffmann in *R v Wicks* [1998] AC 92, at p 120F be subverting the whole scheme of the Act".*

72. Lord Clyde, however, warned against the court carrying that self-denying ordinance too far in exercising its original jurisdiction under section 187B of the 1990 Act –

"70. But the enforcement of the planning decisions which have been reached by planning authorities does not in my view strictly involve the exercise of a planning judgment. The statutory provisions relating to enforcement are set out in a distinct part of the Town and Country Planning Act 1990, Part VII. They are in a broad sense "planning matters". Indeed the initiative to enforce planning control under these provisions lies with the authority. In deciding whether to take action in the event of a breach of planning control the authority will require to weigh a variety of factors which go beyond the considerations of the planning judgment in the light of which the plans were made and permissions granted or refused. The factors will now include the seriousness of the breach and its effect in the particular case. The authority will also require to consider which of the various methods of enforcement provided by the statute they should adopt. Enforcement notices and stop notices are courses which the authority may take at their own hand. So also is the breach of condition notice introduced by section 187A. But the injunction provided for by section 187B requires the intervention of the court. Parliament has expressly given the power to grant this particular form of remedy to the court. The authority must decide that the course is "necessary or expedient", but it is for the court, not for them, to issue the order.

71. In exercising its power the court must not re-assess matters which are the subject of a planning judgment. But that does not mean that the factors which have been considered by the authority in making their planning judgment may not be properly taken into account by the court in deciding whether or not to grant this particular remedy. In looking at the factors which weighed with the authority the court is not embarking upon a reassessment of what was decided as matter of planning judgment

but entering upon the different exercise of deciding whether the circumstances are such as to warrant the granting of the particular remedy of an injunction”.

73. In his concurring speech at [98], Lord Scott drew attention to the words of section 187B(2) of the 1990 Act, which gives this court power to grant such an injunction as this court thinks “*appropriate for the purpose of restraining the breach*”. He said that this language neither added to nor subtracted from the criteria stated in section 37 of the Senior Courts Act 1981. Unless the injunction sought was “*just and convenient*”, it could hardly be thought “*appropriate*” to grant it. He continued at [99]-[101] –

“99. The criteria that govern the grant by the court of the injunction make clear, in my opinion, that the court must take into account all or any circumstances of the case that bear upon the question whether the grant would be “just and convenient”. Of particular importance, of course, will be whether or not the local planning authority can establish not only that there is a current or apprehended breach of planning control but also that the ordinary statutory means of enforcement are not likely to be effective in preventing the breach or bringing it to an end. In a case in which the statutory procedure of enforcement notice, prosecution for non-compliance and exercise by the authority of such statutory self-help remedies as are available had not been tried and where there was no sufficient reason to assume that, if tried, they would not succeed in dealing with the breach, the local planning authority would be unlikely to succeed in persuading the court that the grant of an injunction would be just and convenient.

100. In deciding whether or not to grant an injunction under section 187B the court does not turn itself into a tribunal to review the merits of the planning decisions that the authority, or the Secretary of State, has taken. The purpose of the injunction would be to restrain the alleged breach of planning controls and the court could not in my opinion properly refuse an injunction simply on the ground that it disagreed with the planning decisions that had been taken. If the court thought that there was a real prospect that an appeal against an enforcement notice or a fresh application by the defendant for the requisite planning permission might succeed, the court could adjourn the injunction application until the planning situation had become clarified. But where the planning situation is clear and apparently final the court would, in my opinion, have no alternative but to consider the injunction application without regard to the merits of the planning decisions.

101. It does not, however, follow that once the planning situation is clear and apparently final it is not open to the court to take into account the personal circumstances of the defendant and the hardship that may be caused if the planning controls are enforced by an injunction. Planning controls are imposed as a matter of public law. The local planning authority in seeking to enforce those controls is not enforcing any private rights of its own. If a local authority mortgagee is seeking an order for possession against the mortgagor, or a local authority landlord is seeking an order for possession against a tenant, or a local authority landowner is seeking an order to remove squatters or to restrain trespass, the local authority is seeking an order to enforce its private property rights. It is as well entitled to do so as is a private mortgagee, landlord or landowner. The function of the court in civil litigation of that character is, in my opinion, to give effect to the private rights that the local authority claimant is seeking to enforce. But an application for an injunction under section 187B, or any other application for an injunction in aid of the public law is different. As Lord

Wilberforce said in the Gouriet case, the jurisdiction to grant such injunctions is one of great delicacy and to be used with caution”.

74. At [102] Lord Scott said –

“The hardship likely to be caused to a defendant by the grant of an injunction to enforce the public law will always, in my opinion, be relevant to the court’s decision whether or not to grant the injunction. In many, perhaps most, cases the hardship prayed in aid by the defendant will be of insufficient weight to counter balance a continued and persistent disobedience to the law. There is a strong general public interest that planning controls should be observed and, if not observed, enforced. But each case must depend upon its own circumstances”.

(5) The provision of accommodation to asylum seekers

75. Sections 95 to 98 of the Immigration and Asylum 1999 [**“the 1999 Act”**] empower the Home Secretary to provide or to arrange the provision of support, including temporary support, for asylum seekers and their dependants who appear to her to be destitute or likely to become so. For these purposes, an asylum seeker is a person aged 18 or above who has made a claim for asylum in the United Kingdom which has been recorded but not yet determined. A claim for asylum means a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention or Article 3 of the European Convention of Human Rights for the claimant to be removed from or required to leave the United Kingdom: see section 94(1) of the 1999 Act. Destitution is defined by section 95(3) of the 1999 Act to include the lack of adequate accommodation or the means of obtaining it.

76. By virtue of section 96 of the 1999 Act, the Home Secretary may provide support to an asylum seeker in the exercise of her powers under section 95(1) -

“(a) by providing accommodation appearing to the Secretary of State to be adequate for the needs of the supported person and his dependents (if any) ...”.

77. Pending a decision whether to provide such support, the Home Secretary has power under section 98 of the 1999 Act to provide temporary accommodation to asylum seekers who appear to her to be destitute.

78. The effect of regulation 5 of the Asylum Seekers (Reception Conditions) Regulations 2005 is to convert the Home Secretary’s powers to provide support to asylum seekers under sections 95 and 98 of the 1999 Act into duties to offer such support –

“5(1) if an asylum seeker or his family member applies for support under section 95 of the 1999 Act and the Secretary of State thinks that the asylum seeker or his family member is eligible for support under that section he must offer the provision of support to the asylum seeker or his family member.

...

(4) If the Secretary of State thinks that the asylum seeker or his family member is eligible for support under section 98 of the 1999 Act he must offer the provision of support to the asylum seeker or his family member”.

Factual background

2020-2021 – first period of use as accommodation for asylum seekers

79. Mr Salmon has held the post of Group Operations Director of Somani Group Holdings since May 2022. His responsibilities include oversight of operation of the hotels and care homes within the Somani Group, which includes the Bell.
80. The Defendant closed the hotel at the Bell in March 2020, following the outbreak of the COVID-19 pandemic and the lockdown restrictions which were put in place at that time. Mr Salmon’s evidence was that the Bell had been in operational decline for many years. His understanding was that the hotel had ceased to be the local community hub that it had been some 20 years ago, for social gatherings and weddings. As a result of declining operations, in 2008 the Defendant had sought and been granted planning permission for the development of a care home at the site. The schedule of planning history produced by Mr Stubbs records the grant of outline planning permission in 2008 for the partial demolition of the Bell Inn and erection of a new extension and care home. Reserved matters are recorded as having been approved in 2011.
81. Between 22 May 2020 and 4 March 2021, the Bell was used to accommodate asylum seekers. That period of its use for that purpose took place under a contract between the Defendant and CRHL, acting as service provider to the Home Secretary.
82. Mr Stubbs has been in post as the Claimant’s Planning and Enforcement Compliance Manager since early October 2022. Having consulted the Claimant’s enforcement records, he says that in July 2020 the Claimant received a complaint that the Bell was being used in breach of planning control, to provide accommodation for asylum seekers. On 2 July 2020, a planning enforcement officer, Mr Ayres, made enquiries of the Defendant. On 8 July 2020, Mr Hassan Somani replied, stating that the hotel had been closed and the staff furloughed in accordance with lockdown restrictions. CRHL had approached the Defendant with a view to using the Bell to provide emergency accommodation for asylum seekers. The Home Office had booked rooms at the Bell through CRHL as they had done in hotels across the country. Mr Somani said –

“We do not accept that the use had changed, The Bell is a hotel and we are providing rooms on a nightly basis with meals included. We can confirm the date that we re-opened was 22 May”.
83. Mr Somani said that the Defendant did not intend or expect to accommodate asylum seekers at the Bell beyond the end of the COVID-19 crisis. The Defendant would like to return as soon as possible to *“business as usual”*.
84. From further documents produced from the Claimant’s files during the course of the hearing before me, it appears that on 14 September 2020, Mr Ayres sent an email to a local resident in response to two letters. In his email, Mr Ayres said that the Claimant was currently investigating the use of the Bell and that once those investigations were complete, the local resident would be informed of any enforcement action considered necessary.
85. On 27 May 2021, Mr Ayres sent an email to Mr Somani asking him to confirm *“the current use of the hotel”*. On 28 May 2021 Mr Somani replied, stating that although

currently closed “*the Bell Hotel’s current use remains unchanged and is still used as a hotel*”. On 1 June 2021 Mr Ayres wrote again saying that he wished to clarify whether the hotel was still being used to house asylum seekers/refugees and not tourists. On the same day, Mr Somani replied that the hotel had been closed for quite a while, was completely empty and that there were no tourists, asylum seekers or refugees at the hotel. Mr Ayres expressed the hope that the Defendant would shortly be able to get back to “*normal business operations*”.

86. Mr Salmon’s evidence was that following some “*light refurbishments*” the hotel reopened in August 2022, with staff numbers reduced from 14 people prior to lockdown in March 2020 to 5 people, reflecting very low trading performance and bedroom occupancy rates.

2022-2024 – second period of use as accommodation for asylum seekers

87. In early October 2022, the Defendant was approached by another of the Home Office’s service providers, Finefair Limited, seeking to accommodate asylum seekers at the Bell. Mr Salmon’s evidence was that the Defendant contracted with Finefair Limited for that purpose. The contract ran from the end of October 2022 until late April 2024. The contractual arrangements provided for the use of the visitor accommodation at the Bell, 80 bedrooms in total, to accommodate single male asylum seekers, predominantly on the basis of room sharing with two persons sleeping in each bedroom. Mr Salmon said that the Defendant did not make any internal changes to the layout or facilities at the hotel during the currency of this contract. The Defendant had no control of the placement of residents at the hotel. The Defendant was responsible only for laundry services, cleaning and general facilities maintenance.

88. Mr Stubbs says that the Claimant learnt on 10 November 2022 that the Bell was again being used to accommodate asylum seekers. On that date Mr Stubbs emailed a colleague asking that a new case be opened for the Bell. He said that the case description would be “*Change of use of the land to provide accommodation for refugees/asylum seekers*”. Mr Ayres was to be the case officer. Mr Stubbs said –

“This is a national problem with several other local authorities finding themselves receiving large numbers of people being relocated by the Home Office. I know that you have previously dealt with the Bell as well. We will need a site visit and then likely PCNs...which I can help with drafting”.

89. On 15 November 2022, Mr Ayres spoke with Mr Salmon on the telephone. Mr Ayres’ attendance note records Mr Salmon saying that the use had resumed two weeks previously and there were then approximately 70 asylum seekers accommodated at the hotel, a figure that may change. A site visit was arranged for 22 November 2022. Mr Ayres followed up with an email to Mr Salmon saying that he wished to discuss “*the current planning issues regarding the change of use of the hotel to use as an asylum hostel*” and would be happy to meet a representative of the party who had rented the rooms at the hotel. Mr Salmon replied stating that he had “*shared with the Home Office contractor as the ‘use’ of the hotel under the terms of the Government contract is a matter for them and the Home Office rather than us*”. He had suggested that the Home Office should be speaking directly with the local authority to address any concerns.

90. In fact Mr Ayres carried out his site visit on 29 November 2022. Mr Salmon said that following that site visit, the Defendant decided to submit an application for planning permission to use the Bell to accommodate asylum seekers on a temporary basis. The Claimant was informed by the Defendant's solicitor that the Defendant was to make that planning application in January 2023. On 19 January 2023 the Defendant's solicitor emailed Mr Ayres to say that the supporting information was still being assembled and the planning application was now to be expected in the first half of February 2023. Mr Ayres said that was fine and thanked him for the update.
91. On 14 February 2023 the Defendant's solicitor submitted the Defendant's application for planning permission for development described as "*Temporary Change of Use until 30 June 2024 or such earlier date as is notified in writing to the Council by the Applicant from hotel use (Class C1) to use as a hostel for asylum seekers (Sui Generis)*". The change of use was stated to have begun on 29 October 2022. The existing use was described as "*Hotel (Class C1)*".
92. The planning application was submitted under cover of a letter dated 14 February 2023 from the Defendant's solicitor to the Claimant. That letter included the following description of the then current use of the Bell -

"Current Use

As at 1 February 2023, the Hotel was being exclusively used to temporarily accommodate 80 male asylum seekers in single and double rooms.

The asylum seekers arrive by coach and their length of stay varies from person to person, with some asylum seekers being relocated by the Home Office within 24 hours of their arrival, while others stay for a longer period.

The Hotel provides 3 meals a day for the residents, and the hotel is staffed by 6 security guards (3 during the day and three during the night), one welfare officer who works Monday to Friday, two cleaners, 3 kitchen staff, 1 receptionist and 1 general manager. In addition, the hotel has recently hired a weekend receptionist so as to maintain 7-day cover.

The Asylum seekers are predominantly young adults. They are not of school age, are healthy and rarely make any demands on local social services. They also have a very strong interest in not causing any difficulties locally, as any breach of the law would be likely to result in a swift conviction and deportation. Hence, as at the date of writing, there have been no complaints directly to the Hotel of any anti-social behaviour by the asylum seekers.

The contract with the Home Office is made under s. 98 of the Immigration and Asylum Act 1999 (the 1999 Act). Section 98 allows the Home Office to provide short-term, emergency accommodation for asylum seeker while their needs are considered. Thereafter, the Home Office will provide longer-term accommodation for the asylum seekers at dispersal accommodation around the country under regional contracts with third parties made under s. 95 of the 1999 Act. In practice and based on the Hotel's current experience, this means that the asylum seekers are accommodated at the Hotel for anything between 24 hours and 3-4 weeks after which, they are relocated elsewhere".

93. The covering letter then stated the Defendant's purpose in making the planning application; and made clear that the Defendant's view was that the then current use of the Bell did not involve a material change in its use -

"The application is made following a meeting with John Ayres, Epping Forest DC's Planning Enforcement Officer which was held on 29th November 2022. It is made without prejudice to my clients' view that the present use of the Hotel does not constitute a material change of use. The purpose of the application is to clarify the planning status of using the Bell to accommodate asylum seekers under contract with the Home Office, and to enable the Hotel to 'bridge' the current adverse economic climate and eventually resume its normal hotel operations.

...

This application for a temporary 18-month planning permission is made without prejudice to Somani's view, that the current use of the Hotel to temporarily accommodate asylum seekers under contract with the Home Office does not constitute a material change of use".

94. With the covering letter, the Defendant's solicitor provided a table which showed the annual turnover, gross profit, operating profit and net profit achieved at the Bell for the years 2016 to 2022. For the years 2017 to 2020 inclusive, the Bell was shown to be returning net losses of between £28,881 and £90,477. For the year 2021, following use of the Bell to accommodate asylum seekers under the initial CRHL contract which ran until March 2021, the Bell returned a net profit of £605,909.
95. In a consultation response on the planning application dated 28 February 2023, Essex Police's Designing Out Crime Office requested an urgent meeting with the applicant to discuss proposed and existing security measures in place at the Bell. This was said to be *"due to the likelihood that the vulnerable residents could be susceptible to harm and risk, providing them with a safe and secure place to temporarily reside is therefore imperative for their safety and wider community"*. On 4 April 2023, the Defendant's solicitor emailed the planning officer to inform him that the applicant had met with Essex Police on site on 3 April 2023. The meeting had been positive: the Designing Out Crime team had reviewed the hotel's security policies and arrangements, and had made recommendations which the Defendant was happy to take forward.
96. Epping Town Council considered the planning application at their meeting on 7 March 2023. They resolved to object to the planning application, feeling that the change of use was not acceptable and that the Bell *"should stay as a hotel especially as there is a lack of such facilities in the local area"*.
97. On 24 April 2023 the Claimant's planning officer emailed the Defendant's solicitor indicating that the planning application may be reported to the Planning Committee on 7 June 2023. There then followed email correspondence during May 2023 in which the planning officer asked for further information about occupancy arrangements at the hotel, whether there was a time limit on asylum seekers' duration of stay at the hotel and whether there was a call on local GP services from occupation of the hotel by asylum seekers. On 17 May 2023, the Defendant's solicitor responded to the planning officer's questions. He said that there was no formal time limit on length of stay, but that the contract with the Home Office was to provide short term accommodation under

section 98 of the 1999 Act. Maximum occupancy was limited by the number of bedspaces at the hotel. Newly arrived asylum seekers were initially assessed by a private GP on behalf of Finefair. They were then allocated to GPs in the local area. As young men, they were no more likely to use the local medical services than any other young adult male. There was said to be *“no evidence that the asylum seekers are placing an unacceptable burden on any local service”*. On 18 May 2023, the solicitor followed up with an email stating that the Defendant was willing to provide a private fortnightly GP’s surgery for appointments, and for the same private GP to be available to deal with any emergencies which might arise between those appointments.

98. The Defendant’s planning application was not reported to the Claimant’s Planning Committee for determination on 7 June 2023. It remained undetermined by the Claimant as local planning authority until March 2024, more than a year after its submission and some eleven months after the expiry of the period of eight weeks within which it was required to be determined under article 34(2)(b) of the Town and Country Planning (Development Management Procedure)(England) Order 2015. On 21 March 2024, the Defendant’s solicitor wrote by email to the Claimant’s planning officer notifying him that the then current contract for the accommodation of asylum seekers at the Bell was to come to an end on 26 April 2024, by which date all asylum seekers would have vacated the hotel. The contract was not to be renewed. As the temporary planning permission applied for on 14 February 2023 had thus become *“redundant”*, the Defendant was withdrawing the planning application. I was not shown any acknowledgment of that email.
99. Mr Salmon said that the Bell was closed from 26 April 2024 until early April 2025. During that period of just under a year, repairs and further light refurbishments were undertaken to bring the hotel premises up to the standard needed for a local authority contract for homelessness accommodation or another government contract. He said that during that period the Defendant entered into discussions with two London Borough councils with a view to a possible contract to house homeless persons at the Bell.

Resumption of use as contingency accommodation – early 2025 onwards

100. In January 2025, CTM in its capacity as a Home Office service provider approached the Defendant expressing interest in resuming use of the Bell to provide asylum accommodation. On 17 February 2025, Mr Tim Ryder, Deputy Director Adult and Family Asylum Accommodation at the Home Office wrote to the Claimant’s and Essex County Council’s Chief Executives informing them that the Bell had been identified by the Home Office and their new accommodation provider, CTM, as a potential source of contingency accommodation for asylum seekers. In his letter, Mr Ryder said that the Home Office wished to arrange a meeting with local authority officials and other relevant partners to discuss the proposed use of the Bell for that purpose. The full text of Mr Ryder’s letter is as follows –

“I am writing to let you know that whilst the Government remains committed to ending hotel use. The Home Office keeps its accommodation estate under constant review and we continue to do everything possible to run our estate as efficiently as possible and to meet our statutory obligation to accommodate asylum seekers who would otherwise be destitute.

We are working tirelessly to increase dispersal accommodation across the United Kingdom, and have taken immediate action by restarting asylum processing and establishing our new Border Security Command, we cannot resolve this situation overnight. It remains our commitment to reduce the costs of asylum accommodation, including ending the use of asylum hotels, but the size of the existing backlog means we are forced to use hotels in the meantime.

We have, with Ministerial approval, asked a new accommodation provider CTM, to procure additional contingency accommodation to allow our current accommodation providers to focus on the preferred model of dispersed accommodation. We are confident that this approach will allow us to optimise the use of existing hotel estate to help with any future hotel closures.

We have identified Bell Hotel Epping Forest, CM16 4DG, as a site CTM could stand up and use as asylum accommodation. We are aware that we have previously used this site under a different accommodation provider in the past, and I wanted to confirm to you that we are committed to working with you to determine the suitability of this site and the Strategic Migration Partner for your region will now arrange a meeting with Local Authority officials and other relevant partners to discuss the matter. This initial meeting will also include the relevant accommodation provider and our Service Delivery team in the Home Office. If you wish to have any further conversations regarding this matter with a senior official, please do contact [name and email address]”.

