Neutral Citation Number: [2007] EWHC 522 (QB)

Case No: HQ03X01149

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15th March 2007

Before:

THE HON MR. JUSTICE HOLLAND

- -

Between:

(1) HUNTINGDON LIFE SCIENCES GROUP PLC
HUNTINGDON LIFE SCIENCES LIMITED
- and -
(2) BRIAN CASS
(As representative of the Employees of the First Claimants) **Claimants**

-and-
STOP HUNTINGDON ANIMAL CRUELTY (SHAC) (An unincorporated association by its representative Dr. Max Gastone) **Defendants**

- -
- -

Robert Anderson QC and T. Lawson-Cruttenden (instructed by **Lawson-Cruttenden & Co**) for the Claimants
Dr. Max Gastone as lay advocate for the Defendants

Hearing dates: **5th, 6th, 7th, 8th, 9th and 15th March 2007**

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Judgment

Mr. Justice Holland:

Introduction

1. The First Claimants ("HLS") conduct research for the pharmaceutical, medical and allied industries. They do so in a substantial way (there are some 1,100 employees) at two large establishments, the principal one being situate near Alconbury in Cambridgeshire, the secondary one being situate near Occold in Suffolk. Crucially, for present purposes, such research involves experimentation on live animals subject to the provisions of the Animal (Scientific Procedures) Act 1986 and inspections by Home Office Inspectors.

2. The Second Claimant is the managing Director of the First Claimants. He sues as representative for their employees in reliance upon the provisions of CPR 19.6, it being self evident that he and they have the same interest in the claim. I shall give more attention to CPR 19.6 at the later stages of this judgment.

3. The present Defendants, an unincorporated association known as Stop Huntingdon Animal Cruelty ("SHAC") were originally the first of ultimately thirteen Defendants to this claim. During the four years since its inception the remaining twelve Defendants have for one reason or another ceased to participate as litigants, leaving before the Court these First Defendants as the only defending party. As to their nature and stance, I need only adopt the concise summary of Mackay J.:

> "The First Defendant (which I shall call "SHAC) is an unincorporated association. It is a group of people who share a common purpose. All are strongly opposed to vivisection. All share the aim of closing down HLS as a business. It has a website and it issues newsletters, but has no formal structure by way of membership, a committee, appointed officers or any constitution, as far as the evidence currently before the Court shows. It is said by the Defendants who appeared before me to be a large but disparate group of people drawn together by their opposition to HLS and its work."

I should add that Mr. Greg Avery, the founder of SHAC and a dedicated protestor, gave evidence before me, inter alia, so as to confirm the foregoing description.

4. As with the employees of HLS, the forensic position of these Defendants is governed by CPR 19.6. Since something will turn upon it, the provisions of CPR 19.6(1) merit citation:

> "Where more than one person has the same interest in a claim –
>
> (a) the claim may be begun; or

> (b) the Court may order that the claim be continued;
>
> by or against one or more of the persons who have the same interest as representatives of any other persons who have that interest."

5. When the matter was before Mackay J. (as to which see later) in May 2004 this provision was overlooked with respect to SHAC. Happily, and to the benefit of all, in June 2004 Dr. Max Gastone effectively offered his services as the representative of SHAC for the purposes of CPR 19.6. To the extent that the claim is for final injunctive relief that position is maintained so that Dr. Gastone has appeared before me as representative of, and lay advocate for SHAC.

6. Turning to the relevant history, it starts for present purposes with the inception and conduct of a campaign avowedly to force closure of HLS. Such campaign embraced lawful protest but, as a recurring feature, much that was plainly unlawful, and seriously unlawful at that. Targeted were the premises of HLS together with its employees, their vehicles and homes. The essential aim was to make the respective lives of the latter so intolerable that the resultant pressures would bring about the demise of HLS – at least of so much of the organisation as engaged in vivisection. In the result there was much by way of criminal behaviour (leading to a large number of convictions) and by way of individual trauma and distress.

7. Not surprisingly HLS turned to the Court for injunctive relief. In the result Pitchers J. made an interim Order on the 16th April 2003, which Order was continued on the 20th June 2003 by Gibbs J. Then on the 28th May 2004 Mackay J. made a similar Order serving to bind SHAC and others until trial. It is that trial which has been conducted before me with a view to the making of a final Order.

8. It is common ground that the situation has changed for the better over the intervening period. Adverting, first, to those who engage solely (whether willingly or reluctantly) in protest that is lawful, the current Order has served to provide a mutually understood structure – that is, understood by protestors, by HLS, and by the relevant Police Forces. As will become apparent, there is no current attempt to deny HLS some injunctive relief. The need for such is not in dispute, what are sought are variations on the so far existing Order. Adverting, second, to those who engage in unlawful activities under the guise of protest, the activities of such have thankfully lessened in frequency with the dampening effect of the passage of time, bolstered by the fact of an Order and by the additional armoury as afforded to the Police by way of the Protection from Harassment Act 1997 and the Serious Organised Crime and Police Act 2005. That said, nobody can safely ignore the potential for these activities and in so far as a Court Order can stem this, then it should obviously be framed with that amongst other aims.

