



Court of Appeal – Summary

Judgment date: 13 March 2026

Epping Forest District Council v Somani Hotels Ltd, Secretary of State for the Home Department, and Clearsprings Ready Homes Ltd

**Lady Justice Andrews and Lord Justice Holgate
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[2026] EWCA Civ

References in square brackets are to paragraphs in the judgment.

Background to the Appeal

Epping Forest District Council (“EFDC”) is a local planning authority under the Town and Country Planning Act 1990 (“TCPA 1990”). The Bell Hotel in Bell Common, Epping, is owned by Somani Hotels Limited (“Somani”) [1]-[3]. The Secretary of State for the Home Department (“SSHD”) has statutory duties to provide accommodation for asylum seekers who are, or are likely to become, destitute. Clearsprings Ready Homes Limited (“CRHL”) is one of the SSHD’s service providers [4]-[5].

The Bell Hotel has been used to accommodate asylum seekers under Home Office contracts during three separate periods since 2020, most recently following a March 2025 agreement [6]. EFDC maintains that this use amounted to a material change of use from the property’s lawful planning use as a hotel and was therefore “development” requiring planning permission. Because no such permission had been granted there was a breach of planning control [7]. Instead of issuing an enforcement notice against that breach, EFDC applied to the High Court for an injunction under s.187B TCPA 1990 to prevent the continued use of the Bell Hotel to accommodate asylum seekers [8]-[10].

A *temporary* injunction was granted by Eyre J on 19 August 2025, which was discharged by the Court of Appeal on 1 September 2025. That court also ordered the SSHD be to be joined as a party [11]-[15]. Following a three-day trial in October 2025, Mould J dismissed EFDC’s claim for a *permanent* injunction, refused a declaration, made costs orders in favour of Somani and the SSHD, and refused permission to appeal. EFDC now seeks permission to appeal to the Court of Appeal against those orders [16]-[17].

It is not the court’s role to be concerned with the merits of Government policy on the provision of accommodation for asylum seekers, in hotels or elsewhere. Such matters are for Ministers and Parliament, not the Court, even if they give rise to public concern, controversy or protest. The court is only concerned with the legal issues raised by EFDC as to whether the judge’s decision is open to criticism on one or more of the grounds of appeal [22].

The Legislation

Under ss. 55, 57 and 171A of the TCPA 1990, “development” includes any material change in the use of land and requires planning permission [7]. Section 187B enables a local planning authority to apply to the court for an injunction to restrain a breach of planning control, whether or not it has taken other enforcement action. The High Court may grant such injunction as it considers to be appropriate [8].

The Judgment of Mould J and the Submissions of the Parties

The Court of Appeal’s judgment summarises the reasoning of Mould J [23]-[49], including his treatment of the statutory framework, his assessment of the factual background, and his findings on EFDC’s decision-making process and the evidence before the court. The judge assumed in EFDC’s favour that the current use of the Bell Hotel involved a material change of use [38] but concluded that the degree of planning and environmental harm arising from the breach was limited [44]. He held that an injunction under s.187B TCPA 1990 was not a commensurate remedy, bearing in mind also the public interest in the Home Office’s need for asylum-seeker accommodation, the absence of any flagrant breach, and EFDC’s failure to pursue conventional enforcement action [41]-[43].

The parties’ submissions are summarised at [18]-[22]. EFDC advanced four grounds of appeal:

1. the judge’s treatment of the question of breach of planning control,
2. the judge’s exercise of discretion on the injunction,
3. the order that EFDC pay the SSHD’s costs, and
4. the order requiring EFDC to pay Somani £95,000 on account of costs.

Somani, the SSHD and CRHL opposed those grounds.

The Court of Appeal’s Decision

The Court of Appeal refuses EFDC’s application for permission to appeal [109] and concludes that each of the grounds is unarguable:

1. **Ground 1 (material change of use / breach of planning control)** The judge was entitled to assume a breach in EFDC’s favour without determining it. He correctly applied the legislation and principles in the case law [50]-[56].
2. **Ground 2 (errors in the judge’s exercise of discretion on the injunction).** The judge correctly evaluated EFDC’s decision-making, the lack of any flagrant breach, the limited planning and environmental harm, and the public interest in the use of the hotel to meet the continuing need for asylum-seeker accommodation [57]-[77].
3. **Ground 3 (costs order in favour of the SSHD)** The judge was entitled to decide that the SSHD had a separate and legitimate interest requiring representation, and to award her costs [78]-[92].
4. **Ground 4 (payment on account of Somani’s costs)** There was no procedural unfairness and no error of law in the judge’s order for a payment on account [93]-[99].