101. On 20 February 2025, a consultation meeting was held to discuss the proposed use of the Bell as a “stand up hotel” to meet short term asylum accommodation needs. Ms Thompson, Ms Wiggins and Ms Ferdenzi attended that meeting. Also present were other Home Office officials, the Chief Executive of CTM, the Claimant’s Corporate Health and Safety Contingency Planning Officer, the County Council’s Lead Overseas Arrivals Officer, the Projects Manager for the Strategic Migration Partnership for the East of England, a Senior Police Officer from Essex Police and NHS officials. I was shown the minutes of that meeting. Although Ms Thompson mentioned in her evidence parts of the discussion at that meeting which she recalled, she accepted that the minutes were accurate. The minutes indicate that the consultation process was welcomed by those attending. Ms Ferdenzi said that the Bell had a maximum capacity of 198 beds and would be filled on a phased basis, with most bedrooms being occupied on a shared basis. Ms Wiggins raised a concern of the Claimant as to the safety of another hotel in use to accommodate asylum seekers, the Phoenix. She asked how the potential standing up of the Bell would affect continuing use of the Phoenix. The Bell was a “*better placed property*”. She raised the hope that the Phoenix would close. NHS officials raised concerns as to the ability of local health services, in particular local GP services, to accommodate 198 additional service users. It was agreed that those concerns should be followed up between Home Office and NHS officials. The issue of local community concerns was also discussed. At the close of the meeting, Ms Ferdenzi said that decisions would need to be made quickly. CTM’s safeguarding teams were ready to mobilise and the Bell was being made ready to receive service users. Ms Thompson and her counterpart at Essex County Council took actions to arrange responses to Mr Ryder’s letter.
102. It is common ground that there was no discussion at the meeting about the lawfulness for planning purposes of the proposal for CTM as service provider on behalf of the

Home Secretary to resume the use of the Bell as contingency accommodation for asylum seekers. There was no discussion at the meeting of whether the resumption of that use would constitute a breach of planning control or be an unacceptable use of the land in terms of its impact on local amenity or the local environment.

103. On 26 February 2025, Ms Wiggins emailed Ms Ferdenzi to apologise for the delay in submitting the Claimant's consultation response to Mr Ryder's letter. She explained that there had been a change of senior leadership at the Claimant and the response was expected to be ready within the next few days. On the same day, Ms Wiggins emailed Ms Ferdenzi asking for further information which had been sought by the Claimant's housing officers, including the origin of the asylum seekers and how long they would be expected to stay at the Bell. On the same day, Ms Ferdenzi replied that asylum seekers to be accommodated at the Bell would come from "a mix of existing hotels (where we know more about them) and 'ringfenced' hotels (fairly new to the UK)". She said that she had asked for a quick response from her colleagues to Ms Wiggins' other questions. On 27 February 2025, Mr Jonathan Blackburn, Head of Service Delivery Large Sites and Continuous Improvement at the Home Office, emailed Ms Wiggins with that response –

"In Liz's absence please find attached the responses to the questions raised below.

To confirm it remains our commitment to conduct a phased introduction of SUs into The Bell Epping Hotel, dependent on several unknown factors in respect of new arrivals into the system, we would hope to scale up number over a 4/5-week period from the point we get agreement to mobilise the site. To ensure we get best value for money and utilise the bedspaces accordingly, the expectation is that unrelated SUs will be required to share a room where the configuration of the rooms allow us to.

As we discussed previously we are unable to confirm exactly where the cohort will be made up from, but the expectation is that there will be a mixed cohort of SAMs, that will consist of SUs that have been in the system and may need to be relocated from other CA sites and new arrivals that have come through Manston or Jetfoil and spent a short period of time in our ring-fenced estate. In terms of the first arrivals, we are working on a proposal to explore relocating SAMs that are currently residing in the Phoenix Hotel and returning that site to a family site, as we are aware that due to demand on bed spaces prior to Christmas we had to mix the cohorts and move several SAMs into that site.

In respect of length of stay, the expectation is that we will keep the length of stay to as short a stay as possible, this will be dependent on a number of factors including availability of suitable Dispersed accommodation that we can disperse people to or they are ready to receive their asylum decision or deemed unsuitable to remain in that site.

The review on Grant Funding for the next FY, is still under discussion, so we are unable to comment on how this will work until April this year, but we will endeavour to keep you updated with any developments.

I can confirm that residents who receive a positive decision on their asylum claim will still receive 56 days' notice prior to Move On. For those that receive a negative decision

they will be given 21 days' notice to submit an appeal if eligible or make efforts to leave the UK.

I hope this answer some of the points raised and we will comeback to you once we have clarity on the outstanding matters you have raised. We remain committed to ensuring that we maintain open lines of communication throughout to all partners involved in this site”.

104. It appears that a further consultative meeting had been scheduled to take place at 4.15pm on 6 March 2025. However, earlier that afternoon Mr Blackburn emailed attendees, including Ms Wiggins and Ms Thompson, to suggest postponement of that meeting, as the Home Office had yet to receive formal consultation responses from either Essex County Council or the Claimant. On 11 March 2025, Ms Thompson emailed Mr Blackburn to say that she had chased for a final response from the Claimant and would get that response to him as soon as possible.

105. On the same day, 11 March 2025, Ms Ferdenzi emailed Ms Wiggins, Ms Thompson and their counterpart at Essex County Council to inform them that the Home Office was now ready to begin the use of the Bell as contingency accommodation –

“We are ready to commence the stand-up of the Bell, however I am mindful to ensure that you have everything you need before I give CTM the go-ahead. As I mentioned previously, I am keen to keep working closely together on this, particularly during the early weeks and months if necessary to ensure we are working in-step to ensure this hotel works for all parties concerned.

We have had conversations with Epping health colleagues in the last week (and are meeting again today to provide an update), and have made the commitment to establish a health/welfare sub-group to manage any concerns or issues regularly, a proposal they have welcomed. CTM have also met with Essex police colleagues following our previous call, and there are no outstanding concerns there.

Please can you let me know that you are content for us to give CTM the go-ahead for this site, on the proviso that we establish a local [Multi-Agency Forum – MAF] (or stakeholder forum, whichever suits you), in order that we may continue to work in close partnership”.

106. On 13 March 2025, Ms Ferdenzi emailed those parties who had attended the meeting of 20 February 2025, including the Claimant’s officers, to notify them that mobilisation of the Bell was expected to begin in the week commencing 24 March 2025 –

“Many thanks for working with us on establishing the Bell as an asylum contingency site. We are now in a position to proceed, and are expecting mobilisation to commence mobilisation w/c 24th March.

As discussed, we will be looking to adopt a phased approach to occupation, and we are looking to start that intake with two tranches of the 56 single adult males (SAMs) that are currently residing at the Phoenix.

I am very keen that we continue to work closely together to ensure this site is safe and well-managed for both our services users and your local community, therefore I am

asking that we commence a MAF approach to this starting from next week. I am also committed to continuing to work closely with local health partners, and am looking to establish a regular meeting going forwards with ICB/NHS and LA health colleagues as discussed with them last week.

Please may I ask for a full list of representatives that would require an invitation to the first MAF and my team will arrange to have this set up for next week. I will also arrange for our health colleagues to establish a regular sub-group call to best manage health and safeguarding matters. It would be helpful to have an LA lead on that sub-group as well, therefore please can you forward me the most appropriate person to participate in those meetings.

In order that CTM are clear on referral mechanisms for those individuals who may need to be referred to adult social services, or for age assessment (should any service users present as under 18), please can you provide myself and Michael (CTM), with those details at your earliest opportunity.

I very much look forward to continuing to work with you to ensure the Bell hotel is a success for both our service users and your local community”.

107. An email later that day from Essex County Council to the same recipients relayed Ms Ferdenzi's confirmation by telephone that the Home Office did not wait for formal consultation responses from the local authorities before notifying mobilisation of asylum accommodation.
108. On the same day, 13 March 2025, Essex County Council's Chief Executive sent that Council's formal consultation response to Mr Ryder. She said that it had been helpful to have received clarification that the Home Office's primary intention was to support single adults only. On that basis, the County Council raised no major objections to the proposed use of the Bell as contingency accommodation for asylum seekers. She raised a number of matters to which the County Council as education and social services authority would keep under close scrutiny. She said that the County Council would refer any media or public representations to the Home Office.
109. On 17 March 2025, the Claimant's Portfolio Holder Technical Services, Councillor Keska, sent the Claimant's formal consultation response. He said that the Claimant would not support the recommissioning of the Bell as asylum accommodation and asked that the Claimant's significant number of concerns be taken into consideration by the Home Office when taking the final decision whether to resume the Bell's use for that purpose –

“Thank you for your letter dated 17th February 2025 received 18th February, regarding the standing up of the Bell Hotel in Epping as contingency asylum accommodation.

Please see below a response on behalf of Epping Forest District Council, following our consultation with local health partners from the Hertfordshire and West Essex Integrated Care Board and the Epping North Primary Care Network.

We have a significant number of concerns that we would like to advise you on regarding the pressures the accommodation would place on local services.

From the experience of when the Bell Hotel was previously utilized, we know the homelessness service will be put under significant financial pressure, as will our housing service. This is due to high rental costs in the southeast of England and EFDC having to subsidise the shortfall between cost of housing and the financial settlement received from the home office, we therefore seek mitigations for those pressures.

The health system will also face a strain on finances at a time when they are already having to make savings. This is because the pricing tariff for health assessment is less than the cost of the services being delivered, meaning the ICB will be required to fund the shortfall from existing budgets putting further financial strain on services.

From a primary care perspective, the complexity of the patient cohort with high incidence of mental health and safeguarding concerns are dealt with by offering longer appointment times, which reduces the overall number of appointments that can be offered by the practices and reducing access to existing residents. Furthermore, the high turnover in patients contributes to a significant administrative workload as well as diminishes the continuity of care provided to this complex cohort.

With regards to the handover or placement process, if these residents are being moved from existing sites, we would like to see a rigorous process where; initial health screening has already taken place, and the new practice is made aware of any identified medical problems. The health screening should also include vaccination history as we are aware of outbreaks of communicable diseases at some asylum facilities. Furthermore, prescription exemptions (for which this cohort are eligible) would already need to be in place, so as not to add significant administrative burden on practices.

In addition to the concerns regarding the pressure on service we also seek reassurance that the facility has been improved. The building has previously been deemed inadequate and hence has been closed twice before. There were also significant concerns regarding the quality of food in the past commissioning of the hotel, leading to poor nutrition and to further health issues of residents.

We were informed at the meeting that many of the single adult males who would be placed at the Bell will be moved from the Pheonix, and that the Phoenix will then be under capacity. We would therefore like reassurance that the Pheonix will be decommissioned and the families moved to more suitable accommodation rather than have new families placed at the hotel putting further pressure on services in the district.

Finally we are concerned about the potential backlash from our far-right groups and previously had filming by the EDL at the location when it was commissioned previously that created tension within our community.

In conclusion we would not support the recommissioning of the Bell Hotel as asylum accommodation, and we trust you will take into consideration our concerns when making a final decision”.

110. Councillor Keska’s letter did not raise as a concern that the proposed use of the Bell as contingency accommodation for asylum seekers would be in breach of planning control or result in planning or environmental harm which might give rise to the need for enforcement action.

111. On 19 March 2025, a further meeting took place attended by officials of the Home Office, CTM, Essex County Council, Essex Police, the Claimant and the National Health Service. The meeting was chaired by Mr Blackburn, who provided an update on the Home Office's plans, stating that the Bell was expected to "go live" on 24 March 2025, but that asylum seekers would not necessarily be accommodated at the hotel from that date. Numbers would be phased over a period of weeks or as demand dictated.
112. Between 21 March 2025 and 27 March 2025 there were email exchanges in which the Home Office was asked to confirm the date on which new arrivals of asylum seekers at the Bell would begin. On 24 March 2025, Mr Blackburn said that the Home Office's provisional timetable was to relocate 49 single adult males from the Phoenix hotel to the Bell in two phases on 28 March and 31 March. Thereafter there would be a phased plan for further new arrivals at a rate of 40 persons a week until the hotel was full. The great majority were expected to be newly arrived asylum seekers to the UK.
113. On 27 March 2025, Mr Blackburn emailed officials at Essex County Council, Essex Police, the Integrated Care Board, local GP surgeries and the Claimant, confirming that the first cohort of asylum seekers would be transferred from the Phoenix to the Bell on Monday 31 March 2025. Ms Thompson and Ms Wiggins were amongst the recipients of that email. Mr Blackburn said –

"I wanted to provide an update on the planned moves of Service Users from the Phoenix Hotel to the Bell Epping Hotel. I can confirm that letters have been issued to the first cohort of Single Adult Males that are due to move on Monday 31st March, this will be 25 in total. CTM will liaise with CRH to ensure collection times and vehicle arrangements are shared to ensure all residents are collected and transferred as planned. Tranche two of the move will see the remaining 24 SUs move on Thursday 3rd April. The next planned arrivals do not take place until the w/c the 7th April.

To confirm, there are 80 twin rooms at the Bell Epping, meaning maximum capacity will be 160 SUs. CTM are to ringfence 4 of those rooms for maintenance and isolation purposes, but may stand them up as BAU beds depending on demand on the system, but we will not go above 160 residents.

A space has been cleared and made available for Health colleagues to provide onsite or remote surgeries. Residents will be transferred and registered to one of two local GP practices in closer proximity to the Bell Hotel.

We remain committed to working with local partners including statutory bodies and will facilitate any on site visits you deem necessary. All new guests will receive a full induction onto their new accommodation and provider in a language they understand, translated versions and interpreters are available upon request.

For any Press Enquires please use the following inbox... [address provided]

In the meantime, if you have any questions you need to ask of HO colleagues please direct email to a dedicated inbox [address provided] and we will respond accordingly. CTM will provide details of the inbox and local contacts once their final team has been confirmed.

In the meantime, please accept my thanks and gratitude for the support you have provided over the past few weeks and we look forward to working with you over the course of the coming week”.

114. Meanwhile, over the previous weekend (28-30 March 2025) there had been a fire at the Phoenix Hotel. In a further email sent on 31 March 2025, Mr Blackburn said –

“I am confident that members will already be aware of the incident that occurred over the weekend at the Phoenix Hotel. The positive news is that all staff and residents were successfully evacuated, and nobody sustained any injuries. The provider was able to relocate all SUs to alternative accommodation with sites in Heathrow and Reading being mobilised. For more information on where people have been moved to, I would suggest contacting CRH in the first instance, especially for the situation on families that had been accommodated at the Phoenix and are unlikely to return to the area in the immediate future.

The relocation plans for our SAM cohort will go ahead as originally planned. I can confirm that 3 SUs that had been away did present at the Bell Epping last night, so they were accommodated and provided with food, as they were on the travel list to move today. We are expecting a further 20 to arrive during today from Reading and Heathrow. The remainder will arrive on Thursday as planned.

We will endeavour to keep you updated on arrivals at the Bell but would again ask that you liaise with CRH to discuss any questions you may have about the Phoenix”.

115. Since it reopened on 31 March 2025, the Bell has been used to accommodate single adult male asylum seekers pursuant to the contract between the Defendant and CTM. As at 13 August 2025, there were 138 asylum seekers accommodated at the Bell. As at 24 September 2025, the date on which Ms Hutchinson-Chambers signed her first witness statement, the number accommodated was 115.

Correspondence regarding the need for planning permission – April/May 2025

116. At 10.42am on 8 April 2025, Mr Stubbs emailed Mr Salmon and the Defendant’s solicitor in respect of the Bell –

“I write concerning the land mentioned above, which remains under the ownership of Somani Hotels Limited. It has been brought to the local planning authority’s attention that the use of the former hotel as a hostel for asylum seekers is to resume.

You will recall that an application seeking permission for such a temporary change of use was submitted in February 2023 and subsequently withdrawn in March 2024, following the cessation of the use of the premises. A new application will now be required, and I would be grateful to receive an indication of your intentions in this regard”.

117. On the same day, a Bell Hotel, Epping Health and Welfare meeting was held, attended by Ms Ferdenzi and Ms Thompson amongst others. The minutes of that meeting record that a fire had occurred at the Bell on the morning of Saturday 5 April 2025. The fire had been confined to a single room at the hotel. An asylum seeker had been arrested on suspicion of arson at both the Phoenix and the Bell hotels and remanded into custody

to appear in court on 5 May 2025. I was told that he is presently awaiting trial at the Crown Court.

118. At 16.30pm on 8 April 2025, Ms Thompson emailed Ms Ferdenzi in the following terms –

“Further to our discussion today, I have been advised that we expect a response to our email correspondence regarding the lack of appropriate planning consent within 7 calendar days from Somani Hotels Limited, i.e. no later than 17.00 15/04/25, following which, if this is not received the Council will reserve the right to take appropriate enforcement action this could include a temporary stop notice (TSN) which has immediate effect for a period of 56 days”.

119. In her evidence to the court, Ms Thompson said that the Claimant was alive to the fact that the new use of the Bell hotel did not have planning permission, and took steps to raise this with Somani. I understood this to be a reference to Mr Stubbs’ email to Mr Salmon on the morning of 8 April 2025. Ms Thompson also said in evidence that she discussed the lack of planning permission for the change of use with CTM and the Home Office shortly after the new use commenced. Aside from Ms Thompson’s email of 8 April 2025 to Ms Ferdenzi, there appears to be no contemporaneous record of those discussions.

120. On the morning of 17 April 2025, Ms Thompson forwarded her email of 8 April 2025 to Mr Stubbs and asked him whether there had been any response from Somani Hotels. Mr Stubbs replied that he had heard neither from the Defendant nor their solicitor. Ms Thompson then asked –

“Can we now look at the feasibility of enforcement by way of a stop notice?”

121. Mr Stubbs responded to that request as follows –

“We can, I think this would benefit from a wider discussion given the implications of a stop notice i.e. requiring the occupants to cease residing in the building and the consequences of that. To date we have not received a formal complaint alleging a breach of planning control from any member of the public, and there doesn’t appear to be a groundswell of pressure for planning enforcement action to be taken at this time. There may be merit in pursuing the landowner and possibly issuing a planning contravention notice before escalating”.

122. Immediately after writing that email, Mr Stubbs chased Mr Salmon for a response to his earlier email of 8 April 2025. He said –

“In the absence of this engagement the LPA will need to consider whether enforcement action is appropriate. We will contact you shortly to set out those steps that will now need to be taken to remedy the current breach of planning control”.

123. It appears from the email chain that there may have been an internal discussion between officers later in the afternoon on 17 April 2025. Also on 17 April 2025, Ms Thompson and Ms Wiggins were copied into an email from Mr Blackburn to Home Office colleagues in which he wrote –

“Epping have advised that they have no record of a change of use application for the use of the Bell for asylum seekers. This feels like an old ongoing matter, as I have always understood there was no planning permission of change of use application required for using hotels, can you advise what the correct situation is, as the Council are struggling to get a response back from the Hotel Owner and they are threatening imposing a stop notice on using the hotel”.

124. On 22 April 2025, Mr Salmon emailed Mr Stubbs apologising for the delay in responding to him and saying that the Defendant awaited further guidance from the Home Office before being in a position to confirm how to proceed. On 23 April 2025, Mr Salmon emailed Mr Stubbs to follow up a phone call on the previous day and said –

“As promised, I have chased this up again with the Home Office and can confirm that we will be reapplying for a temporary change of use. Can you please let me know next steps”.

125. On the same day Mr Stubbs replied –

“Thanks for confirming your intention to submit an application in respect of the current unauthorised use of the premises. Whilst I am unable to frame the wording of any proposed application, it is assumed that this would address the material change of use that has occurred from a hotel (use class C1) to that of a hostel for asylum seekers (sui generis use), and your intention for the current use to continue for a temporary period.

You may wish to revisit a previous application submitted by Somani Holdings Limited on 14 February 2023, as many of the supporting documents are likely to remain pertinent. An application may be submitted to the Council online via the Planning Portal...I would be grateful if you could propose a suggested timeframe for the submission of this application”.

126. Mr Salmon immediately replied –

“Thanks James, we will start working on this, but it all falls on my desk and I am away for couple of weeks. Therefore, the submission is likely to be made towards the end of next month”.

127. Mr Stubbs then emailed the Claimant’s Director of Planning and Ms Thompson to say that he was minded to accept Mr Salmon’s proposed timeframe *“given that enforcement action, at this time, is not proposed. Let me know if you disagree”*. The Director of Planning responded that he was inclined to agree to allow time for the Defendant to submit the planning application, as it had committed to doing so, but that the Defendant should not be allowed to delay matters. Ms Thompson agreed.

128. On 24 April 2025, Mr Stubbs responded –

“Thanks for confirming. We will await the application and monitor the situation in the meantime with respect to the use of the building”.

129. Meanwhile, also on 24 April 2025 Mr Blackburn gave advance notice of new arrivals at the Bell –

“Following the incident 3 weeks ago, CTM have been working with the hotel to ensure the site is safe and habitable for more arrivals in the affected areas. We have been advised that subject to a lighting and fire alarm test the upper floor should be ready for use from as early as the 25th April. This will provide us with 20 useable rooms. With that in mind we will plan for the next 30 arrivals which could arrive either tomorrow or Monday next week”.