The Trial

9. Once there was a tacit concession on the part of the Defendants that injunctive relief approximating to that imposed by MacKay J. had to continue, the

potential length of any trial was immediately curtailed, with the Court's focus being essentially directed to the variations on the earlier Order that were now sought. Following openings of the respective cases on Monday, 5th March 2007, the following day was occupied by views of the respective HLS sites with the parties represented and the relevant senior police officers in attendance. This exercise proved to be quite invaluable, enabling me to produce a draft Order as a focus for the balance of the trial. Issue was taken with certain of the essentially provisional terms and sustained with a modest amount of helpful oral evidence. For the rest it has been a matter for submissions and argument ably and truly helpfully conducted by Mr. Anderson QC and Dr. Gastone. A word for the latter as a lay advocate would not come amiss: by way of realistic moderation he served SHAC well and contributed to the expeditious conduct of the trial to the benefit of HLS and, more particularly, the Court.

10. I turn to the issues, starting with the Order.

The Order

11. First, a word about my general approach. Given the fact of an Order prevailing unchallenged for nearly three years to substantially good effect, it is not surprising that pragmatically it has been assumed by all (and I include myself) that this existing Order provides the template for a Final Order with variations from such having to be justified by reference to principle, further or alternatively by weight of evidence. I have had to remind myself that as a matter of general principle the 'bottom line' is not the existing Order but the entitlement of SHAC to engage in lawful protest, unfettered save for good reason. Thus it is for HLS to justify an Order (which it admittedly has done); it is for HLS to justify opposition to such liberalising variations as have been proposed.

12. Second, a word about my specific approach. Appended to this judgment is the Order as I adjudge it to be, subject to minor additions yet to be debated. In the body of this judgment I focus upon and justify all such terms as are, to my knowledge, potentially contentious.

Issues

13. **Protestors.** The Order itself focuses upon 'Protestors' with respect to conduct vis á vis HLS and its employees when in defined areas. Plainly it is important carefully to define 'Protestors' for the purpose of the Order, that is, to define the persons upon whom the Order impacts. Dr. Gastone as representative of SHAC did not oppose a definition that caught those who acknowledge allegiance to SHAC as a campaigning body but he expressed concern at a definition which served to add in persons who, whilst similarly hostile to HLS and its vivisectionist activities, nonetheless considered themselves to be independent of SHAC – could such persons be properly subject to an Order made by way of a claim addressed to SHAC? For HLS, Mr. Anderson QC was concerned to give a wide definition to 'Protestors': the essence of the Order was to establish control over Exclusion Zones with respect to all therein who were engaged in protest. Granted that the primary concern was with those under the SHAC umbrella whose conduct, historically, had brought about the inception and

continuation of injunctive relief, it would effectively nullify the effect of any Order if a protestor could evade its restraints by pleading allegiance to an association other than SHAC.

14. Given their concerns the Defendants called as a witness Dr. Daniel Lyons. For some 14 years he has been active in the conduct of an anti-vivisectionist protest organisation entitled Uncaged. He emphasised its dedication to lawful, peaceful activities and he expounded its philosophy and conduct so as to identify it as wholly separate from SHAC, with a remit that could include protest against HLS but much else besides. Importantly, for present purposes, he did not rule out an Uncaged protest demonstration outside the premises of HLS and did not appear to feel inhibited by the current or any future Order. No Order had been made against Uncaged and, given its focus on lawful protest, none such was anticipated. As to the current Order he was aware of its existence but had taken no particular interest in its terms.

15. Whilst I appreciate and repeat the reservations of Dr. Gastone as illuminated by the evidence of Dr. Lyons, I uphold the approach of Mr. Anderson QC as to the width of the definition. My wording inevitably aims principally at the Defendants, that is, at SHAC, but 'bolted on' is an additional provision aimed at including, within those to be restrained, persons who act in concert with SHAC. An important focus of the Order is the conduct of protest within defined geographical areas, the Exclusion Zones at Alconbury and Occold together with any conducted within a 50 yard radius of an employee's home. For practical purposes the Order would be ineffective from the standpoint of HLS and unfair from the standpoint of the Defendants if 'non-SHAC' protestors when within any such Exclusion Zone could claim immunity from the Order. It follows, by way of example, that if Uncaged's members are minded to demonstrate within an Exclusion Zone, then, good intentions notwithstanding, arguably they too become 'Protestors' so as to be bound by the Order.

16. As to drafting, I have wrestled with the alternatives canvassed before me, in the end preferring:

> 'Protestor' or Protestors shall mean:
>
> (a) The Defendants whether by themselves, their servants or agents; and
>
> (b) Any other person, whether by himself, his servants or agents, who is acting in concert with the Defendants with a view to exposing, deterring, obstructing or preventing the conduct of experimentation on live animals by the First Claimants.