The EFDC has shown no other compelling reason for the appeal to be heard [100]-[108].

The Court of Appeal's reasons

(1) Whether the judge failed to determine a breach of planning control

The judge did not “*duck the issue*” of whether the use of the Bell Hotel was a breach of planning control [50]. Despite failings in EFDC’s decision-making that there was a breach, the judge nevertheless assumed in the Council’s favour that there was a reasonable basis for alleging a breach and to apply for an injunction.

The court rejected EFDC’s argument that the judge was obliged to reach a formal conclusion on breach to be able to decide whether to grant a declaration. A declaration would only be appropriate if it served a “*useful purpose*”, and none had been identified [52]. EFDC argued that a determination would make it unnecessary for this issue to be revisited in any future enforcement appeal. This is misconceived. EFDC had long been able to use ordinary enforcement powers, and any delay or duplication has arisen from EFDC’s own procedural choices [53]–[54]. In the present case, where there were serious concerns about the process followed by EFDC and an injunction was not justified, a declaration by the court would usurp the functions of planning inspectors who can determine on an appeal both breach and whether planning permission should be granted [54].

(2) Whether the judge misdirected himself in refusing an injunction

Ground 2 contained multiple complaints about the judge’s exercise of discretion under s.187B, and the Court of Appeal deals with each in turn. It rejects EFDC’s submission that the judge misunderstood its internal decision-making or the evidence given by its witnesses [57]–[59].

The Court also rejects EFDC’s argument that the judge wrongly relied on the SSHD’s statutory duties as a “non-planning” consideration. It confirms that the need to provide accommodation for destitute asylum seekers is capable of being a relevant planning consideration and that the judge was entitled to give significant weight to that factor in the overall balance [60]–[62].

EFDC’s complaint that the judge failed to take adequate account of community tensions and protest activity is also rejected. The judge had analysed these issues carefully in the light of the Court’s judgment on the appeal against the temporary injunction. On the evidence these were not matters that could properly justify the grant of a permanent injunction [63]–[64].

Further challenges – including those concerning Somani’s alleged inconsistency on whether it required planning permission, the treatment of public fears about crime, the rating history of the hotel and the communications between the parties – are each rejected as attempts to re-argue factual matters that were squarely for the judge’s evaluative judgment. The Court holds that there was no misdirection of law or misunderstanding of evidence [65]–[75].

Finally, the Court rejects EFDC’s contention that the judge misapplied principles in the *South Bucks* case. It confirms that he reached conclusions that were properly open to him [76]–[77].

(3) Costs order in favour of the Secretary of State

The Court of Appeal rejects EFDC’s challenge to the judge’s decision to award SSHD her costs. The judge applied the established principles which allow more than one set of costs to be recovered where a party has a distinct interest requiring separate representation [78]–[82].

The SSHD had such an interest: the injunction sought would have directly affected her statutory duties; she was best placed to provide the evidence necessary to explain that impact [83]–[87]. The Court rejects EFDC’s argument that the SSHD merely duplicated Somani’s position. [88]–[92].

(4) Payment on account of Somani’s costs

The Court of Appeal rejects EFDC’s submission that the judge acted unfairly or erred in law when ordering a £95,000 payment on account of Somani’s costs. EFDC had had the opportunity to respond to Somani’s costs schedule, and that if it had needed extra time, it could have asked for this [93]–[96].

The Court also dismisses EFDC’s argument that the inclusion of VAT or earlier costs within the schedule made the order improper. It confirms that any disputes about the recoverability of particular items can be resolved at the stage of detailed assessment [97]–[99]

Other compelling reasons

The Court of Appeal concludes that EFDC has not identified any “*other compelling reason*” for the appeal to be heard [100].

The Court further states that none of the grounds in the present case raises any point of legal principle or guidance that would warrant consideration by the Court of Appeal, whether in relation to s.187B injunctions or to the distinction between hotel and hostel use [104]–[108].

NOTE:

This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:

<https://www.judiciary.uk/judgments/>

<https://caselaw.nationalarchives.gov.uk/>