130. Ms Thompson said that following a request by Ms Wiggins on 30 April 2025, from 30 April 2025 the Claimant received weekly emails from the Home Office, setting out in tabular form demographic data for asylum seekers accommodated at the Bell. The data provided consisted of the gender, age, school year group and language of each asylum seeker.

131. On 15 May 2025, Mr Salmon emailed Mr Stubbs to inform him that he had now been instructed not to proceed with the planning application -

“I have been working on the change of use planning application since we spoke, but I have received new direction from the Home Office via CTM the contracted agent. The Home Office has advised that in the Government's opinion the hotel is contracted on exclusive use terms as a hotel, not a hostel, and so they do not support a change of use application. I understand that this matter has recently been discussed more widely with all interested parties and the Local Authority Engagement Officer (Caroline Fallows) agreed that the various asylum accommodation was contracted as exclusive use hotels, not hostels. Accordingly, I have been instructed not to proceed with the change of use application.

I appreciate that Local Authority Officers and indeed Councillors would welcome more information on the exclusive use hotels, and for our part we are keen to do whatever we reasonably can to reassure the local community. Therefore, if you do require further information with regards to the Bell Hotel and the Home Office asylum activities please let me know and I will do my best to share as much as I am permitted to”.

132. In his evidence to the court, Mr Stubbs confirmed that he had not responded to Mr Salmon’s email. On 16 May 2025, he discussed its contents with the Claimant’s Cabinet Members holding the portfolios of Planning and Regulatory Services, with officers seeking directions as to how to proceed, I understand that the Cabinet Portfolio Holder for Planning was Councillor Williamson and for Regulatory Services was Councillor Keska. Mr Salmon’s email was seen as a “definitive” position. In Mr Stubbs’ words –

“The view taken the next day by the Council was that, whilst it disagreed with the contention that an application for planning permission for a change of use was not required, as things then stood the Council should be guided by the fact that apparently Somani had received ‘advice’ from the Home Office saying that change of use permission was unnecessary, and that accordingly enforcement action should not be taken at that time, with the situation to be monitored”.

133. Mr Stubbs sought to place emphasis in his evidence to the court on the fact that neither the Defendant nor the Home Office had provided the Claimant with the advice to which Mr Salmon referred in his email of 15 May 2025. It is to be noted that neither Mr Stubbs nor any other official of the Claimant asked the Defendant or the Home Office to

provide that advice at that time. Indeed, the Claimant did not ask for a copy of that advice until 14 August 2025, three days after filing the claim form which initiated the present proceedings.

Events since 8 July 2025

134. On 8 July 2025, an asylum seeker accommodated at the Bell was arrested in respect of an incident alleged to have taken place in a restaurant approximately 1.1 kilometres (0.7 miles) miles from the hotel in Epping town centre. A 38 year old male was alleged to have sat next to a schoolgirl and her friends, made sexual comments, touched her thigh and attempted to kiss her. The same individual was reported to have behaved inappropriately towards three or four other victims. He was charged with three counts of sexual assault, one count of inciting a girl to engage in a sexual activity and one count of harassment without violence.

135. Ms Maginnis gave evidence that the Claimant became aware of social media reporting of that alleged assault. It was considered that the Claimant needed to make a public response, in liaison with Essex Police so as to avoid compromising their criminal investigation and inflaming community tensions. On 9 July 2025 the Leader of the Claimant, Councillor Chris Whitbread made the following public statement –

“The events that took place in Epping on Tuesday are both deeply disturbing and extremely concerning. I want to thank Essex Police for their rapid and effective response, and I commend the local residents whose quick thinking helped ensure the swift arrest of the suspect. Let me be absolutely clear. Epping Forest District Council has consistently and repeatedly opposed the use of the Bell Hotel to accommodate asylum seekers. From the outset, we warned the Home Office that this site is entirely inappropriate. Placing vulnerable individuals from a wide range of cultural backgrounds into an unsupervised setting, in the centre of a small town, without the proper infrastructure, support or services, is both reckless and unacceptable. It puts pressure on local services, causes understandable concern for residents, and is unfair on those placed in the hotel. The Home Office must now face the reality of the situation. The Bell Hotel must be closed without delay. Our warnings have been ignored for too long. Epping is a strong, compassionate and united community. While police have confirmed there is no ongoing threat, residents should be reassured that additional police patrols and active monitoring of the High Street and nearby areas are already in place to ensure public safety. I urge everyone to rely solely on official updates from the police and the council. Avoid speculation or misinformation being spread on social media or elsewhere. We will remain calm and united, and we will work to ensure Epping remains a safe place for everyone”.

136. On 10 July 2025, Mr Whitbread wrote to the Home Secretary in similar terms –

“Epping Forest District Council has consistently and repeatedly opposed the use of the Bell and Phoenix hotels to accommodate asylum seekers. From the outset, we warned the Home Office that these sites are entirely inappropriate. Placing vulnerable individuals from a wide range of cultural backgrounds into an unsupervised setting, in the centre of a small town, without the proper infrastructure, support or services, is both reckless and unacceptable. It puts pressure on local services, causes understandable concern for residents, and is unfair on those placed in the hotel.

Events in other parts of the Country have taught us that we ignore such warnings at our peril. Failure to act plays directly into the hands of extremists. Utilising social media, they have become adept at twisting the legitimate concerns of local people to their own advantage. The failure of the Home Office to address the issue of asylum seeker hotels only makes the situation worse.

The Home Office must now face the reality of the situation. Our warnings have been ignored for too long. The Bell Hotel must be closed without delay”.

137. Following the incident on 8 July 2025, public protests began to take place outside the Bell. The first protest was held on 11 July. It was conducted by local residents, urging that the Bell hotel should no longer be used to accommodate asylum seekers.
138. Thereafter the protests grew in size and scale, as the issue concerning the use of the Bell hotel to accommodate asylum seekers gained national prominence, and the number of protesters increased as people travelled into Epping to join the protests. There were marches on Epping High Street and counter protests. Parts of the High Street were closed for periods of the day during those protests.
139. From 13 July 2025 onwards there were violent and disorderly incidents connected with the protests –
 - (1) During the protest on 13 July 2025, two security staff from the Bell were assaulted as they exited a bus a short distance away from the hotel in order to start their shift at the hotel.
 - (2) On 15 July 2025, there was an incident of a male shouting abuse outside the Bell and drawing graffiti on the windows of the hotel.
 - (3) During the protest on 17 July 2025, police reported that some protestors had used fireworks and thrown eggs. Although the protest was initially peaceful, there were a number of people that disrupted the protest by throwing projectiles at officers and the hotel, smashing police vans and vehicles, causing damage to the hotel and other violent behaviour. A total of eight officers were assaulted and suffered a range of minor injuries. Two men were arrested for public order offences.
 - (4) During the protest on 20 July 2025, four individuals who arrived at the scene were arrested for violent disorder in connection with offences that were alleged to have occurred during the protest held on 17 July. A fifth person was arrested on suspicion of causing criminal damage to a police car and a sixth was arrested for going equipped to cause criminal damage. A police officer was struck in the face by a bottle during the protest and was taken to hospital.
 - (5) On 24 July 2025, police reported further arrests for offences including violent disorder and criminal damage. A person was charged with theft of police equipment and possession of an offensive weapon, and another individual was arrested on suspicion of breaching an order which prevents people from wearing face coverings.
140. Ms Thompson’s evidence was that as of 3 August 2025, the police had reported that 25 people had been arrested in connection with offences at the protests held outside the Bell between 13 July and 24 July. 16 people had been charged with offences.

141. In response to these violent protests, in mid-July 2025 and on the advice of Essex Police the Defendant caused metal security fencing to be installed along the road frontage outside the Bell. The Defendant also caused further metal security fencing to be installed around the various buildings on the site to guard against violent intruders gaining access to those buildings from the open fields to the rear of the Bell.
142. As a result of the violence and disorderly behaviour experienced during these protests outside the Bell, Essex Police put in place a number of measures in order to keep them under control and reduce disruption to the wider community. These measures included restrictions under section 14 of the Public Order Act 1986 namely that: (1) any public assembly in the vicinity of the Bell Hotel must take place on the south side of the B1393 High Road Epping opposite the hotel and behind an area marked off by metal fencing; and (2) all protest activity must cease at 8:30pm. The police have also put in place dispersal orders, giving police officers the power to remove from the area anyone carrying out or believed to be carrying out anti-social behaviour, as well as orders banning face coverings.
143. On 17 July 2025, following internal discussions between officers including Mr Stubbs, Ms Thompson and Ms Wiggins, and the Leader of the Council, the Claimant's Director of Planning circulated the following statement for intended publication to clarify the planning position in respect of the Bell –

“A planning application (Ref EPF/0337/23) was submitted on 14 February 2023. This sought a temporary planning permission for the change of use of the hotel to a hostel for asylum seeker. The application was subsequently withdrawn.

When the premises resumed use under the contract from the Home Office in early 2025, the Council again requested that a planning application be submitted for the change of use that has occurred. On this occasion the operators of the premises declined to do so under advice from central government, which considers the premises to have been contracted continued use as a hotel for which planning permission is not required. We are seeking advice on the Government's assertion.

Whilst the Council acknowledges this direction from government, we continue to oppose the use of the Bell Hotel to accommodate asylum seekers, with this location considered to be inappropriate”.

144. On 24 July 2025 there was a meeting of the Claimant's full Council. On the agenda for that meeting was a notice of motion proposed by Councillor Holly Whitbread and seconded by the Leader, Councillor Chris Whitbread, in the following terms –

“MOTION: Epping Forest District Council Calls on the Government to Immediately and Permanently Close the Bell Hotel in Epping

This Council expresses its deep concern and firm opposition to the continued use of hotels in Epping Forest District to house asylum seekers and calls on the Government to close the Bell Hotel immediately and permanently.

The Bell Hotel in Epping and the Phoenix Hotel in Bobbingworth are currently used by the Home Office to accommodate asylum seekers. The Bell Hotel houses all-male

asylum seekers. These two hotels are a few miles apart and have been at the centre of serious incidents recently, including:

- The arrest and charging of an individual for the sexual assault of a schoolgirl in Epping town centre.*
- The arrest of another individual for arson, who is believed to have moved between the two hotels.*

These incidents have caused significant anger and distress among local residents and attracted national media attention.

The Council:

- Expresses sympathy and support for all the victims of these incidents and subsequent violence in Epping.*
- Thanks the police for responding to recent incidents and notes that this has diverted resources from normal policing activities.*
- Condemns the behaviour of those who have travelled to Epping to seek confrontation and violence and calls on all to express opinions peacefully and within the law.*

Epping Forest District Council has consistently opposed the use of these hotels for asylum accommodation, citing their unsuitability.

The Council reaffirms that placing vulnerable individuals in small towns and rural areas without appropriate supervision, infrastructure or support services is irresponsible. It strains local services and creates anxiety in the community.

Furthermore, the Council expresses concern that:

- There is no transparency over who is housed in the hotels. The Council is particularly concerned that the Bell Hotel houses an all-male population.*
- The Government's failure to act quickly to close the Bell Hotel may have endangered public safety.*
- Community tensions are rising, exacerbated by extremist political groups.*

The Bell Hotel has become an untenable location for both the safety of the Epping community and the asylum seekers placed there and must be closed immediately.

The Council also recognises that the Phoenix Hotel is currently housing families and has a duty to ensure the safe and supported transition of these vulnerable individuals, especially in light of the recent fire at the property.

This Council therefore resolves to:

- 1. Call for the immediate and permanent closure of the Bell Hotel as asylum accommodation.*

2. Call for the managed closure of the Phoenix Hotel, ensuring the safe transition of families, with due regard to safeguarding responsibilities.

3. Urge the Home Office and relevant Government Ministers to:

o Cease the use of unsuitable hotels in small towns and rural areas for asylum accommodation.

o Properly consult with local authorities before placing individuals in their area.

o Take urgent action to prevent further risks to public safety and rising community tensions.

4. Write formally to the Home Secretary, on behalf of full council, to set out the Council's position and demand immediate action.

5. Encourage local residents and Councillors to responsibly express their objections in a democratic, constructive, and peaceful way, including by signing the petition launched by the Leader of the Council and writing to their Member of Parliament".

145. The motion was carried unanimously. On 25 July 2025, the Leader of the Council wrote to the Home Secretary –

"I wrote to you on 10 July 2025 requesting the immediate closure of two local hotels used by the Home Office to accommodate asylum seekers in Epping Forest. I have yet to receive a formal response to this letter.

Since then, you will be aware of the multiple demonstrations that have taken place in Epping by concerned but peaceful residents and the completely unacceptable violence that has accompanied this, in part, perpetrated and engineered by groups on the political extremes.

We forewarned of the potential unrest that might follow anything other than immediate action, and I deeply regret that this has been proven true.

Last night, in exceptional circumstances and amidst a large protest outside, the Full Council of Epping Forest District Council unanimously agreed that I should write to you again, demanding the following:

1. The immediate and permanent closure of the Bell Hotel as asylum accommodation.

2. The managed closure of the Phoenix Hotel, [Bobbingworth], ensuring the safe transition of families, with due regard to safeguarding responsibilities.

3. Home Office and relevant Government Ministers to:

- Cease the use of unsuitable hotels in small towns and rural areas for asylum accommodation.*
- Properly consult with local authorities before placing individuals in their area.*

- *Take urgent action to prevent further risks to public safety and rising community tensions.*

The Town of Epping feels besieged right now and the Government's promises to close all Hotels by the end of the Parliament does nothing to address their legitimate concerns.

We have consistently called for the closure of these facilities on the grounds they are unsuitable for the occupants' needs, and we now add the issue of their safety and the safety concerns of our residents as reasons for closure.

The residents of Epping are both moderate, inclusive and tolerant, but deeply concerned following events in the Town and confidence cannot be rebuilt and tension eased until the Bell Hotel is closed.

On behalf of our residents and in the strongest possible terms, we urge you to hear the united voice of Epping Forest District Council and take immediate action to close the Bell Hotel, Epping followed by the managed closure of the Phoenix Hotel”.

The decision to apply for an injunction

146. During the course of the debate at full Council on 24 July 2025, the Leader said that the Claimant would do “*everything that is within our diplomatic and legal grasp ... that we can to achieve the objective of the whole of this council, the whole of the community that I grew up on, and we will be working tirelessly to get the government to listen and to close the Bell...*”. Following the meeting, Ms Sayers instructed Leading Counsel to advise in writing on the use of the Bell and enforcement options available to the Claimant.
147. Ms Beardwell's evidence was that she received counsel's opinion by email on Saturday 2 August 2025. She forwarded a copy of counsel's opinion to the Chief Executive and Deputy Chief Executive with a copy to Ms Sayers, suggesting a meeting on Monday 4 August 2025 to discuss it. As Ms Sayers was on leave on 4 August, Ms Beardwell and Ms Sayers discussed the content of counsel's opinion on the telephone. Ms Beardwell said that Ms Sayers expressed the view, having considered the content of counsel's opinion and given the urgent prevailing circumstances around the Bell Hotel, that subject to consultation with Cabinet, the most effective, proportionate option was to start proceedings for an injunction and to make an application for an interim injunction.
148. In her own evidence to the court, Ms Sayer said –
- “Leading counsel was instructed to advise in writing, which advice was received via email to me and Barbara Beardwell, the Council's Monitoring Officer, on the evening of Saturday, 2 August 2025. Legal professional privilege in the instructions to counsel, in the advice received from counsel, and in all comments and discussions thereon is maintained. The Monitoring Officer picked it up on the evening of 3 August 2025 and forwarded the email to me, the Chief Executive Officer and Deputy Chief Executive Officer for their consideration, with a suggestion that we all discuss that advice the following day.*

I was due to be on annual leave the following Monday (4 August 2025). However, I had a telephone conversation that afternoon with the Monitoring Officer in which we closely reviewed leading counsel's advice and considered next steps that were open to the Council.

It seemed clear to me based upon the facts on the ground that the use of the Bell Hotel exclusively for the purpose of placing asylum seekers represented a change of use from it being a hotel, which had been open to reservation by members of the public wishing to stay in Epping (whether for work or for pleasure), with a bar and restaurant open to all in the vicinity, and that had been used for functions such as weddings, to a use in which all those qualities were absent. This made the relationship between the Bell Hotel and those living and working in the area a different, disengaged one.

It also seemed clear to me that having regard to the location of the Bell Hotel, its locality, its previous connection with the local community, and so forth, that this was a "material change" in use.

On my understanding of planning law, neither a stop notice nor a temporary stop notice to bring this use to a prompt end (and have it revert to hotel use) was an available option to the Council, and that an enforcement notice alone would not bring the new use to an end until all appeal avenues had been exhausted – something that could take well over a year.

As it seemed to me, the situation unfolding in and around the Bell Hotel did not allow such a time-frame. I therefore came to the view that, subject to consultation with the Leader and other Cabinet Members, the most effective, proportionate option so far as bringing the planning situation back under control would be by enforcing the planning regime with the only means available to the Council that would see the situation changed in weeks as opposed to potentially one or more years.

There was nothing before me to suggest that, absent action, the current use of the Bell Hotel would draw to a close, whether imminently or in the shorter term. The Home Office had advised the Council in February 2025 that it would only be using hotels for this purpose as long as was absolutely necessary, that the contract had been negotiated on a short-term basis, and that decommissioning itself would take only four weeks. The Home Office plainly had a different idea from me of what "short-term" meant, because four months in and there was still no sign of it coming to an end. Moreover, the manner in which the Home Office had on 13 March 2025 announced its decision to "mobilise" without having waited for the Council's response to the Home Office's consultation invitation did not give me any cause to believe that the Home Office would be any more receptive to the concerns of the Council now than it had in March 2025. Indeed, given that the Home Office had implemented its decision, its position would almost certainly have been cemented. Similarly, promises of local engagement by the Home Office had proved to be mostly rhetorical.

I was reinforced in my view that immediate action was proportionate as it seemed to me that that would assist in the prevention of crime and disorder in the area, including behaviour adversely affecting the local environment, and to abate a further undermining of the quality of life for those living in the area and a further erosion of community cohesion. The Home Office had told the Council in a document called "Hotel Contingency Asylum Accommodation: Local Authority version 2.0" that those

being placed at the Bell Hotel had been searched, that there had been “robust security checks and biometric tests at Manston. This includes checks against UK and international police databases” and that “suitability criteria are applied to ensure that the choice of accommodation is suitable for the asylum seeker in question.” Events suggested otherwise. Repeating to Epping residents these sorts of assurances would ring hollow. When it came to exercising its functions so as to do all that it reasonably could to prevent crime and disorder in its area, the Council could not take the Home Office document as the final word on the topic.

I appreciated that seeking an injunction of any kind would have an impact on those placed in the Bell Hotel, but given that the Home Office had told the Council that once in use as an “asylum hotel” it could be decommissioned usually in four weeks and given that the Home Office had access to a wide estate (including Crown land, such as disused military bases) and the Home Office was not advising the Council that that estate could not absorb those placed in the Bell Hotel, the preponderance of factors pointing to rapid enforcement was, I considered, overwhelming.

Accordingly, I reached the view that the Council should proceed with a claim for an injunction together with an application for an interim injunction to end the use of the Bell Hotel for the placement of asylum seekers within 14 days. I appreciated that the court might allow more than 14 days, but what was most important was to get a definite date by which the unlawful use would end, being prepared to be reasonably flexible about the actual number of days allowed.

I agreed that the Monitoring Officer should meet with Chief Executive Officer, Deputy Chief Executive Officer and other relevant Officers of the Council on my behalf, to discuss the contents of leading counsel’s opinion and thereafter, if required, to brief Members on the contents of that opinion and options in order to seek their views as to whether the Council should proceed with a claim for an injunction together with an application for an interim injunction to end the use of the Bell Hotel for the placement of asylum seekers within 14 days”.

149. Having met on Monday 4 August 2025 with the Chief Executive and Deputy Chief Executive, Ms Beardwell convened a briefing meeting of Cabinet Members which took place on Microsoft Teams at 6.30pm on that day. Ms Beardwell gave the following evidence about that briefing meeting –

“The purpose of the meeting was for me to brief Cabinet Members on the content of counsel’s opinion and the enforcement options, and to seek their views on whether the Claimant should initiate proceedings for an injunction requiring the Bell Hotel to return to its use as a hotel (in the normal sense of the word) allied to an application for an interim injunction. All Cabinet Members were invited to the briefing meeting, together with the Director of Planning, the Chief Executive and the Deputy Chief Executive, and other relevant Officers of the Council.

At the briefing meeting I outlined to the Leader, other Cabinet Members and the Director of Planning the content of Counsel’s Opinion and planning enforcement powers available to the Council, including issue of an enforcement notice, service of a Stop Notice, a temporary Stop Notice, a Breach of Condition Notice, and an application to the Court for an injunction, and why having regard to these in Counsel’s Opinion, with which both Ms Sayers and I agreed, an application for an injunction was the only

effective candidate for promptly alleviating the situation in which the Council found itself in. I outlined to Members the statutory framework applicable to an application for an injunction under Section 187B of the Town and Country Planning Act ('the Act'), and that while an injunction under this provision can be in mandatory terms, the granting of an injunction by the Court is discretionary, and the consequences of delay. In doing so I informed Cabinet Members that the power to exercise the discretion must be exercised judicially and referred to recent case law on the use of Section 187B of the Act in situations similar to that the Council was currently experiencing. The Director of Planning confirmed he agreed with the position as outlined to Cabinet Members.

I made it clear to all present that so far as the Bell Hotel went, notwithstanding there may be a breach of planning control, whether or not an interim injunction would be granted would depend on a number of facts, and summarised the applicable principles. I explained that the Court would need to be satisfied that there was a serious question to be tried and that if so whether instead an adequate compensation would be damages, and that it was considered the answer to this was "no", given the extremity of the situation, it was considered by Ms Sayers and myself that the balance of convenience was in favour of the Council.

I outlined the position regarding costs, stressing the point that if the Council were to be unsuccessful in an application to the High Court for an injunction, the "norm" was that Costs followed the event and thus it was likely that in the case of an unsuccessful application the Council would need to pay not only its own costs, but also those of Somani.

There then followed a discussion with and among Cabinet Members. This lasted for approximately 30 minutes. In the course of that discussion, Cabinet Members shared accounts of what their constituents had been reporting to them as regards the community and amenity impact of the latest placement of asylum-seekers was having upon them: this included residents, businesses, and parents. The overriding concern of Cabinet Members mirrored those expressed in the Notice of Motion approved by the Council [on 24 July 2025], that because of the impact the current use of the Bell Hotel was having on residential and public amenity, immediate action should be taken to bring about the ceasing of the use of the Bell Hotel for the accommodation of asylum seekers. At the end of the discussion Cabinet Members were asked to indicate whether or not, given recent events and the ongoing impact on the various facets of public amenity, they were in support that immediate action should be taken by way of an application for an interim injunction. Without dissent all Cabinet Members and the Director of Planning were supportive of an immediate application for an interim injunction.

Following the briefing meeting I spoke with Ms Sayers that evening and relayed a detailed account of the discussion at the Cabinet briefing meeting and my outline to Cabinet Members. I indicated to Ms Sayers that there was unanimous agreement by Cabinet Members at the meeting in support of immediate injunctive action".

150. I was told that those attending that briefing meeting were the Leader, Councillors Holly Whitbread, Balcombe, Bedford, Williamson, Matthews, Patel and Rizvi, all of whom were members of Cabinet. Councillor Williamson holds the 'shaping our district' portfolio, which includes local plan and planning policy. Amongst officers attending

were the Director of Planning and Mr Stubbs. The Cabinet member with portfolio responsibility for community safety services and regulatory services, including development control and planning enforcement, Councillor Keska, did not attend the briefing meeting.

151. Ms Sayers gave evidence as to the action she took after she had been notified by Ms Beardwell of the discussion and outcome of the briefing meeting –

“I was not present at the meeting, but shortly after the meeting the Monitoring Officer (Barbara Beardwell), who did attend the meeting, telephoned me and gave me a detailed account of what took place. In brief summary, she reported to me that the Leader, other Cabinet members and the Director of Planning had attended the meeting. The Monitoring Officer had outlined the contents of leading counsel’s advice and the risks involved (including costs implications) and had fielded questions. At the end of the meeting the attendees were unanimous in their support for immediate injunctive action. Based on what I was told, I was satisfied that those attending had been properly appraised of the matter and had had a proper opportunity to pose questions and have them answered.

With all that, I took the decision available to me under delegated authority at Part 3 – Scheme of Delegation- Appendix 3 – Delegation to Officers from Full Council - Legal Services Manager at para 8 to proceed to instigate an application for injunctive action under Section 187B of the Town and Country Planning Act 1990.

The Monitoring Officer confirmed with leading counsel the instruction to proceed for and on my behalf as Legal Services Manager. Thereafter, I instructed Sharpe Pritchard LLP to represent [the Claimant] in so far as the Court process went.

In considering whether the decision to institute proceedings for an injunction and declaration, including the application for an interim injunction and interim declaration, were within the scope of the powers that the Council delegated to me, I bore in mind inter alia:

(a) The general expectation that there should be public participation in planning decisions, including participation by those who are, or are going to be, affected by those decisions;

(b) The duty on the Council to enforce the planning regime;

(c) What members of the Council knew and understood of the circumstances behind what was being proposed (including adverse considerations);

(d) The extent and nature of the representations to Council planning officers, both by Somani and the Home Office, and the planning department’s view that planning permission was required;

(e) The latest developments at and in the vicinity of the Bell Hotel site; and

(f) The legal advice that the Council had received”.

The launch of proceedings and subsequent events

152. The Claimant's solicitors filed the claim form in these proceedings in this court on 11 August 2025, naming Somani Hotels Limited as the sole Defendant to the claim. Neither the Claimant nor its solicitors gave any prior notice to the Defendant that the Claimant had decided to instigate proceedings for an injunction under section 187B of the 1990 Act to restrain the use of the Bell hotel as accommodation for asylum seekers (and for a declaration). There was no pre-action correspondence either from the Claimant's lawyers or from its planning officers. The Defendant was first made aware of the proceedings when its solicitor was served with unsealed papers during the afternoon of 11 August 2025. The sequence of events thereafter, including the steps by the Home Secretary to be joined as a party to the proceedings, is set out in the judgment of the Court of Appeal: see [2025] EWCA Civ 1134 at [32]-[35].
153. On 12 August 2025, Mohammed Shawarq, an asylum seeker accommodated at the Bell was arrested for alleged offences of common assault and battery against other residents of the hotel.
154. On 14 August 2025 the Claimant's solicitors asked the Defendant's solicitors to provide a copy of the advice from the Home Office to which Mr Salmon had referred in his email to Mr Stubbs of 15 May 2025. The Claimant had not previously made that request. On 15 August 2025, the Defendant's solicitors responded that Mr Salmon had received that advice verbally from Mr Blackburn. In her evidence to this court, Ms Ferdenzi said that nobody in her team at the Home Office, including her colleague Mr Blackburn, was a qualified planning professional or purports to give professional planning advice to Home Office accommodation providers or anyone else –
- “We are not and never have held ourselves out to be planning professionals and planning issues were never discussed by me or my colleagues with Epping representatives during our many meetings and emails with them....It is the contractual responsibility of the Home Office accommodation providers (STM in the case of the Bell Hotel) to ensure compliance with local planning and licensing requirements”.*
155. In her evidence Ms Thompson said that protests outside the Bell have continued during August and into September 2025. There were six protests between 14 August and 31 August, and a further 9 protests during September. There were also further incidents of associated violence and disorderly behaviour. On 31 August there were arrests, including of an individual who was arrested on suspicion of inciting racial hatred and racially or religiously aggravated criminal damage. On 5 September, a number of people were reported to have thrown projectiles including flares and firecrackers. There were incidents of harassment and anti-social behaviour. Ms Thompson said that as at 10 September, the police were reporting the arrest or interview of 32 people in connection with offences at these protests, of whom 22 had been charged. The meeting of full Council held at the Claimant's offices on 15 September was subject to a protest, which involved abusive chanting and disruptive behaviour. Control measures put in place by Essex Police have extended to restrictions on equipment and materials, including banning the use of sound amplification equipment, prohibiting flares, fireworks, smoke bombs and other pyrotechnical devices, and the display of banners or signs containing offensive or discriminatory language.

156. On 4 September 2025, following a trial at Chelmsford Magistrates' Court, Hadush Kebatu, the asylum seeker accommodated at the Bell who had been arrested on 8 July 2025, was convicted on five charges of sexual assault, engagement in sexual activity and harassment without violence committed on 7 July 2025 and 8 July 2025 against two victims, both of whom were teenage girls aged 14 and 16 years respectively. He was remanded into custody. On 24 September 2025 he was sentenced at Chelmsford Magistrates' Court to 12 months' immediate custody and made subject to a Sexual Harm Prevention Order for a period of 5 years.
157. On 30 September 2025, Mr Shawarq was convicted at Chelmsford Magistrates' Court of six offences of assault and battery against four other asylum seekers accommodated at the Bell. The offences were committed on 25 July 2025, between 27 July and 11 August 2025 and on 12 August 2025. He was sentenced to 16 weeks' immediate custody.
158. On 6 October 2025, Stuart Williams, Dean Smith and Martin Peagram were convicted and sentenced in the Crown Court at Chelmsford for offences of violent disorder committed outside the Bell hotel on 17 July 2025. Mr Williams was sentenced to two years and four months' custody. Mr Smith was sentenced to one year and ten months' custody. Mr Peagram was sentenced to two years and two months' custody. In his sentencing remarks, the Judge said –

“...the impact on the community is important to note. Damage was caused to public locations, including Tower School (which specialises in care for neurodivergent children), and businesses were also forced to close. Chief Inspector Fisher describes Epping as close-knit community and the cumulative impact of this outbreak of violent disorder has been profound - causing anxiety among residents, distress to those working in the area, as well as the cost of physical damage to which I have already referred. The impact on police resources was also significant- mutual aid agreements were relied upon to provide officers from other police forces. Chief Superintendent Anslow describes the financial cost as being a projected £1.54 million, which far exceeds the annual budget for specialist operations. I've also taken into account the impact statements made on behalf of Shell, Tesco, a local landlord, a resident's association in Epping, and other groups, all of which paint a distressing picture. As Chief Inspector Fisher puts it, 'In my 20 years of policing, I have never witnessed disorder of this scale in Essex, and certainly not in a town like Epping. The events of 17th July have left a lasting impact on the community, our officers, and the wider policing response across the country'.”

Discussion

Preliminary observations

159. As is clear from the terms in which section 187B of the 1999 Act was enacted, it is for the local planning authority's to decide whether it is necessary or expedient for an actual or apprehended breach of planning control to be restrained by injunction. In exercising the original jurisdiction conferred by section 187B of the 1990 Act and deciding whether or not to grant an injunction on the local planning authority's application, the court must not re-assess for itself the local planning authority's planning judgment which formed the basis for that authority's decision to apply for the injunction.

160. However, the factors which, on the evidence before the court, weighed with the local planning authority in making their planning judgment may properly be considered by the court, in the context of reaching its own judgment as to whether the circumstances of the case are such as to justify the grant of an injunction. Moreover, where as in the present case, the Defendant questions the validity of the local planning authority's decision to apply for an injunction on public law grounds, the court may properly consider the points raised in the exercise of its discretion whether or not to grant the injunction: see *South Bucks* at [27] and [71].
161. As Simon Brown LJ said at [39] in his judgment in the Court of Appeal in *South Bucks*, in judging the relevance and weight of the local planning authority's decision that an injunction is necessary and expedient to restrain the breach of planning control, the court will consider the extent to which the authority can be shown on the evidence to have had regard to all material considerations. At [70] in his speech in *South Bucks*, Lord Clyde said that in deciding whether to take action in the event of a breach of planning control, a local planning authority will need to consider the seriousness of the breach and its effect in the particular case, in order to enable them to judge which of the various methods of enforcement provided by part 7 of the 1990 they should adopt. The fact that the local planning authority is empowered to apply for an injunction, whether or not they have exercised or are proposing to exercise one or more of the range of enforcement powers given by the 1990 Act, does not render the availability of those other powers irrelevant.

An actual or apprehended breach of planning control

162. In none of the three cases considered by the House of Lords in *South Bucks* was there any dispute as to the existence of an actual breach of planning control. In each of those cases, the respondents had stationed caravans and mobile homes on rural land for residential use without the required planning permission having first been obtained. Those facts explained Simon Brown LJ's observation in [38] of his judgment in the Court of Appeal that the breach of planning control was a "*given*" when this court came to exercise its discretion whether to grant the injunction applied for in those cases.
163. By contrast, in the present case there is a long-standing dispute between the Claimant as local planning authority and the Defendant as to whether the use of the Bell to accommodate asylum seekers does constitute a breach of planning control. Given the Bell has been used for that purpose for periods of approximately one year between early 2020 and 2021, and of approximately 18 months between October 2022 and April 2024, and that its current use as contingency accommodation for asylum seekers resumed in early April 2025, that dispute plainly relates to an alleged actual breach of planning control.
164. The nature of that dispute is clear. It has been the consistent position of the local planning authority since November 2022, as stated by Mr Stubbs, the Claimant's Planning Enforcement and Compliance Manager, that the use of the Bell has changed from its former use as a hotel to use as a hostel for the purpose of accommodating asylum seekers. Whereas the Defendant has been equally consistent in stating its position that in accommodating asylum seekers between March 2020 and early 2021, between November 2022 and April 2024, and now since early April 2025, the Bell remains in use as a hotel.

165. Through Mr Stubbs' correspondence, the local planning authority has also made clear its position, that it considers the change in the use of the Bell from use as a hotel to use as a hostel to be a material change for planning purposes, which requires planning permission. In short, the Defendant can have been in no doubt from Mr Stubbs' correspondence in November 2022 and later in April 2025 that the local planning authority considered the use of the Bell as accommodation for asylum seekers constituted a breach of planning control.
166. Conversely, given the correspondence between the Defendant's solicitor, Mr Salmon and Mr Stubbs to which I have referred, the Claimant as local planning authority could have been in no doubt that the Defendant disagreed with the authority's view that the use of the Bell to accommodate asylum seekers constituted a breach of planning control. The Defendant's planning application was submitted in February 2023 expressly without prejudice to its asserted position that the use of the Bell temporarily to accommodate asylum seekers did not constitute a material change in its use. Having initially stated its intention in late April 2025 to make a further application for planning permission to use the Bell for that purpose, on 15 May 2025 the Defendant through Mr Salmon made it clear to the local planning authority that no such application would be made. Mr Salmon explained the Defendant's decision not to make a planning application on the basis that the Bell was contracted to provide accommodation to asylum seekers as an exclusive use hotel, not as a hostel.
167. Having heard Mr Stubbs' evidence, I was left in no doubt that that he had well understood that as matters stood in mid-May 2025, there was a dispute between the Claimant as local planning authority and the Defendant as to whether the then current use of the Bell to accommodate asylum seekers required planning permission; in other words, whether the use of the Bell for that purpose was in breach of planning control.
168. In short, it is clear that following resumption in early April 2025 of the use of the Bell as accommodation for asylum seekers, there was an unresolved dispute between the Claimant as local planning authority and the Defendant as landowner, as to whether the Bell was being used in breach of planning control. The basis for the Claimant's view that it was being so used was founded on the judgment that the use of the Bell had changed from use as a hotel to use as a hostel to accommodate asylum seekers, a change in its use that was material for planning purposes.
169. It is sometimes straightforward for a local planning authority to determine that a breach of planning control has taken place. If a person carries out building operations to build a new dwelling on open land in the countryside without having obtained the required planning permission, there is a clear breach of planning control. If a person changes the use of an agricultural field in the countryside by stationing a mobile home on that land and using it as their home, without having obtained the required planning permission, there is a clear breach of planning control. In both of those examples, the works and activities described are correctly to be characterised as an actual breach of planning control. If in the second example, the local planning authority receive information on a Thursday that the person is making arrangements to bring the mobile home onto the field over the coming weekend, the authority are in a position to apprehend or, as Simon Brown LJ put it in his judgment in *South Bucks*, to "*anticipate*" a breach of planning control.

170. In many other cases, however, the question whether there has been a change in the use of a building or land, and whether that change is material for planning purposes, is more difficult to judge. As was established as long ago as the *East Barnet* case in 1961, the determination of the question whether a breach of planning control has taken place in such circumstances, or is in prospect, is a matter of fact and degree. However, that does not necessarily make the task of deciding whether a breach of planning control has occurred or is in prospect any more straightforward to judge for the local planning authority.
171. This case illustrates the difficulty which a local planning authority often faces in determining whether changes in the activities carried out on land have resulted in a change in the use of that land which is material for planning purposes. Here, it is beyond dispute that the lawful use of the Bell in the many years leading up to early 2020 was as a hotel. Moreover, it is beyond dispute that any change in the activities carried on at the Bell thereafter would not give rise to a breach of planning control, provided that the Bell nevertheless retained the character of a hotel, a boarding house or a guesthouse. That is clear beyond argument, since by virtue of section 55(2)(f) of the 1990 Act and article 3(1A) and Class 1 of schedule 1 to the UCO, any such activities would not be taken to involve development. (Neither the Claimant nor the Defendant has suggested that the Bell is being used as a boarding house or a guest house. It was not the Claimant's case before me that the current use of the Bell involves any significant element of care within the meaning of article 2 of the UCO.)
172. In Westminster City Council v Secretary of State for Communities and Local Government [2015] EWCA Civ 482; [2015] JPL 1276 at [5], the Court of Appeal characterised the distinction between a hotel use and hostel use as “*a fine one*”. In *Ipswich* at [72]-[83], Holgate J analysed in detail the case law on what may be considered a hotel or a hostel. His note of caution in introducing that analysis merits quotation –
- “72. It is important to appreciate that the case law on what may be considered to be a hotel or a hostel as providing guidance on relevant considerations in determining what is ultimately a question of fact. The criteria set out in the cases are not to be treated as prescriptive or conclusive (see e.g. the Westminster case [2015] JPL 1276 at [30]). Neither word is to be regarded as a term of art. It should also be borne in mind that in the cases cited the court was carrying out a legal review of a decision made by a decision-maker responsible for finding the facts”.
173. It is unnecessary for me to attempt my own exposition of the relevant case law, since I am able to set out Holgate J's authoritative analysis in [73]-[79] of his judgment in *Ipswich* –
- “73. So, in Mayflower Cambridge Limited v Secretary of State for the Environment (1975) 30 P&CR 28 it was stated that, in contrast to bed-sitting rooms, the essence of a hotel is that it takes transient guests, or people for short stays. But in Commercial and Residential Property Development Company Limited v Secretary of State for the Environment (1981) 80 LGR 443 Glidewell J (as he then was) accepted that a hotel may lawfully be occupied by permanent residents, that is people who do not have a home elsewhere (p. 447).

74. In *Commercial and Residential* the court also held that a hostel is a building where people either live or stay and which provides communal facilities. The word “hostel” is not a term of art in relation to duration of stay. It can include not only youth hostels for transient occupation but also long-term accommodation as in the case of a nurse’s hostel. The sleeping accommodation is often, but by no means always, in the form of dormitories rather than single rooms and provides shared working, eating and recreational facilities. It is of the essence of a hostel that it provides relatively basic, inexpensive accommodation.

75. Plainly there is a spectrum of hostel uses. Glidewell J said that a nurses’ hostel in which the occupants live, rather than stay, shares many of the characteristics of permanent housing. On the other hand, a hostel used as transient accommodation has many of the characteristics of a hotel: people coming and going, people booking in and checking out, people who stay in the hostel but live elsewhere.

76. In *Panayi v Secretary of State for the Environment* (1985) 50 P&CR 109 Kennedy J held that an Inspector had made no error of law in deciding that a change from four self-contained flats to a hostel used for homeless families involved a material change of use. The Inspector had been entitled to rely upon (i) the use of the premises to accommodate homeless families referred by a local authority, (ii) the premises were supervised and serviced, (iii) payment was made for the facility by the local authority on a nightly basis, and (iv) each family’s stay was transient. Those factors had been judged by the tribunal of fact to be significant in the context of a change from self-contained flats. They were not characteristics of a use as a dwelling. As the Court of Appeal pointed out in the *Westminster* case, they are not a definitive checklist ([30]).

77. The *Westminster* case concerned a challenge to an Inspector’s decision in an enforcement notice appeal, where the notice had alleged a change from a hotel to a mixed use as a hotel and hostel. The challenge succeeded in the Court of Appeal on two grounds. First, the Inspector failed to apply the correct legal approach for determining whether a planning unit has a mixed use. Second, she failed to have regard to the off-site effects of the actual use of the property, in particular the effects upon residential amenity.

78. The Court of Appeal stated that “the distinction between hotel use and hostel use is a fine one” ([5]). The Inspector had said the same, pointing out that many of the features of the operation could be found in a hotel as well as a hostel ([23]). Plainly the issue is fact sensitive.

79. The Court of Appeal also stated that if the Inspector had not made an error with regard to the legal nature of a mixed use, it would have been difficult to see how she could reasonably have reached any conclusion other than that there was a mixed hotel and hostel use ([30]). That was on the basis of the Inspector’s findings that:-

i) a number of rooms were in use as dormitories (with bunk beds for 4, 6 or 8 people) with shared bathroom facilities and there were communal cooking and laundry facilities;

ii) the hotel was used by a specific category of people, young people travelling in groups;

iii) The occupants had to perform some tasks which would normally be carried out by hotel staff as part of the services provided. In addition, the premises had to be supervised to address noise and disturbance caused to neighbours by the occupants”.

174. Ipswich concerned applications for interim injunctions made to this court by two local planning authorities, in the context of claims brought under section 187B of the 1990 Act in respect of the proposed use of hotels in Ipswich and North Ferriby to accommodate asylum seekers. It was necessary for Holgate J to address the question whether in each case the local planning authority had raised a triable issue that the proposed use would involve an unauthorised change in the use of those hotels which was material and thus a breach of planning control. As to whether the evidence pointed to a change of use, Holgate J said at [101] –

“101. The starting point is that the distinction between hotel and hostel use in a case of the present kind is fine. There are some factors pointing against a hostel use. The proposed use involves no alteration of the premises. In many ways the operation of the Novotel would be similar to that carried out ordinarily by the hotel operators. There would be no dormitories and the accommodation could not be described as basic or inexpensive. On the other hand there are factors pointing to a hostel use. The premises would be block-booked for a substantial period of time solely for occupation by people belonging to one cohort, asylum seekers, having nowhere else to live. The duration of their transient occupation would be determined by their move to the next stage of the asylum process. The accommodation would be paid for ultimately by the Home Office. It is arguable that the factors pointing towards a hostel use outweigh those pointing against”.

175. As to whether that change of use would be material, he said at [102]-[104] –

“102. The effect of the block-booking of the whole hotel is that no accommodation is available for any member of the public. It is said that the Novotel is the largest hotel in the centre of Ipswich and that the loss of the accommodation would be damaging to the hospitality and leisure economy of the town, given its close proximity to restaurants and bars. It is arguable that this alleged harm is a planning consideration which may render a change to a hostel a material change of use and so attract planning control.

103. In these circumstances [Ipswich Borough Council] has raised a triable issue in relation to the apprehended breach of planning control”.

104. Given the stance taken by the defendants in the [East Riding of Yorkshire Council] case, I deal with this issue more briefly. Although there are some differences in the evidence compared to the IBC case, for similar reasons there is a triable issue as to whether the use of the hotel would change to a hostel. The planning harm relied upon by ERYC is different (impact of the loss of the hotel accommodation on a key employment site and for tourism purposes and highway safety concerns). In my judgment it is arguable that this alleged harm is a planning consideration which may render a change to a hostel use a material change of use”.

176. I heard evidence from both Mr Salmon and Ms Hutchinson-Chambers describing the contractual arrangements between CTM and the Defendant under which the Bell is currently used to provide contingency accommodation for asylum seekers. They also described the day-to-day operation of that accommodation at the Bell, including

staffing arrangements, catering arrangements and the use of the building's facilities. Ms Hutchinson-Chambers told me that newly arriving asylum seekers at the Bell receive an induction to the hotel, including a welcome pack, and sign an occupancy agreement. They are each required to be registered with one of two local GP surgeries within 72 hours of arrival at the Bell. Upon arrival they each go through an initial health assessment. Catering services are provided by a sub-contractor of CTM, who also provide security services. Laundry and cleaning services are provided by the Defendant's staff. Also present at the Bell are the Defendant's hotel manager, their deputy, up to three housekeeping staff and reception staff. CTM and the Home Office consulted with Essex Police and adult social services prior to the resumption of use of the Bell as contingency accommodation in early April 2025 and continue to do so on a regular basis.

177. The Court of Appeal summarised the current use and activities at the Bell since the Bell reopened in early April 2025 and resumed its use to accommodate asylum seekers, all of whom have been single males, pursuant to the contract between the CTM and the Defendant, as follows –

“18. CTM is a registered Home Office service provider of accommodation for asylum seekers under the 1999 Act. By a contract dated 24 March 2025, for an initial term of 12 months ending on 24 March 2026, the Defendant has agreed to provide CTM with exclusive use of the Bell for the contractual period for the purpose of short-term accommodation for asylum seekers. In its capacity as service provider, CTM provides all services connected with the welfare of asylum seekers and their social, mental and medical care. It handles all movement of residents to and from premises and has complete control over who is placed in the Bell, the duration of their stay and all matters relating to their occupancy. Through a subcontractor, it provides premises, security and the catering of all meals. The Defendant provides cleaning, general facility maintenance, and hotel laundry; it facilitates personal laundry through an offsite service provider.

19. Those accommodated in the Hotel have no choice of room nor of the person with whom they share. They do not pay Somani; payment is made to Somani through the contract with CTM. The residents of the Hotel are free to "come and go" but if an individual wishes to be away for more than one day they must obtain authorisation from the Home Office. Somani is required to obtain a signature from each resident each day and to notify CTM and the Home Office if any resident is not seen for more than one day.

19. There have been no changes to the internal structure of the Hotel since it commenced accommodating asylum seekers and the only external change has been the erection of security fencing in July 2025 by Somani which was a response to the protests which were taking place outside the Hotel”.

178. Although I had the benefit of a rather more detailed description of those arrangements in evidence before me, the principal components of the current use of the Bell as contingency accommodation for asylum seekers remain as stated in that quoted passage.
179. The decision to apply to the court for an injunction pursuant to section 187B of the 1990 Act was taken by the Claimant's Legal Services Manager under delegated powers on 5

August 2025. She did not make a contemporary note of her reasons for concluding that the use of the Bell to accommodate asylum seekers constituted a material change of use from its former use as a hotel. In her witness statement signed on 29 September 2025, she stated that having reviewed leading counsel's advice on 4 August 2025, it had seemed clear to her based upon the facts on the ground that the use of the Bell exclusively for the purpose of accommodating asylum seekers was a change in its use. She described that change of use as being from a hotel, which had been open to reservation by members of the public wishing to stay in Epping, with a bar and restaurant open to all, including for functions such as weddings, to a use in which all of those qualities were absent; with the result that the relationship between the Bell hotel and those living and working in the area had become a "*different, disengaged*" one. It seemed clear to her that "*having regard to the location of the Bell Hotel, its locality, its previous connection with the local community and so forth*", this was a material change of use.

180. The Legal Services Manager did not say that she had consulted with her colleagues in the Claimant's planning department to seek their view on whether there had been a change of use and, if so, whether that change was material. No doubt had she done so, she would have been made aware by Mr Stubbs that the planning officers' view was that the current use of the Bell did involve a material change in its use and required planning permission. She would also, however, have been told that the Defendant who owned the Bell disputed the need for planning permission, on the basis that the current use was exclusively as a hotel and not as a hostel.
181. I was reminded by Mr Coppel KC that the advice provided by leading counsel to the Claimant was legally privileged and that no inferences or assumptions should be made as to its contents. I of course accept that submission. Nevertheless, the questions whether a change of use of land has taken place, and whether that change is material for planning purposes, are questions of fact and degree and not of law. I would expect the decision maker faced with such questions to express their decision and the reasons for that decision in terms which broadly reflect the legal framework within which the decision was taken.
182. I have referred to the case law discussed by Holgate J in *Ipswich* and to the acknowledged fine distinction between the use of land as a hotel and as a hostel. In his judgment at [101]-[104], Holgate J identified characteristics of the proposed use of hotels in that case to accommodate asylum seekers which pointed against and towards a hostel rather than a hotel use. Most if not all of those factors are present in the present case, and were known to the Claimant as a result of the consultation, engagement and correspondence with the Home Office, CTM and the Defendant before and after April 2025. I was told the Legal Service Manager based her judgment on the "*facts on the ground*". I was not provided with any detailed account or record, contemporary or otherwise, to explain what she knew or had been informed about the arrangements for the current use of the hotel.
183. Given the planning officer's view when the current use of the Bell resumed in April 2025 that there had been a change of use to use as hostel, the acknowledged fine distinction between a hotel and a hostel use, and the Defendant's position that the Bell remained in use as a hotel, I would have expected the factors which pointed against and to a material change of use to be clearly identified and considered by the Legal Services Manager as delegated decision maker.

184. In the absence of a contemporary record of her reasons prepared on 5 August 2025, the explanation which the Legal Services Manager gave in evidence for her “clear” view that there had been a material change in the use of the Bell was very brief indeed. It focused essentially only on the loss of the visitor accommodation, restaurant and function room to serve the local community. Policy E4 of the Epping Forest District Local Plan 2011-2033 supports “*the retention and improvement of existing visitor accommodation and venues unless there is proof that there is no market interest in rental or acquisition and that investment to allow continued profitable operation of the business is not viable*”. I would have expected consideration of that policy in the context of a judgment whether the change of use actually identified by the Legal Service Manager was material. There was no such consideration, on the evidence before the court.
185. For these reasons, I am left in considerable doubt as to whether the Legal Services Manager’s delegated decision was founded upon a properly informed and considered judgment that the use of the Bell as contingency accommodation for asylum seekers constituted a breach of planning control. In the absence of a proper record of her delegated decision and in the light of the very brief explanation which she gave in evidence, I am not confident that the clear view which she felt able to reach was properly justified.
186. Nevertheless, I am conscious of the need not to trespass too far into the forbidden territory of planning judgment. In his evidence to the court, Mr Stubbs supported the judgment that the current use of the Bell to accommodate asylum seekers differs materially from its former use as a hotel in a number of respects. Amongst the matters which Mr Stubbs relies upon in support of his view are that the Bell is currently occupied solely by a specific category of persons, namely asylum seekers. Occupiers live at the Bell for an indeterminate period of time which is governed by the progress of their asylum claim and beyond their control. The Bell is the asylum seekers’ only home during that period of time. Their accommodation is block booked and paid for ultimately by the Home Office. The Bell is no longer available for use as a hotel by members of the public. Access to and from the premises is strictly controlled.
187. There are obvious parallels between Mr Stubbs’ analysis and the factors which were identified by Holgate J as pointing at least arguably to a material change in the use of the two hotels which were the subject matter of the *Ipswich* case. Mr Stubbs is an experienced and senior planning officer and his judgment should carry weight. He has been clear and consistent in his view since October 2022 that the use of the Bell exclusively as accommodation for asylum seekers is development requiring planning permission. In the light of his evidence, and notwithstanding my reservations as to the reliability of the clear view formed by the Legal Services Manager in support of her delegated decision taken on 5 August 2025, I am prepared to accept that the Claimant as local planning authority had at least a reasonable basis for alleging and asserting that the current use of the Bell as contingency accommodation for asylum seekers is in breach of planning control. I should add that I did not find the aspects of the rating history of the Bell to which my attention was drawn to be of any assistance.

The Claimant’s decision to apply for an injunction

188. The local planning authority’s judgment that land is being used in breach of planning control, albeit that there is a long and unresolved dispute as to whether that is indeed

the case, is not a sufficient basis for that authority's decision to apply for an injunction to restrain the continuation of that use. The local planning authority must consider that it is necessary or expedient to enforce against the unauthorised of the land by invoking the jurisdiction of the court pursuant to section 187B of the 1990 Act.

189. In the present case, the Claimant's decision to apply for an injunction was taken by its Legal Services Manager on 5 August 2025, in the exercise of delegated powers. Ms Sayers referred me to the following powers delegated to her as Legal Services Manager under the Claimant's Scheme of Delegation –

“8. High Court Action: To instigate, defend, pursue and settle High Court proceedings in the following circumstances:

...

(b) applications for High Court injunctions to secure planning enforcement under the Town and Country Planning Act 1990 (as amended) or to deal with breaches of Abatement Notices under the Environmental Act 1995 or amendments thereof which shall be authorised by the Cabinet.

(c) any applications for High Court injunctions where immediate emergency action is required, to prevent serious distress to public safety or residential amenity which shall be authorised by the Legal Services Manager in consultation with the appropriate Portfolio Holder.

...

Any legally qualified officer within the Legal Services Function also has the authority to execute this function”.

190. Ms Sayers said that she made her decision to apply for an injunction in the light of what she considered to be the need for immediate emergency action to prevent serious distress to public safety or residential amenity as specified in paragraph 8(c) of those delegated powers. Although she did not seek to rely specifically on paragraph 8(b), it is clear from her evidence that she proceeded on the understanding that the statutory basis for the Claimant's proposed claim was section 187B of the 1990 Act. Ms Sayers took the view that the delegated decision that she took to instigate those proceedings had been authorised by Cabinet at the briefing meeting held on 4 August 2025. She said that she did not directly seek authority from the appropriate portfolio holder, whom I understood to be Councillor Keska.

191. Paragraph (b) of the General Provisions governing the exercise by officers of the powers delegated to them under the Claimant's Scheme of Delegation provides –

“All action taken under the terms of these delegations shall be properly documented”.

192. Ms Sayers accepted that, at the time, she had not documented the decision which she took on 5 August 2025 to instigate these proceedings in this court. In her evidence she said -

“At every available opportunity and at each and every step, I have carefully considered the position as to whether there should be a review of the Council's actions and the

decision to apply for injunctive relief, for example, following the outcome of the appeals to the Court of Appeal, in respect of the decision to continue with the final injunction proceedings”.

193. Ms Sayers did not produce any document recording her reasons for concluding that the Claimant should continue with these proceedings for a final injunction, for example following the decision of the Court of Appeal to set aside the interim injunction ordered by this court.
194. On Ms Beardwell’s evidence, the unanimous view of Cabinet following the briefing meeting held on 4 August 2025 was that the current use of the Bell to provide accommodation for asylum seekers was having a sufficiently harmful impact on residential and public amenity to justify immediate action to bring that use to an end. Such action was considered to be necessary in the light of *“recent events and the ongoing impact on the various facets of residential amenity”*.
195. Ms Sayers said that Ms Beardwell had telephoned her shortly after the briefing meeting and given a detailed account of what had taken place. She had been told that the attendees were unanimously in support of taking *“immediate injunctive action”*. Ms Sayers said that in deciding to institute proceedings for an injunction and a declaration, she had borne in mind *“the latest developments at and in the vicinity of the Bell Hotel site”*. Ms Beardwell did not provide me with a more detailed explanation of the *“recent events and the ongoing impact on the various facets of residential amenity”* which were judged to merit the restraint of the current use of the Bell by injunction. Nor did Ms Sayers give a more detailed explanation of the latest developments at and in the vicinity of the Bell which she had borne in mind in reaching her decision to instigate proceedings for an injunction.
196. The lack of a proper contemporaneous record of the delegated decision to apply for an injunction and a declaration is a clear breach of the requirements of the Claimant’s Scheme of Delegation. That omission is all the more surprising in the light of Ms Sayers’ evidence that she did discuss with Ms Beardwell whether her decision to instigate proceedings for an injunction engaged the requirements of regulation 7 of the Openness of Local Government Bodies Regulations 2014 [**“the 2014 Regulations”**].
197. Regulation 7 of the 2014 Regulations applies to an officer of a district council who makes a decision which falls within regulation 7(2) –

“7(1) The decision-making officer must produce a written record of any decision which falls within paragraph (2).

(2) A decision falls within this paragraph if it would otherwise have been taken by the relevant local government body, or a committee, sub-committee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either –

(a) under a specific express authorisation; or

(b) under a general authorisation to officers to take such decisions and, the effect of the decision is to –

...

(ii) affect the rights of an individual;

....

(3) The written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision and must contain the following information –

(a) the date the decision was taken;

(b) a record of the decision taken along with reasons for the decision;

(c) details of alternative options, if any, considered and rejected;

....

(4) The duty imposed by paragraph (1) is satisfied where, in respect of a decision, a written record containing the information referred to in sub-paragraphs (a) and (b) of paragraph (3) is already required to be produced in accordance with any other statutory requirement”.

198. Ms Beardwell and Ms Sayers appear to have reached the view that the delegated decision to apply for an injunction to restrain the use of the Bell to accommodate asylum seekers did not affect the rights of any individual. As Ms Jenny Wigley KC for the Defendant submitted, that was rather beside the point, given the clear terms of the Claimant’s Scheme of Delegation. It is difficult to understand how in considering whether regulation 7 of the 2014 regulations applied, Ms Beardwell and Ms Sayers came to overlook the requirements of paragraph (b) of the General Provisions of the Scheme of Delegation.
199. The upshot is that there is no contemporaneous report, note or record which explains the delegated decision maker’s reasons for her decision to instigate proceedings for the injunction. Nor is there a minute or contemporaneous note of the briefing meeting held on 4 August 2025. In my view, it ought to have been obvious to the Claimant’s responsible officers that this case cried out for a proper contemporaneous record to be made of those matters. The failure to make such a record, particularly given the express requirement to do so stated in the Scheme of Delegation, was a serious procedural error, which gave rise to real prejudice to the Defendant. That prejudice was worsened by the failure of the Claimant to give notice of the delegated decision to the Defendant, or to attempt to explain in pre-action correspondence the reasons why the Claimant considered it necessary and expedient to apply to the court for an injunction.
200. Nevertheless, in order to determine the Claimant’s application for an injunction, I need to understand as far as I am able the particular considerations on which was based the Claimant’s judgement that an application for an injunction to restrain the current use of the Bell was necessary or expedient.
201. I have referred to the reported concerns of Cabinet members at the briefing meeting about “*recent events*” and the ongoing impact of the current use of the Bell on “*various facets of amenity*”. Ms Holly Whitbread has been the District Councillor representing

the Ward in which the Bell is situated since 2020. She attended the briefing meeting on 4 August 2025. In her witness statement signed on 10 August 2025, Ms Whitbread said –

“In early 2025, the Home Office reopened it to house single adult male asylum seekers. This was done without any measures to allay the inevitable concerns that this would cause in the community. This decision has caused significant anxiety and alarm in the local community. The presence of an all-male asylum hotel in such a central, sensitive location, so close to homes, schools and public facilities, has been accompanied by heightened fears which have been expressed to me by my constituents, particularly among parents and women. This fear has been magnified by a number of incidents, including one hotel resident recently charged with sexually assaulting a 14-year-old girl and another being arrested for arson. Moreover, these recent events appear to have been a catalyst for subsequent unrest in recent days. I am unable to see how a restoration of calm and a return to perceived safety levels can be restored other than by the immediate and permanent cessation of the use of the Bell Hotel as accommodation for asylum seekers”.

202. The Court of Appeal also referred to the Claimant’s concerns about the incident of alleged sexual assault by a resident of the Bell on 8 July 2025, which had led to protest activity outside the Bell from 11 July onwards, the essence of those protests being that the Bell should no longer be used to house asylum seekers. Although initially a protest by local residents, later protests had grown larger and more widespread as the case gained national prominence, and there had been violence, disorder and disruption. Security fencing and gates had been erected along the highway frontage of the Bell. The Court of Appeal said –

“31. It is the Council's contention that there has been harm to the amenity of the local area from the nature of the use of the Hotel and associated, sustained protests and disturbance, heightening the risk and fear of crime and resulting in occupants of the Hotel being socially excluded from the community. In addition, there is significant detriment to the amenities of nearby residential properties by reason of the noise disturbance”.

203. Before the Court of Appeal, counsel for the Claimant characterised the position as being one of “*tolerating*” what had been judged to be a breach of planning control resulting from the resumption of use of the Bell to accommodate asylum seekers, without the required planning permission. However, following the protests which began outside the Bell on 11 July 2025, that which the Claimant had hitherto tolerated had become intolerable. The trigger for the application for an injunction had been the protests and the accompanying disorder and criminality: see the Court of Appeal’s judgment at [106].
204. In the absence of the contemporary record of the Legal Services Manager’s decision required by the Claimant’s Scheme of Delegation, it is those considerations which emerge as the primary basis for the Claimant’s judgment that in early August 2025 it had become necessary or expedient to apply for an injunction to restrain the use of the Bell as contingency accommodation for asylum seekers.
205. It is well established that the amenity of a local area may be affected by residents’ well-founded fears or concerns about criminal activity being generated by the use of land or buildings. For that reason, the fear of crime is capable of being a material consideration

to be given appropriate weight by a local planning authority both in development control decision making and in deciding whether it is expedient to take enforcement action and if so, what form such action should take. See West Midlands Probation Committee v Secretary of State for the Environment (1998) 76 P&CR 589 [*“West Midlands”*]. Insofar as the Claimant’s decision to apply for an injunction pursuant to section 187B of the 1990 Act can be shown to have been founded upon that consideration, it provided a legitimate basis for that decision.

Whether an injunction is an appropriate remedy – the correct approach

206. I propose to approach the question whether it is appropriate to grant an injunction on the Claimant’s application in accordance with the authoritative guidance given by Simon Brown LJ which received endorsement of the House of Lords in *South Bucks*. I gratefully adopt Holgate J’s helpful summary at [93] in *Ipswich* of the principles and guidance which are to be drawn from [38]-[42] of Simon Brown LJ’s judgment in the Court of Appeal in *South Bucks* –
- (1) The need to enforce planning control in the general interest is a relevant consideration and in that context the planning history of the site may be important. The “*degree and flagrancy*” of the breach of planning may be critical. Where conventional enforcement measures have failed over a prolonged period the court may be more ready to grant an injunction. The court may be more reluctant where enforcement action has never been taken.
 - (2) On the other hand, there might be urgency in the situation sufficient to justify the avoidance of an anticipated breach of planning control.
 - (3) An anticipatory interim injunction may sometimes be preferable to a delayed permanent injunction, for example, where stopping a gypsy moving on to a site in the first place, may involve less hardship than moving him out after a long period of occupation.
 - (4) While it is not for the court to question the correctness of planning decisions which have been taken (e.g. decisions to refuse a planning permission or to dismiss an appeal), the court should come to a broad view as to the degree of environmental damage resulting from the breach and the urgency or otherwise of bringing it to an end.
 - (5) The achievement of the legitimate aim of preserving the environment does not always outweigh countervailing rights (or factors). Injunctive relief is unlikely to be granted unless it is a “commensurate” remedy in the circumstances of the case.
 - (6) It is the court’s task to strike the balance between competing interests, weighing one against the other.
207. The second and third of those principles are of less direct relevance to the present case, given that the use of the Bell as accommodation for asylum seekers had resumed in early April 2025, some four months prior to the Claimant’s decision as local planning authority in early August 2025 that enforcement action in the form of an application for an injunction pursuant to section 187B of the 1990 was necessary or expedient. The four remaining principles are relevant and provide a general framework for my decision

whether the grant of an injunction to restrain the continuing use of the Bell for that purpose is appropriate, or in the language of section 37 of the Senior Courts Act 1981, just and convenient. I accept that the Claimant found there to have been a change of circumstances in July 2025 which created a need for an urgent response. That aspect of the case falls to be considered in the context of the fourth principle stated above.

Planning and enforcement history

208. Since May 2020, there have been three periods during which the Bell has been used to provide accommodation for asylum seekers. The first was a period of some nine months between May 2020 and March 2021. The second was a period of some 18 months between October 2022 and April 2024. The third period of use for that purpose began in early April 2025 and continues. During each of those periods, the Claimant as local planning authority has known that the Bell was being so used. The contemporary evidence shows that, at least since late 2022, the Claimant has considered that the use of the Bell for that purpose constitutes a material change in its use and requires planning permission.
209. Prior to the bringing of this application for an injunction on 11 August 2025, the Claimant as local planning authority has not taken enforcement action against the use of the Bell to provide accommodation for asylum seekers. I attach no significance to the lack of enforcement action during the period of use between May 2020 and March 2021, since during the period of the Covid-19 pandemic local planning authorities were encouraged to exercise their discretion in taking enforcement action which might hinder an effective response to the pandemic. I accept Mr Stubbs' evidence that the Claimant is likely to have been reluctant to enforce against residential uses in any event during that period.
210. However, it is clear that when use of the Bell to accommodate asylum seekers resumed from late October 2022, the Claimant was in a position to take enforcement action. Instead the Claimant's response was to invite the Defendant to submit an application for retrospective planning permission to use the Bell for that purpose for a temporary period until June 2024. The Defendant made that application in February 2023. The application remained with the Defendant undetermined until March 2024, at which point the Defendant withdrew it, informing the Claimant that the then current contract to accommodate asylum seekers at the Bell was to end in late April 2024. When the Defendant submitted the planning application in February 2023, it was made clear to the Claimant that the Defendant did not accept that use of the Bell on a temporary basis to accommodate asylum seekers constituted a material change in its use as a hotel.
211. From late February 2025 onwards, the Claimant was aware from discussions with the Home Office that the Home Secretary was proposing to commission CTM to seek a new contract with the Defendant to resume the use of the Bell to provide contingency accommodation for asylum seekers. The Claimant was made aware that the Home Secretary proposed to do so in order to meet what she considered to be the pressing need for such accommodation for the purpose of fulfilling her statutory responsibilities under the 1999 Act. Although in the consultation response on 17 March 2025 the Claimant raised a number of objections to the resumption of use of the Bell for that purpose, it did not do so on planning grounds.

212. On the evidence before the court, it had been the Claimant's assessment as local planning authority both when the Bell began to be used to accommodate asylum seekers in late 2022 and again on resumption of that use in early April 2025, that it was in breach of planning control. Upon resumption of that use, Mr Stubbs and his colleagues had been active in considering whether some form of enforcement action was justified from early April 2025 onwards. Insofar as the local planning authority articulated a judgment as to whether such action was necessary or expedient, it is to be found in the observations of Mr Stubbs in his email of 17 April 2025 to Ms Thompson, that counselled against resorting to the peremptory remedy of serving a stop notice at that time, given the impact which such a notice would have in requiring asylum seekers now accommodated at the Bell to be rehoused elsewhere *"and all the consequences of that"*.
213. Instead, the Claimant followed the same approach as had been taken in late 2022, and asked the Defendant to apply for temporary planning permission to regularise the use of the Bell. The Defendant informed the Claimant that it would so apply, but on 15 May 2025 Mr Salmon informed Mr Stubbs that the Defendant had been instructed not to make that planning application, as the Bell remained in use as an *"exclusive use hotel"*.
214. Mr Stubbs' evidence was that following receipt of Mr Salmon's email of 15 May 2025, the Claimant as local planning authority made a conscious decision not to take enforcement action at that time. Instead, the local planning authority would monitor the situation.
215. There is no evidence to suggest the arrangements for the current use of the Bell as contingency accommodation for asylum seekers have changed in any significant way since May 2025. At that date, the Claimant was aware from recent correspondence between Mr Salmon and Mr Stubbs that the use of the Bell to accommodate asylum seekers was expected to be temporary. The Claimant was also aware that the current arrangements were for the exclusive use of the hotel premises for that purpose. For the time being, therefore, the Bell would not be available to provide visitor accommodation or a bar/restaurant or entertainment venue for use by the local community. The Claimant had been informed during the consultation process that the number of asylum seekers accommodated at the Bell would not exceed 160 residents; that those accommodated at the Bell would be single adult males; and that all residents would be required to register with local GP surgeries.
216. The Claimant was aware of the checks and security arrangements which would be in place on resumption of the use of the Bell as contingency accommodation. Ms Thompson told me that during the consultation process the Claimant had been provided with the Home Office's information leaflet *"Hotel Contingency Asylum Accommodation: Local Authority (February 2025)"*. That leaflet provided local authorities with the following information –

"Security

Q: What checks are carried out on those arriving in the UK who end up in the hotel?

• Individuals arriving in small boats are taken to facilities in Dover to begin processing. Searches are undertaken at Western Jet Foil followed by robust security checks and biometric tests at Manston. This includes checks against UK and international police databases. An allocation policy and suitability criteria are applied to ensure that the

choice of accommodation is suitable for the asylum seeker in question. Guidance on the suitability criteria used can be found on GOV.UK. Each person's suitability will be assessed at regular intervals and if they are no longer considered suitable for any reason, they will be moved to alternative accommodation

Q: What additional security has been put in place at asylum hotels?

• The safety and security of the local communities in which hotels are located, the staff who work there, and the asylum-seekers staying there is of paramount importance, and on-site security staff monitor each hotel round the clock. Our accommodation providers are experienced and have robust policies and procedures in place around health and safety, security, safeguarding, and critical incident management. Security arrangements are kept under continual review and can be adapted at pace if required. Community Impacts

Q: What is the process for asylum seekers leaving hotels on a day-to-day basis?

• Asylum seekers at a hotel are not detained and are able to come and go. On arriving at the hotel, asylum seekers receive an induction about the accommodation and the local community. This will inform them of their responsibilities and what is expected of them as good neighbours. The contracted service provider is also responsible for running each accommodation site in an orderly and secure manner”.

217. Shortly after their occurrence, the Home Office had informed the Claimant of the fire incidents at the Phoenix in late March 2025 and at the Bell on 5 April 2025. The Claimant had been informed at the multi-disciplinary services meeting held on 8 April 2025 that both fires were suspected to have been set deliberately by an asylum seeker who had been resident at both hotels and had now been remanded into custody to face charges of arson.

218. In *South Bucks*, Simon Brown LJ said that in judging whether it was appropriate to grant the injunction sought to restrain a breach of planning control, the degree and flagrancy of the postulated breach may well prove critical. Where conventional enforcement measures have failed over a prolonged period the court may be more ready to use its own coercive powers to grant an injunction. Conversely, the court may be more reluctant where, as in the present case, enforcement action has never been taken.

219. That approach is reflected in the Claimant's own policy on the circumstances in which it may resort to section 187B of the 1990 Act, in paragraphs 4.33 and 4.34 of its Local Enforcement Plan 2022 [**“the Plan”**] –

“4.33 Where an enforcement notice has not been complied with and, because of the special circumstances of the case, either direct action or prosecution would not be an effective remedy, we will consider applying to the Court for an Injunction under section 187B of the Town and Country Planning Act (as amended). An injunction can also be applied for if the breach of planning is so serious as to cause immediate harm to the amenities of the area or neighbours beyond which it would be reasonable to use the enforcement notice procedure to deal with.

4.34 An injunction can also be applied for where there is clear evidence that a breach of planning control is anticipated but has not actually occurred. Such action will only

be considered if the breach, actual or anticipated, is particularly serious and is causing or likely to cause exceptional harm”.

220. The Plan reflects paragraph 050 of the Secretary of State for Housing, Communities and Local Government’s Planning Practice Guidance on Enforcement (Reference 17b-003-201403036) [“PPG”] –

“...a local planning authority can apply for an injunction whether or not it has exercised, or proposes to exercise, any of their other powers to enforce planning control. However, proceedings for an injunction are the most serious enforcement action that a local planning authority can take because if a person fails to comply with an injunction they can be committed to prison for contempt of court. Additionally, once an injunction has been granted, it cannot be discharged except where there has been a significant change of circumstances since the order was made. In these circumstances a local planning authority should generally only apply for an injunction as a last resort and only if there have been persistent breaches of planning control over long period and/or other enforcement options have been, or would be, ineffective. The Court is likely to expect the local planning authority to explain its reasons on this issue”.

221. As things stood at the time of the Legal Services Manager’s decision on 5 August 2025, this was far from being a case of last resort. On the contrary, the proposed application for an injunction was to be the first occasion on which the Claimant had resorted to formal enforcement action to regulate a use which they had long considered to be in breach of planning control, and the resumption of which they had been aware since early April 2025 at the latest. Nor was this a case in which the Claimant was contemplating enforcement action to avoid an anticipated breach of planning control which they judged as likely to cause exceptional or irremediable planning or environmental harm. On the Claimant’s own case, the actual breach of planning control had taken place months earlier, with the resumption of use of the Bell to provide accommodation for asylum seekers in early April 2025.

222. At [112] the Court of Appeal said –

"112. We are not concerned with a case where a defendant has taken action in plain breach of planning control requiring an immediate response to prevent potentially irreparable harm. Nor is this a case where there is a history of a defendant repeatedly evading or defying enforcement proceedings...The observation of Holgate J in Ipswich that the court may be more ready to grant an injunction "where conventional enforcement measures have failed over a prolonged period", whereas the court "may be more reluctant where enforcement action has never been taken" is very much in point. Conventional enforcement measures have simply not been tried at all”.

223. That remains an accurate summary of the position in the light of the evidence now before this court.

224. As I have explained, the Defendant has been open and transparent in its actions and in its communications with the Claimant. It has maintained the position consistently that the temporary use of the Bell as accommodation for asylum seekers does not constitute a material change in the use of the hotel. Although I have concluded that the Claimant had at least a reasonable basis for alleging and asserting that the current use of the Bell as contingency accommodation for asylum seekers is in breach of planning control, it

had not been thought expedient to enforce against it. That is hardly consistent with the Claimant's contention before this court that the use of the Bell for that purpose constitutes a flagrant breach of planning control. Mr Salmon had made it quite clear to Mr Stubbs that a planning application would not now be forthcoming, because there was a real dispute as to whether the current use of the Bell was development requiring planning permission. This is not a case in which the breach of planning control is clear and beyond reasonable argument.

225. On the evidence, the Claimant had reached the view that use of the Bell in breach of planning control had resumed since early April 2025. Had the Claimant been of the view that the unauthorised use was causing or likely to cause unacceptable planning or environmental harm, let alone irreparable harm, it lay within its powers to take enforcement action. It chose not to do so. The characteristics of the use itself remained unchanged in any material respect between May 2025 and early August 2025. Nor is this a case where the local planning authority relies upon the unauthorised use being in contravention of a strong and locationally specific development control policy. Compare and contrast the position in Great Yarmouth Borough Council v Al-Abdin [2022] EWHC 3476 (KB) at [35] and [67].
226. For these reasons, I unhesitatingly reject Mr Coppel KC's submission that in resuming the use of the Bell as contingency accommodation for asylum seekers and declining to submit a planning application for temporary use of the Bell for that purpose until March 2026, the Defendant has acted in flagrant breach of planning control.

Environmental harm and urgency

227. In his judgment in *South Bucks*, Simon Brown LJ said that in deciding whether or not to grant an injunction, the court is bound to come to a broad view of the degree of environmental damage resulting from the breach of planning control which the local planning authority seeks to remedy. The Claimant's own policy under paragraph 4.33 of the Plan is that a decision to resort straight to an application for an injunction will turn on whether they judge the breach of planning control to be sufficiently serious and the resulting harm to amenities to be such that immediate action is needed to secure the cessation of the offending use. That policy is consistent with the practice guidance in the PPG to which I have referred.
228. The starting point is that the breach of planning control upon which the Claimant relies in this case is without planning permission, the making of a material change in the use of existing hotel premises at the Bell to accommodate asylum seekers. That use is carried on within the existing buildings at the site. Prior to the installation of the security fencing in response to the protests which began on 11 July 2025, the use of the Bell to accommodate asylum seekers involved no external physical change to land or buildings which comprise the premises at the Bell.
229. The Bell is prominently sited on a main road on the outskirts of the town of Epping. It lies within the Metropolitan Green Belt and within a conservation area. I accept that the prominence of the site and the relatively spacious layout of the buildings contribute to the character and appearance of the conservation area. The presence of the security fencing, utilitarian in its appearance, is detrimental to the visual qualities of the Green Belt in this location and to the character and appearance of the conservation area. It is reasonable for the Claimant to attach weight to that environmental harm.

230. However, although the security fencing is unsightly, its visual impact is localised in its extent. It is also necessary to bear in mind that the current use of the Bell as contingency accommodation for asylum seekers is, as that phrase implies, intended to be temporary in its duration. The contract between CTM and the Defendant contemplates that current use of the Bell being brought to a close no later than April 2026. Even assuming that the security fencing is retained in situ throughout that period, it is very unlikely to be needed after the current temporary use of the Bell ceases. It is reasonable, therefore, to anticipate that within around six months' time the appearance of the site frontage will return to that which existed until July 2025.
231. It is also relevant to note that the security fencing is not an integral component of the use of the Bell to accommodate asylum seekers. It has been installed in response to the street protests and on the advice of police. It was not needed during the previous use of the Bell as asylum accommodation between 2022 and 2024. Finally, it is commonplace for security fencing to be installed to provide temporary security around a wide range of buildings and sites. Planning conditions are often imposed on planning permission which require detailed approval by the planning officer of the design and detailed treatment of such fencing. There appears to have been no attempt by the Claimant as local planning authority to engage with the Defendant and Essex Police to explore possible options for ameliorating the visual impact of the security fence, if indeed a physical barrier continues to be required.
232. In order to form a broad view of the degree of environmental damage resulting from the current use of the Bell, it is also relevant to take account of the policy of the Claimant's adopted development plan in relation to visitor accommodation. I have referred earlier in this judgment to Policy E4 of the Local Plan, which supports the retention and improvement of existing visitor accommodation. It was Mr Rogers' view that the Claimant as local planning authority could reasonably regard the current use of the Bell exclusively to accommodate asylum seekers as not being in accordance with that policy.
233. However, the degree of planning harm which results from that lack of compliance with development plan policy would need to be carefully judged by reference to the fact that the current use of the Bell is temporary in nature; and likely to cease by April 2026. Moreover, under policy E4, the Claimant recognises that the policy objective of retaining existing visitor accommodation in the district is subject to economic pressures. One of those acknowledged economic pressures is that investment may be needed to enable a hotel to continue to operate as a viable business into the future. Here, Mr Salmon's evidence was that the Bell requires significant financial investment to enable it to return to use as a conventional hotel. He told me that the scale of that investment was such that it was "*out of reach*" without the revenues and profits which the Defendant expected to realise under the contract with CTM. There is, therefore, evidence that, in the longer term, the current use of the Bell is contributing towards the practical realisation of the Claimant's planning policy objective of retaining the Bell as visitor accommodation.
234. Mr Salmon's evidence reflects a similar point put forward to the Claimant in support of the Defendant's planning application by the Defendant's solicitor in his letter of 14 February 2023. Accommodating asylum seekers under contract with the Home Secretary's service providers enabled the Bell to bridge current economic circumstances and later resume "*normal hotel operations*".

235. That issue is another example of a planning consideration which I would have expected the Claimant as local planning authority to give appropriate weight, in judging the degree of planning and environmental harm resulting from the current use of the Bell. It is, moreover, a consideration which the Defendant would itself have drawn to the Claimant's attention, had the Claimant given the Defendant the opportunity to respond prior to instigating this application for an injunction.
236. In support of the application for an injunction, the Claimant asserted that asylum seekers accommodated at the Bell may have vulnerabilities which lead to pressure on local services such as GP surgeries and social services support and facilities. I accept that the ability of local health and community services to cope with the increased demand which a use of land generates is capable of being a material planning consideration.
237. I heard no evidence to substantiate the Claimant's assertions that the demand for such services arising from use of the Bell as asylum accommodation was putting undue pressure on local GP surgeries, local health and social services and community facilities. Considerations of that kind were the subject of consultation and discussion following Mr Ryder's consultative letter of 17 February 2025. I accept that in his letter of 17 March 2025 Councillor Keska raised concerns about the ability of local services to cope with the increased demand resulting from the resumption of use of the Bell as contingency accommodation for asylum seekers. However, had those concerns been realised and local health and community services experienced increased demands from asylum seekers accommodated at the Bell which they were really struggling to meet, I would have expected the Claimant to lead evidence from those service providers to explain and substantiate those difficulties. The Claimant did not do so. That being the case, I cannot accept that more than very limited weight could reasonably be given to that aspect of planning and environmental harm.
238. Central to the Claimant's case on planning and environmental harm is the impact of criminal behaviour by asylum seekers occupying contingency accommodation at the Bell and the local community's fear of crime that has been generated by that use of land. As I have said, the *West Midlands* case is authority for the proposition that a local community's fear of crime may be a material consideration in development control decision making and in deciding whether enforcement action is necessary or expedient to enforce planning control.
239. *West Midlands* concerned an application for planning permission to enlarge a bail and probation hostel in a small town near Walsall. The bail hostel was located on the edge of the town, opposite a suburban housing estate. Adjacent to the site was a large nursing home. At the time of the planning application, the bail hostel had been in operation for some six years, accommodating up to 12 bailees each with a typical length of stay of around four weeks. During the day, bailees were supervised by two professional officers. There was a nighttime curfew in operation. At night, the hostel was staffed by an assistant warden and a relief supervisor.
240. The proposal was to extend the bail hostel so that it was able to accommodate a further eight bailees with some additional staff. The local planning authority refused planning permission. The Probation Committee appealed. The appeal was dismissed by the planning inspector.

241. The first main issue before the planning inspector was whether the proposed expansion of the bail hostel “*would noticeably impair the living conditions that nearby residents might reasonably expect to enjoy in an area like this*”. In relation to that issue, the inspector made the following findings –

- (1) The existing bail hostel had attracted numerous police visits, many late and night or early in the morning, some involving arrests, personal injuries or breaches of bail conditions.
- (2) It was unsurprising that local residents living in a quiet, sylvan, suburban street should be seriously disturbed by the noise of police cars, police radios and the impact of flashing lights close to their homes, particularly at times of relative peace and quiet. The evidence showed that these disturbances occurred fairly frequently.
- (3) The proposed expansion of the bail hostel was likely significantly to increase the level of disturbance already experienced by local residents which resulted from the existing operation of the hostel.
- (4) Local residents felt apprehensive and insecure about the proposal to expand the bail hostel.
- (5) Local residents’ apprehensiveness had some justifiable foundation. There was evidence of bailees accommodated at the existing hostel fighting in the street, moaning and mutilating themselves, and smashing crockery and milk bottles on private driveways and on the road. Bailees had committed robberies in the area. They had broken into cars. They had behaved drunkenly, loutishly and in an intimidating manner.

242. The inspector drew the following conclusions –

“I consider that such occurrences give reasonable grounds for residents to feel apprehensive; and, the cumulative effect of such events could reasonably be expected to fuel a genuine ‘fear of crime’. That is recognised as a significant problem in its own right particularly if affecting the more vulnerable sections of the community, like some of the relatively elderly people here (Circular 5/94). I think that expansion of the hostel would increase the potential frequency of those occurrences and so exacerbate the ‘fear of crime’ that already exists.

...

Rowdy or raucous activity is particularly noticeable amongst the quiet drives and avenues of this neat suburban estate. It would be hard to imagine a more incongruous juxtaposition. Quite apart from the fact that there are numerous instances where the identity of an occupant is crucial to the acceptability of a planning proposal (as Circular 11/95 clearly demonstrates), a defining characteristic of using land for a ‘probation and bail hostel’ is that it may provide accommodation for probationers or a particular category of bailee. The proposed extension inevitably increases the possibility of residents encountering more bailees. I consider that local people would thus have good reason to feel more apprehensive than they do now.

...

Taking all those matters into account, I conclude that the expansion of this hostel would be likely to exacerbate the disturbance, and accentuate the fears of those living nearby, and so noticeably impair the living conditions that residents might reasonably expect to enjoy in an area like this”.

243. Pill LJ gave the sole substantive judgment in the Court of Appeal. He referred to three established propositions –

- (1) The impact of a proposed development upon the use of an activities upon neighbouring land may be a material consideration.
- (2) In considering the impact, regard may be had to the use to which the neighbouring land is put.
- (3) Justified public concern in the locality about emanations from land as a result of its proposed development may be a material consideration.

244. Rejecting the Probation Committee’s argument that local resident’s apprehension and fear were not material planning considerations to the inspector’s determination of the planning appeal, Pill LJ said –

“A significant feature of the present case is the pattern of conduct and behaviour found by the inspector to have existed over a substantial period of time. I include as part of that pattern the necessary responses of the police to events at the hostel. That behaviour is intimately connected with the use of the land as a bail and probation hostel.... The established pattern of behaviour found by the Inspector to exist, and to exist by reason of the use of the land as a bail and probation hostel, related to the character of use of the land, use as a bail and probation hostel... Given such an established pattern, I would not distinguish for present purposes the impact of the conduct upon the use of adjoining land from the impact of, for example, polluting discharges by way of smoke or fumes.... There can be no assumption that the use of the land as a bail and probation hostel will not interfere with the reasonable use of adjoining land when the evidence is that it does. Fear and concern felt by occupants of neighbouring land is as real in this case as in one involving polluting discharges and as relevant to their reasonable use of the land. The pattern of behaviour was such as could properly be said to arise from the use of the land as a bail and probation hostel and did not arise merely because of the identity of the particular occupier or of particular residents. If that is right, it is a question of planning judgement what weight should be given to the effect of the activity upon the use of the neighbouring land”.

245. In Smith v First Secretary of State [2005] EWCA Civ 859, Buxton LJ quoted that passage from the judgment of Pill LJ in *West Midlands* and said –

“9. I respectfully draw from that guidance the conclusions that (i) fear and concern must be real, by which I would assume to be required that the fear and concern must have some reasonable basis, though falling short of requiring the feared outcome to be proved as inevitable or highly likely; and (ii) the object of that fear and concern must be the use, in planning terms, of the land. As we have seen, Pill LJ went to some trouble to demonstrate that it was the use of the land as a bail hostel, and not just the behaviour of some of the hostel's occupants, that grounded the legitimate concern: however much that behaviour was relied on to demonstrate the nature and likely effect of that use”.

246. *Smith's* case was a challenge to a planning inspector's decision to refuse planning permission for the use of land near a small hamlet to accommodate a caravan site for gypsies. At [10], Buxton LJ emphasised the need to distinguish carefully between the behaviour of individual occupiers and the characteristics of the use of land itself –
- "10. ...it was necessary in order to take these incidents into account to attribute them not merely to the individuals concerned but also to the use of the land. But a caravan site is not like a polluting factory or bail hostel, likely of its very nature to produce difficulties for its neighbours. Granted that the evidence of recently past events attributable to the site was sparse, or on a strict view non-existent, the fear must be that the concern as to future events was or may have been based in part on the fact that the site was to be a gypsy site. It cannot be right to view land use for that purpose as inherently creating the real concern that attaches to an institution such as a bail hostel".*
247. In advancing its claim, the Claimant contended that due to the difficult or traumatic experiences which they have suffered, certain occupants of asylum accommodation may have a "*greater propensity*" to anti-social or criminal behaviour. The arrest of an asylum seeker accommodated at the Bell on 8 July 2025 on charges of sexual assault and harassment of a teenage girl was put forward as a "*recent and serious incidence*" of that greater propensity.
248. In contending for a greater propensity to anti-social or criminal behaviour, I take the Claimant to be drawing the comparison between asylum seekers and the settled population of the United Kingdom. The Claimant has not called evidence to substantiate its contentions as to the propensity of asylum seekers to commit crimes or engage in anti-social behaviour. In my judgment, in order to begin to consider whether there is any force or substance in that contention, I should need to see an evidence based and clear and statistically sound analysis of the relative incidence of criminal and anti-social behaviour amongst asylum seekers, as a defined cohort of persons, in comparison to a properly defined cohort of the settled population. There is no such evidence before the court. The fact that persons accommodated in asylum accommodation pursuant to sections 95 and 98 of the 1999 Act from time to time commit criminal offences or behave anti-socially provides no reliable basis for asserting any particular propensity of asylum seekers to engage in criminal or anti-social behaviour. Persons who are members of the settled population also commit crimes and behave anti-socially from time to time.
249. I accept Ms Whitbread's evidence that there is apprehension and concern amongst members of the local community and local residents about the use of the Bell to accommodate asylum seekers. I also accept that local residents are fearful about crime. The fears and concerns of which Ms Whitbread speaks are also voiced in the comments from local residents to which Ms Thompson refers in her evidence. Applying the principled approach stated by Pill LJ in *West Midlands* and Buxton LJ in *Smith's* case, the relevant questions are whether those fears and concerns have a reasonable basis in evidence and whether they can properly be said to be grounded in the use of the Bell as asylum accommodation, rather than the behaviour of a few of the individuals accommodated there since April 2025.

250. Since the resumption of use of the hotel to accommodate asylum seekers in early April 2025, three arrests have been made by the police in respect of individuals accommodated at the Bell -
- (1) On 5 April 2025, a resident was arrested for two alleged offences of arson said to have been committed at the Phoenix Hotel and at the Bell. He appeared in court on 5 May 2025. He is currently being held on remand awaiting trial at the Crown Court.
- (2) On 8 July 2025, a resident was arrested and charged with three counts of sexual assault, one count of inciting a girl to engage in a sexual activity and one count of harassment without violence. The victims were teenage girls. The offences were alleged to have taken place in a restaurant in Epping town centre. The resident was subsequently tried and convicted of the offences with which he had been charged. On 24 September 2025 he was sentenced to 12 months' imprisonment and made subject to a Sexual Harm Prevention Order for a period of 5 years.
- (3) On 12 August 2025, a resident was arrested for alleged offences of common assault and battery committed against other residents at the Bell between late July and mid-August 2025. On 30 September 2025, he was convicted and sentenced to 16 weeks' imprisonment.
251. In the light of these matters, I accept that there was a reasonable basis for local residents' and the local community's fears and concerns about crime. It appears from the evidence before me that those fears and concerns did not arise in earnest until the allegations against Mr Kebatu became public knowledge in the days immediately following his arrest on 8 July 2025. It does not appear that the arrest in early April 2025 and subsequent charge of an asylum seeker then accommodated at the Bell with offences of arson had been a significant source of public concern before the events of 8 July. Nevertheless, by early August 2025 local residents had become aware that two asylum seekers accommodated at the Bell had been charged with serious offences, including sexual assault against minors; and, shortly thereafter, local residents will have become aware of charges being levelled against a third asylum seeker for offences of violence allegedly committed at the Bell.
252. The second question is whether local residents' fears and concerns may properly be said to be grounded in the use of the Bell as asylum accommodation, rather than the criminal behaviour of those three individuals accommodated there during the period since resumption of that use in early April 2025.
253. That question, in my view, falls to be considered by careful application of the principles and guidance given by the Court of Appeal in *West Midlands* and *Smith's* case. In both cases, the court emphasised the need to distinguish between the actions of particular individuals and actions or behaviour which arise from the use of land itself. Pill LJ spoke of an established pattern of behaviour which related to the character of the use of the land as a bail hostel. Both Pill LJ and Buxton LJ drew an analogy between a bail hostel and a polluting factory, in the sense that the character of such uses was likely to give rise to difficulties for neighbouring occupiers. In the *West Midlands* case, the evidence before the inspector showed a pattern of extensive criminal and anti-social behaviour on the part of bailees accommodated at the bail hostel and associated disturbance, which reflected the character of that use of land.

254. In the present case, the evidence is that three individuals have either committed or been charged with committing criminal offences during the period in which they were accommodated at the Bell. I am far from convinced that the actions of those individuals disclose a pattern of criminal or anti-social behaviour which is characteristic of the use of hotels as contingency accommodation for asylum seekers. Since May 2020, the Bell has been used to provide accommodation for asylum seekers for three substantial periods of time. There is no evidence of criminal or anti-social behaviour associated with the Bell's use for that purpose during the periods of its use between 2020-2021 and 2022-2024. More generally, there is no evidence before the court to show that the use of hotels to provide contingency accommodation for asylum seekers, including those which accommodate single adult males only, gives rise to any established or identifiable patterns of criminal or anti-social behaviour.
255. For these reasons, whilst the fears and concerns of local residents of which Ms Whitbread and Ms Thompson speak in their evidence have a reasonable basis in the actions or alleged actions of the three individuals accommodated at the Bell who have been convicted or charged with criminal offences since April 2025, the planning and environmental harm resulting from that factor should not be overstated. It has not been established that those fears and concerns properly relate to and are grounded in the use of the Bell as contingency accommodation for asylum seekers, rather than being the understandable reaction of local residents to the well-publicised criminal behaviour, actual and alleged, of three individuals who happen to have been accommodated there.
256. In advancing its claim for an injunction, the Claimant relies also upon the community tensions which are said to have resulted from the use of the Bell to accommodate asylum seekers, as reflected in the public protests which began on 11 July 2025 and continued on many days after that date. The protests are said to have had a detrimental effect both on the local community and also on the asylum seekers who are accommodated at the Bell, many of whom are said to be vulnerable or suffering from mental health issues, and on the hotel staff.
257. The Claimant's case in the Court of Appeal was that it was the protests at the Bell and in the town centre during the course of July 2025 which were the "*trigger*" for the decision to apply for an injunction. That is entirely consistent with the sequence of events which followed the start of the protests in mid-July 2025, culminating in the resolution passed by full Council on 24 July 2025 and the Leader's commitment to pursue every political and legal avenue to persuade the Home Secretary bring the use of the Bell as asylum accommodation to an early close.
258. There is no doubt that from mid-July 2025 onwards the continuing use of the Bell to accommodate asylum seekers became increasingly controversial both in the local community in Epping and indeed nationally. That controversy was highly political and attracted very considerable media coverage. There was an urgent desire for a political solution to the worsening pattern of public protest, as is evident in the debate at full Council on 24 July 2025.
259. Although the protests have been marred by violence and disorder on the part of some participants, I see no reason to doubt that many local people who joined the protests did so out of genuine objection to the continuing use of the Bell to accommodate asylum seekers. That being the case, it is helpful to set the protests in the context of the

established principles by which local objections to controversial development are considered through the development control process.

260. Applications for planning permission must be publicised in accordance with the arrangements set out in article 15 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. There are a range of publicity requirements, but generally the public must be given notice of the proposed development by the posting of a site notice, the notification of neighbouring occupiers and in certain cases by publication of a notice in a newspaper circulating in the locality. In all cases, notice of the planning application must be published on the local planning authority's website.
261. In determining the planning application, the local planning authority must take into consideration any representations on the planning application received from neighbouring occupiers and other members of the public, whether they express objection or support for the proposed development. However, it is a long-established principle of development control that the mere fact of opposition or support for the proposed development should not carry significant weight in itself. The focus for the local planning authority will be upon the planning and environmental considerations upon which those objecting to or supporting the proposed development have founded their representations.
262. It is commonplace for the planning officer reporting a planning application to the local planning authority for decision, to identify the planning and environmental considerations raised in representations from neighbours and local residents, rather than place significant weight on the numbers of those voicing objection or support for the proposed development. That approach is consistent with section 70(2) of the 1990 Act, which requires that planning applications be determined having regard to the relevant policies of the development and any other material considerations. In that statutory context, a material consideration is one which serves a planning purpose, and a planning purpose is one which relates to the character of the use of land: see R(Wright) v Forest of Dean District Council [2019] UHSC 53; [2019] 1 WLR 6562 at [36].
263. Widespread objection to controversial forms of development may from time to time lead government to promulgate national planning policy which seeks to influence the determination of planning applications in areas in which those objections are most keenly expressed. National planning policy is a material consideration for the purposes of determining planning applications. A relatively recent example is the tightening some years ago of planning policy on the development of onshore wind farms, which was widely seen to be a policy response to strongly voiced concerns about the impact of wind turbines on local amenity in rural areas of England. In the present case, I was not shown any planning policy at national or local level which seeks to impose controls on the location of accommodation for asylum seekers.
264. Where a planning application gives rise to considerable local controversy, it is sometimes the case that local people who object strongly to the proposed development stage public protests at the council offices or even in the committee room in which the local planning authority's development control committee is considering the planning application. For the reasons I have given, the mere fact of such public protests should not carry weight with the local planning authority in determining the planning application in accordance with section 70(2) of the 1990 Act. If those protesting are

seeking to emphasise the planning and environmental factors arise in relation to the proposed development, the committee members should apply their minds to those factors in any event, in the proper discharge of their duty under section 70(2) of the 1990 Act.

265. The position is no different in the context of the enforcement of planning control. Section 172(1) of the 1990 Act empowers a local planning authority to issue an enforcement notice where it appears to them that it is “*expedient to do so, having regard to the provisions of the development plan and to any other material considerations*”. It is the degree of planning and environmental harm resulting from the development carried out in breach of planning control which should properly carry weight in the decision whether it is expedient to take enforcement action. If having considered the matter, the local planning authority judge that the degree of planning and environmental harm does not justify the issue of an enforcement notice, the fact that the unauthorised development has attracted heavy and vociferous public protest objecting to its continuation ought not to override that planning judgment. In such a case, the proper course may well be to invite the developer to make an application for retrospective planning permission: see the Claimant’s policy in paragraph 3.21 of the Plan.
266. The same principles apply when a local planning authority is considering whether it is necessary or expedient for a breach of planning control to be restrained by injunction. The proper focus of the local planning authority’s inquiry is upon the degree of planning and environmental harm resulting from the unauthorised development. If the local planning authority judge that the degree of such harm is not so serious as to require urgent remediation, the fact that the use of land under consideration has and continues to attract strong public opposition and protest should not override that planning judgment.
267. It is necessary to keep in mind that at this stage in the analysis, the court is seeking to form a broad understanding of the degree of environmental damage caused by the postulated breach of planning control and the degree of urgency, if any, of bringing the allegedly unauthorised use to an end. In this case, until 11 July 2025, the Bell had been used as asylum accommodation for substantial periods of time since May 2020 without any evidence of public protest at the site or elsewhere in Epping against its use for that purpose. The Bell had been so used to accommodate single male asylum seekers since early April 2025, again without any evidence of public protest at or near the site.
268. Although increasing public awareness of the arrest and charging of Mr Kebatu on 8 July 2025 resulted a few days later in the beginning of street protests, which subsequently escalated, arrangements for use of the Bell as contingency accommodation for asylum seekers remained essentially unchanged. The sole change in the arrangements which had been in place since early April 2025 was the installation of the security fence, on the advice of the police. That was a response to the street protests which were showing signs of violence and disorder, rather than an integral part of the day to day arrangements for use of the Bell as contingency accommodation. During the previous periods of use between 2020 to 2024, and following resumption of use in early 2025, no security fencing was installed and continuous monitoring by the police was not considered to be necessary.
269. The Claimant argues that the public protests are indicative of community tensions which have been generated by the use of the Bell to accommodate asylum seekers. In

my view, that is essentially to acknowledge and to assert that the provision of accommodation for asylum seekers is a politically controversial and sensitive use of land. That is no doubt true, but for the reasons I have given, it does not necessarily establish that the use of land for that purpose is harmful in its planning or environmental effects. As the Court of Appeal indicated at [118] of their judgment, if the mere fact of protests is treated as material planning and environmental harm, this runs the risk of incentivising further protests, some of which may be disorderly, around asylum accommodation. Conversely, if the disruption and tensions arising from street protests directed at the continuing use of the Bell for that purpose are to be regarded as a planning or environment impact of that use, then the degree of that impact cannot be assessed without taking proper account of the means whereby that disruption and those tensions are amenable to management and control. As the Court of Appeal observed in [116] of their judgment, the fact of street protests outside a building is not an obvious matter which falls within planning control.

270. The system of planning control enacted by the 1990 Act is concerned primarily with the regulation of the development of land in England and Wales. It is not the purpose of the 1990 Act to regulate street protests on the public highway or in other public places. Nor is it the purpose of the 1990 Act to control and enforce public order. The police have extensive powers under public order legislation to enforce against unlawful street protests and appropriately control lawful street protests: see section 14 of the Public Order Act 1986, to which reference was made by the Court of Appeal at [119] of its judgment. As I have already noted in stating the factual background to this claim, Essex Police have exercised those powers in relation to the street protests both outside the Bell and elsewhere in Epping town centre. Moreover, the police have enforced the criminal law against violent and disorderly protestors, three of whom have now been convicted of serious public order offences and sentenced to terms of imprisonment.

Countervailing factors

271. In order to arrive at an overall judgment as to whether it is appropriate to grant an injunction to restrain a breach of planning control pursuant to section 187B of the 1990 Act, it is necessary to identify any countervailing rights or other factors may need to be evaluated in order to decide whether injunctive relief is a commensurate remedy.
272. Earlier in this judgment, I have set out in some detail the circumstances in which the use of the Bell as contingency accommodation for asylum seekers resumed in early April 2025. It is the Home Secretary's case that there continues to be a need to source contingency accommodation for asylum seekers at short notice; and that hotels procured under contract through the Home Office's service providers, including CTM, continue to be a vital source of supply to meet that need.
273. Ms Jones, the Director of Asylum Support in the Home Office, gave evidence on the origin and scale of the need for such contingency accommodation. The key points of her evidence were as follows –
- (1) The Home Secretary has a statutory responsibility to provide accommodation and other support to asylum seekers who would otherwise be destitute. Support for destitute asylum seekers is provided under s.95 of the 1999 Act. Temporary support can be provided under s.98 of the 1999 Act while a decision is made on whether a person qualifies for support under s.95. Support is generally available until a

person's asylum claim, and any appeal, is finally determined. If the claim is rejected and any appeal dismissed and the individual has dependent children in their household, section 95 support continues to be available until the individual leaves the UK or their youngest child leaves the UK.

- (2) Asylum accommodation is intended for those who would otherwise be destitute and have no other viable accommodation open to them, for example through friends or family. Section 97 of the 1999 Act provides that, in exercising the power to provide accommodation for those on section 95 support, the Home Secretary must have regard to the desirability, in general, of providing accommodation in areas in which there is a ready supply. Accommodation is provided in all areas of the UK where there is a supply of accommodation available and ready to use. The overriding principle when allocating asylum accommodation is that it is offered on a 'no choice basis'. It is only in exceptional circumstances that it would be appropriate for the Home Secretary to agree to a request from an asylum seeker for accommodation to be allocated in a specific location.
- (3) Since 2019, all asylum accommodation has been procured and provided by the Home Secretary through arrangements with four third party service providers under contracts for accommodation and transport. They include CTM and CRHL.
- (4) Before the COVID-19 pandemic, asylum seekers with emergency accommodation needs could expect to be placed in one of eight "Initial Accommodation (IA)" sites across the UK pursuant to the powers under s.98 of the 1999 Act while their eligibility for section 95 support was being assessed. Initial accommodation generally takes the form of a full board multi-person hostel or accommodation retained by the Home Office for the long term (known as 'Core IA') where food, toiletries and other assistance is provided on site. Core IA is a small part of the overall asylum accommodation system (often referred to as the asylum accommodation estate) and has a fixed capacity. Individuals would normally remain accommodated in Core IA for only a few weeks whilst their section 95 support application was assessed. The grant of section 95 support then acted as the 'trigger' for the Home Secretary to issue an instruction to her accommodation providers to source and put forward a proposal for suitable longer term "Dispersal Accommodation" ('DA') for an individual, which was (and still is) usually in the form of self-catered flats or houses and which, again, is retained for such use by the Home Office in the long term. Once an individual was granted section 95 support, they could expect to be moved from Core IA to DA fairly quickly, typically within around 35 days of first being accommodated.
- (5) DA was (and is) intended to be a more dynamic and elastic capacity within the system. Accommodation providers generally source and secure new DA on an exclusive use basis from the available property market in line with demand. Given the potential vulnerabilities of many asylum seekers, all forms of asylum accommodation are secured on an exclusive use basis and premises are not shared with non-asylum seekers.
- (6) It was and remains the case that, once the asylum claims of those in DA are resolved, their eligibility for section 95 support comes to an end and they leave the asylum accommodation estate, thereby freeing up spaces for other asylum seekers to move from Core IA to DA. Overall, this process was intended to ensure the limited and

fixed capacity within the Core IA estate maintained sufficient ‘turnover’ (i.e., in terms of asylum seekers leaving to move to DA accommodation) to ensure bedspace was always available for new asylum seekers entering the system. In turn, the DA estate, whilst more flexible (not least because dispersal properties are, by their nature, procured across the UK), was (and still is) similarly reliant on ‘turnover’.

- (7) During and since the COVID-19 pandemic, demand for asylum support and accommodation has risen significantly. A range of factors have contributed to an exceptional level of growth in overall demand for asylum support accommodation. In particular:

(a) During the first COVID-19 lockdown in March 2020, the then Home Secretary temporarily suspended her policy of requiring those who had received a final determination of their asylum claim or appeal to leave their asylum support accommodation. This had the effect of suspending all ‘turnover’ within DA accommodation.

(b) The accommodation policy resumed in August 2020, and it was hoped that pressure on the system would abate, and there could be a return to the system as it operated pre-pandemic. However, the previous level of ‘turnover’ within DA accommodation was not achievable due to the ‘backlog’ of those waiting in Core IA accommodation and also because the accommodation providers had to continue to work within a complex landscape of national and local COVID-19 lockdown restrictions which limited the movement of people.

(c) The difficulties caused by the COVID-19 pandemic coincided with the emergence of increased numbers of migrants arriving in the UK by small boats crossing from France. Whilst those arriving by small boat are not the only source of intake to the asylum accommodation system, the nature of small boat arrivals has contributed significantly to the volatility and unpredictability of accommodation demand, for example because numbers of those crossing increase and decrease depending on weather conditions in the Channel. Extreme peaks in the numbers of people arriving by small boat created immediate pressure on short-term processing centres such as Manston, Kent, but also contributed significantly to extreme and urgent demand for asylum accommodation (both Core IA and DA). Significantly, almost all of those arriving by small boat subsequently submit an asylum claim with a higher than usual proportion (relative to the general asylum-seeking population) also accessing asylum support.

(d) Even when daily small boat arrivals have temporarily subsided during seasons and periods of bad weather, pressure and demand for asylum accommodation continues to grow from other source of intake and modes of arrival.

(e) During this same period, the Home Secretary has also dealt with unprecedented new demand for accommodation from other refugee and migrant cohorts, such as those under the Afghanistan and Ukraine relocation schemes.

- (8) Collectively, these factors have resulted in a significant increase in the demand for asylum accommodation. Prior to the COVID-19 pandemic, the numbers of those requiring asylum support and accommodation had been increasing modestly at an average rate of approximately 4,000 per year since the previous low point of

approximately 25,000 in 2011. However, since 2020, the rate of growth has increased significantly. The level of growth has significantly exceeded the fixed capacity of Core IA and the available timely supply of DA (i.e., as it was provided before the COVID-19 pandemic). As a result, the Home Office has needed to seek to mitigate the emergency through use of short-term contingency accommodation sourced by the accommodation providers to fulfil the Home Secretary's statutory duties, whilst necessary longer-term accommodation is secured. Contingency accommodation is usually secured in the form of full-board hotels because that is the most readily available form of full-board accommodation.

- (9) Because of its nature as short-term accommodation to address peaks in demand while longer term DA accommodation is secured, contingency accommodation tends to be procured on an urgent basis, which can limit the options of accommodation available. In contrast, Core IA and DA are procured by the accommodation providers within longer time frames, which allows for greater engagement with local authorities and enables the Home Secretary to be more selective about where accommodation is procured (geographic location as one example).
- (10) The rise in numbers of destitute asylum seekers arriving in the UK has resulted in increasing reliance on contingency accommodation, including use of hotels, to provide temporary accommodation for asylum seekers to fulfil the Home Secretary's statutory duties in circumstances of urgency. As of the end of June 2025, the Home Office's published statistics show that there were over 106,000 individuals in receipt of asylum support, 102,866 of whom were in receipt of both accommodation and cash support. Of those 102,866 individuals, 66,234 were housed in DA; 34,377 were housed in either Core IA or contingency accommodation, with the remaining 3,209 requiring subsistence-only support. The current number in DA is the highest ever level on record. Of those in contingency accommodation, 32,059 were accommodated in hotels.
- (11) More recent Home Office data shows that since the end of June 2025 the total number of individuals in asylum accommodation has increased over the summer months in line with predicated seasonal intake patterns (e.g., increased small boats arrivals during period of good weather). As of the beginning of September 2025, over 112,000 individuals were in receipt of accommodation support, of which over 35,000 were accommodated in contingency accommodation in hotels.
- (12) Although initially procured by service providers as a short-term measure to deal with an exceptional increase in demand for accommodation during the pandemic, the pace and volatility at which the number of individuals requiring accommodation support has grown has meant it has become "*critical and necessary*" for the Home Secretary to source safe and suitable contingency accommodation sites at increasing scale, and short notice, in recent years. Despite the scale of use, contingency accommodation remains a temporary accommodation solution. As other forms of accommodation are secured, the number of people and the number of contingency sites will be, and have continued to be, reduced. In September 2023 there were a total of over 400 hotels in use as contingency accommodation for asylum seekers. As at late September 2025, under 200 hotels remained in use for that purpose.

274. The Bell is one of those hotels.
275. Ms Jones' evidence was not challenged by the Claimant. It substantiates the need for the Home Secretary's service providers, including CTM, to source and procure a substantial and continuing supply of contingency accommodation to enable the Home Secretary to discharge her statutory duties under sections 95 and 98 of the 1999 Act, to provide appropriate support, including accommodation, to asylum seekers pending the determination of their claims. The Claimant has been well aware since late February 2025 that the Bell has been identified as a suitable site at which to provide such accommodation. Officials from the Home Office, CTM, Essex County Council, the Claimant, local NHS providers, Essex Police and other relevant agencies have been involved in the process of bringing forward the Bell for use for that purpose since that date.
276. In her evidence, the Legal Services Manager told me that in considering her delegated decision to apply for an injunction, she realised that its grant would have an impact on those asylum seekers accommodated at the Bell, but as the Home Office had told the Claimant that once in use as contingency accommodation it could be decommissioned usually in four weeks "*and given that the Home Office had access to a wide estate (including Crown land, such as disused military bases) and the Home Office was not advising the Council that that estate could not absorb those placed in the Bell Hotel*", the preponderance of factors pointing to rapid enforcement was overwhelming.
277. I find that evidence problematic. The Claimant had not notified the Home Office that as local planning authority it was considering taking enforcement action against the use of the Bell as asylum accommodation. Still less had the Claimant notified the Home Office that it was considering applying for an injunction to restrain the use of the Bell for that purpose under section 187B of the 1990 Act. The Claimant was in no position to make an informed judgement as to the practical challenge for the Home Secretary in finding alternative contingency accommodation for those asylum seekers currently accommodated at the Bell. In my view, it was unreasonable for the Claimant simply to assume that the Home Secretary would be able to absorb those displaced asylum seekers somewhere within Crown land or on a disused military base. It was frankly disingenuous to say that the Home Office "*was not advising the Council that the estate could not absorb*" those currently accommodated at the Bell. The Claimant had not raised that question with the Home Office. It is pertinent to note that I asked the Legal Services Manager to point me to any representations from the Defendant or the Home Office which were taken into consideration in the decision to apply for the injunction. None was drawn to my attention.
278. Mr Coppel KC submitted that the burden fell squarely on the Home Secretary to produce evidence to show that she was not able to accommodate those asylum seekers who would be displaced from the Bell, were the injunction to be granted, in suitable alternative accommodation. I do not accept that submission. Had the Claimant taken the trouble to notify the Home Office in early August 2025 that enforcement action in the form of an application under section 187B of the 1990 Act was now under serious consideration, as the Claimant ought reasonably to have done, it is highly likely that information substantially similar to that stated by Ms Jones in her evidence would have been drawn to the Claimant's attention. I should have expected the Claimant, acting reasonably, to take that information into account in deciding whether enforcement

action in the form of an application for an injunction was either necessary or appropriate.

279. In any event, I give little weight to the assertion that the Home Secretary has access to a ready supply of suitable alternative accommodation to which those currently accommodated at the Bell may readily be transferred. The difficulties experienced by the government in bringing accommodation on former military bases into use as accommodation for asylum seekers are well known. The Home Secretary's current published "Allocation of asylum accommodation policy" (Version 13 – June 2025) promulgates "suitability criteria" which reflect her judgment that not all single adult male asylum seekers are suitable to be accommodated at such sites. The Claimant made the application for an injunction without having taken any steps to inform itself as local planning authority of the scale of need for hotel accommodation, including the Bell, to be retained in use for the purposes of meeting the Home Secretary's statutory duties under the 1999 Act. To the extent to which I now have information on that obviously relevant factor in the light of Ms Jones' evidence, it clearly points to a continuing need to rely on hotels at least in the short to medium term as an important source of supply of contingency accommodation. I bear in mind that the current contractual arrangements between CTM and the Defendant provide for the use of the Bell as contingency accommodation to cease no later than the beginning of April 2026.
280. Nor do I accept the Claimant's criticisms of the consultative process which the Home Office initiated in February 2025 with a view to bringing the Bell back into use as contingency accommodation for asylum seekers. The contemporary documents show that process to have been open and proactive, and responsive to the operational concerns raised by consultees.
281. The continuing need to source contingency accommodation for asylum seekers from hotels, to enable the Home Secretary to discharge her statutory responsibilities under the 1999 Act is substantiated by the evidence of Ms Jones. It is a countervailing consideration of significant weight in determining whether it is appropriate to grant the Claimant's application for an injunction.
282. Another countervailing factor which carries some weight is the possible impact on the Defendant. Mr Salmon's evidence was that the contract with CTM currently provides the Defendant with a secure source of income from the use of the hotel which will assist in funding the investment needed in order to bring it back up to "*the required standard for a branded hotel likely to attract guests*". Because the Claimant as local planning authority did not notify the Defendant of their intention to take enforcement action in early August 2025, they deprived themselves of the opportunity to be informed of the financial impact which enforced early cessation of the use of the Bell as contingency accommodation may have on the hotel owner and operator. The significance of the income stream from use of the Bell as asylum accommodation to the longer-term performance of the Bell as a hotel had been clearly made in the Defendant's covering letter in support of its application for temporary planning permission in February 2023.

Striking the balance – is an injunction a commensurate remedy?

283. This is not a case in which conventional enforcement measures taken by the local planning authority over a lengthy period of time have failed to secure the effective remediation of a clear breach of planning control, which has resulted in and continues

to cause serious and irreparable planning and environmental harm. I have accepted that at the time of the delegated decision to bring these proceedings in early August 2025, the Claimant as local planning authority had at least a reasonable basis for alleging and asserting that the current use of the Bell as contingency accommodation for asylum seekers is in breach of planning control. However, the Claimant was well aware from earlier engagement between its planning officers and the Defendant that there was a clear and unresolved dispute as to whether the use of the Bell for that purpose was in breach of planning control. The Claimant had been aware of the use of the Bell to provide accommodation for asylum seekers for a period of 18 months between October 2022 and April 2024. It did not take enforcement action. The Claimant was aware of the resumption of use of the Bell for that purpose in early April 2025. It did not take enforcement action at the time. Nor did it take such action on being informed on 15 May 2025 that the Defendant would not be making an application for retrospective planning permission. I have reached the firm conclusion that this is not a case in which the breach of planning control postulated by the Claimant is a flagrant one.

284. I have real concerns as to the propriety of the local planning authority's decision-making process. In particular, there was a clear breach of the procedural requirements of the Claimant's Scheme of Delegation in failing to prepare a contemporary record of the delegated decision to apply for an injunction. In consequence, there is a real uncertainty as to the matters which the decision maker took into account in reaching that decision. It appears that the decision maker did not consult directly with the Claimant's planning officers. There was no attempt made to engage with either the Defendant or the Home Office in relation to the proposed enforcement action. There is nothing to indicate that the decision maker took into account the Claimant's Local Plan, the Claimant's enforcement policy in the Plan or national policy on taking enforcement action in the PPG. There are significant countervailing factors in this case which needed to be weighed in the balance in deciding whether enforcement action was expedient; and if so, what form that enforcement action should take. The Defendant is seriously prejudiced by the lack of a contemporary record of the Claimant's reasons for its decisions on those questions.
285. Having considered the contemporary evidence, I have concluded that the delegated decision in early August 2025 to apply for an injunction was founded upon a proper planning consideration, the Claimant's judgment being that the amenity of the local area was being harmed by local residents' and the local community's fear of crime and of criminal activity associated with the use of the Bell as accommodation for asylum seekers. In order to form a broad view of the degree of planning and environmental harm which results from the breach of planning control on which the Claimant founds its claim, I have considered the range of factors which, on the evidence before me, are said to justify the grant of an injunction as a commensurate remedy in this case.
286. In the light of that consideration, I have concluded that the presence of security fencing along the prominent road frontage of the Bell results in harm to the visual qualities of the Green Belt and to the character and appearance of the conservation area. The degree of that harm is limited by the fact that it is localised and very likely to be temporary in its duration, with the fencing likely to be removed no later than by April 2026, when the Defendant's current contract with CTM comes to an end. Moreover, the fencing was installed in response to street protests, rather than being an integral requirement of the use of the Bell as contingency accommodation for asylum seekers.

287. I accept that the Claimant had advanced a reasonable argument that the current use of the Bell does not accord with policy E4 of the Local Plan, which seeks to retain existing visitor accommodation. However, the degree of harm resulting from that can be argued to be limited both by the temporary nature of the current use of the Bell and by virtue of the economic advantage to the Defendant of that current use, which is expected to assist in bringing the hotel back into conventional use in the longer term.
288. I have heard no evidence to support the concern that the current use of the Bell is placing local GP, health, social and community services under undue pressure, to the detriment of the settled population of Epping. There is no evidential basis at all for the assertion that asylum seekers as a cohort have a greater propensity than the settled population to engage in criminal or anti-social behaviour.
289. I have carefully considered the degree of planning and environmental harm which may reasonably be said to result from the actions or alleged actions of the three individuals accommodated at the Bell who have been convicted or charged with criminal offences since April 2025. I have done so in accordance with the authoritative guidance given by the Court of Appeal in *West Midlands*. I accept that, in the light of those actions or alleged actions, the fears and concerns of local residents of which I have been made aware in evidence have a reasonable basis. However, the resulting degree of planning and environmental harm is limited, in my view. It has not been established that those fears and concerns are grounded in the use of the Bell as contingency accommodation for asylum seekers. They are properly to be regarded as the understandable reaction of local residents to the well-publicised criminal behaviour, actual and alleged, of three individuals who happen to have been accommodated there.
290. The Claimant's desire to find a swift resolution to the disruption to public order and the community tensions which followed the outbreak of street protests on 11 July 2025 was reasonable. It does not however follow that the solution lay in an application for an injunction under section 187B of the 1990 Act. Public opposition to the development of land, even if that opposition manifests itself in street protests, is not in itself evidence of planning of environmental harm generated by the development to which there is such strong objection. The police have a panoply of powers to manage and regulate street protests and to enforce public order. Essex Police have resorted to those powers in this case. I have not heard evidence which indicates that the action taken by the police has been ineffective.
291. There are countervailing factors in this case which are properly to be weighed in the balance against the planning and environment harm which may reasonably be said to result from the postulated breach of planning control. In particular, the evidence before me clearly establishes that there is a continuing need to source contingency accommodation for asylum seekers from hotels, to enable the Home Secretary to discharge her statutory responsibilities under the 1999 Act. That consideration carries significant weight.
292. In closing submissions, Mr Coppel KC submitted that the Claimant was under a duty to enforce the planning regime, relying on a passage in the judgment of Purchas LJ in Runnymede Borough Council v Ball [1986] 1 WLR 353, 363D-E. The issue in that case was whether the local authority was entitled to invoke the powers conferred by section 222 of the Local Government Act 1972 for the purpose of seeking an injunction to restrain the unauthorised use of land for the stationing of caravans for residential

purposes. Enforcement notices had been issued and come into effect requiring those activities to cease. Those notices had been contravened. The question was whether the judge had been wrong to decline to grant an injunction on the basis the local authority had yet to prosecute the landowners for the offence of contravening the enforcement notices. Purchas LJ spoke of a *“duty on the council under the planning legislation... to do all within their power to ensure through properly observed planning control the natural amenities of their area”*.

293. I read Purchas LJ’s observation as no more than an acknowledgment of the undoubted public interest in the proper regulation of the development and use of land, in accordance with the comprehensive code now found in part 3 of the 1990 Act. That public interest extends also to the effective and timely exercise of enforcement powers under part 7 of the 1990 Act, to ensure that development is properly controlled and unlawful uses of land and buildings which give rise to planning and environmental harm are dealt with effectively.
294. There is, however, no duty as such placed upon a local planning authority to enforce against unauthorised development simply because it is considered to be in breach of planning control. An informed planning judgment is required of the local planning authority as to whether enforcement action is appropriate; and, if so, as to whether the harm caused by the unauthorised development is of such a degree as to merit restraint by injunction. Proper and effective planning control is not undermined by the normal enforcement regime, which permits a person served with an enforcement notice to appeal against that notice and, unless a stop notice is served, to continue with the alleged breach of planning control at least until that appeal has been determined by the Secretary of State.

My conclusion

295. I have reached the clear conclusion that this is not a case in which it is just and convenient for this court to grant an injunction. I give due respect to the Claimant’s judgment that the current use of the Bell as contingency accommodation for asylum seekers constitutes a material change in the use of those premises which requires planning permission. Nevertheless, I have not been persuaded that an injunction is a commensurate response to that postulated breach of planning control. The breach is far from being flagrant. Conventional methods of enforcement have not been taken. Taking a broad view, the degree of planning and environmental harm resulting from the current use of the Bell is limited. The continuing need for hotels as an important element of the supply of contingency accommodation to house asylum seekers in order to enable the Home Secretary to discharge her statutory responsibilities is a significant counterbalancing factor. This is decidedly not a case in which there is an abuse of planning control resulting in serious planning or environmental harm which now demands an urgent remedy. In my judgment, it is not appropriate to grant an injunction on the Claimant’s application for the purpose of restraining the use of the Bell as contingency accommodation for asylum seekers.
296. My conclusion is limited to the determination of the Claimant’s application for an injunction pursuant to section 187B of the 1990 Act. It remains open to the Claimant as local planning authority to consider the expediency of taking enforcement action by issuing an enforcement notice. It is also open to the Defendant to reconsider whether it would be appropriate to apply for retrospective planning permission; or to apply to the

Claimant for a certificate of lawfulness of the existing use of the Bell pursuant to section 191 of the 1990 Act. Each of those possible courses of action would enable the planning issues raised by this case to be evaluated by the local planning authority, through the transparent and consultative decision-making processes with public participation which apply under the 1990 Act and its attendant regulations.

Declaratory relief

297. In the light of my conclusions on the Claimant's application for an injunction, I turn finally to the application for declaratory relief. The declaration sought is that the current use of the Bell does not amount to use as a hotel within the meaning of Use Class C1. In submissions, the Claimant advanced the following case for the grant of declaratory relief –

“Regardless of whether this Court grants a final injunction or not (e.g. because it concludes that, despite a breach of planning control, in the exercise of its discretion it would not in all the circumstances be proportionate and just to do so), if the Court considers that it will serve a useful purpose, it should make a declaration on the antecedent requirements (i.e. is the current use of the Bell Hotel ‘use as a hotel’? If ‘no’, does this represent a material change in the use of the Bell Hotel? Did [the Claimant] properly conclude that it was necessary and expedient for the breach of planning control to be restrained by an injunction?)”.

298. I accept that this court is well equipped to decide a question of fact and degree. There is, however, the different and logically prior question as to whether the court ought to do so. That question turns on the legislative context in which it arises. In *South Bucks* at [30] Lord Bingham said that an application by a local planning authority under section 187B of the 1990 Act is not an invitation to the court to exercise functions allocated elsewhere under the comprehensive code of the 1990 Act. The statutory procedures under sections 191 and 195 of the 1990 provide for the local planning authority, or on appeal the Secretary of State, to determine conclusively whether an existing use of land is lawful because it does not involve development. An appeal against the issue of an enforcement notice alleging the making of a material change in the use of land provides a statutory procedure under which the question whether the matters stated in the enforcement notice constitute a breach of planning control may be determined. The Secretary of State's (or their appointed inspector's) decision on those matters is in each case final. The role of this court is limited to hearing a challenge to the validity of that decision.
299. Given the allocation of those functions to local planning authorities and the availability of statutory appeals against their decisions on those questions, it will rarely be appropriate for this court to seek to resolve them beforehand through the grant of declaratory relief. In the present case, I consider that there is at least a real possibility that the Claimant and the Secretary of State on an appeal may be called upon, in the context of those statutory procedures, to determine the ongoing dispute as to whether the current use of the Bell constitutes development requiring planning permission. I have found it to be neither necessary nor appropriate to reach my own conclusions on those questions for the purpose of determining the Claimant's application for an injunction. Instead, I have ultimately deferred to the Claimant's judgment as local planning authority in alleging and asserting a breach of planning control. I have already addressed the propriety of the Claimant's conclusion that it was necessary or expedient

for that alleged and asserted breach of planning control to be restrained by an injunction, following the guidance given by Lord Bingham at [27] in *South Bucks*.

300. For those reasons, I decline to grant the declaratory relief sought by the Claimant.

Disposal

301. This claim is dismissed. I shall hear counsel on any consequential matters which may arise from my decision.