17. **Restraints.** As to general restraints imposed by paragraph 2 of the Order, I need only refer to 2(c). Let it be supposed, for sake of example, that Dr. Brooker, as leading employee of HLS, chose to make a media defence of vivisection under his own name, I cannot discern any reason not to countenance repetition of such material by the Defendants for dissemination as they saw fit, together with a media response, hence the proviso to the restraint. I reject the submission of Mr. Anderson QC that I should qualify any right to reply to that which was 'reasonable and proportionate'. Any media response

is subject to the law specific to such activity, principally the law of defamation and I can discern no basis upon which I can now supplement such law by injuncting that which is arguably unreasonable or disproportionate in circumstances which have yet to arise and whose nature is a matter for speculation.

Alconbury

18. **Generally.** I refer to Plan A as appended to the Order. The premises of HLS abut the northbound carriageway of the A1 and a stretch of a minor country lane, Woolley Road. The site is broadly triangular, with the third side abutting on to farm land. The whole site is surrounded by impenetrable fencing. Entry is by a gateway opening on to Woolley Road, constantly controlled by security guards operating from a cabin. Whereas one building, apparently an office building, is situate near to the Woolley Road perimeter, the bulk of the buildings are well set back from that side. Opposite to the site and on the south side of Woolley Road is open countryside. Leave aside the site and the A1, the whole area is rural, exposed and uninhabited. The relationship with Alconbury is apparent from Plan A.

19. Whilst I deliberately did not occupy Court time in receiving evidence as to the history of protest leading up to the Court Orders of 2003 and 2004, certain features of such retain importance, serving to explain some provisions of the interim injunctive relief and to underpin continuing concerns of HLS. Thus, there were occasions when the site was the subject of mass, hysterical protest such as served effectively to besiege it and to strain the peacekeeping efforts of the Cambridgeshire Police to their uttermost. Particular features relevant to my judgment were blockage of Woolley Road with protesters' vehicles; protestors entering the abutting farmland intent upon testing perimeter security; determined use of massed noise amplification devices to intimidate rather than inform; and the conduct of similarly intimidatory protests at various of the homes of HLS employees in Alconbury and other residential areas. As already pointed out, it is common ground that the interim injunctive relief and the structure thus provided served to promote a markedly different protest regime but there is an inevitable concern on the part of HLS and the Police that a liberalisation of the existing Order should not serve to permit the perceived excesses of the past.

20. What then is the present protest regime? Immediately opposite the gateway to the HLS site is a designated area for protest. It is constituted by an effective lay-by on the southern side of Woolley Road lined on the roadside with a waist high barrier. Upon Protestors giving 24 hours notice to the local Police, a six hour protest may be conducted at this area by up to 25 persons. There is to be no use of any form of noise amplification and Protestors' cars have to be parked at least half a mile away – a provision which encourages the use of an area of hard standing on the roadside of an open field. The interim Order indeed injuncts the driving of Protestors' cars along Woolley Road but attending Police Officers routinely turn a blind eye to the use of cars to drop off elderly protestors at the designated area so as to save the walk from the place used for car parking. That introduces the attendance of the Police: I was told that there is always a Police presence, even though this may on occasion be no more than

two officers. That there are complaints about this protest regime will become apparent, but the strong general thrust of the evidence and of resultant submissions was to the effect that it provided a pragmatically acceptable structure – acceptable to Protestors, to HLS and to the Police.

21. I turn to so much of my Final Order as is specific to Alconbury, with discussion as follows.

22. **Prior Notice To Police.** The evidence was to one effect: this existing provision posed no problems. I raised the alternative, encountered in Oxford, of a fixed weekly day (Thursday in Oxford) but discerned no pressure for any change in this regard.

23. **Numbers.** I was asked to increase the current maximum number of protestors at any such weekly protest from 25 to 50. Whilst I am satisfied that the designated protest area itself could accommodate more than 25 persons and quite possibly 50, I have declined to do more than sanction a modest increase to 30. My reason for this moderation lies in the access problem. Currently a majority of protestors are constrained to come on foot up the narrow Woolley Road from the utilised parking area, if not from Alconbury. Any significant increase in pedestrian traffic potentially poses safety and public order issues. I remind the reader that the use of Woolley Road for alternative pedestrian access this time from the A1 is not only undesirable but realistically impractical.

24. **Delivery To And From Designated Area.** It seemed to me preferable that the Final Orders should acknowledge reality and obviate 'blind eye' breaches. At my view it was obvious that many of the Protestors then there to demonstrate were not in the first flush of youth. Police Officers told me that such persons were regular attenders, that the hike from the car parking area inevitably posed a strain and that responsible dropping off or picking up served a humane purpose and made some response to safety concerns. I remain conscious of the history of vehicle obstruction that led to the hitherto prevailing ban on driving along Woolley Road and I have deliberately retained a degree of Police oversight so as to ensure that the concession is not exploited unacceptably.

25. **Parking.** On my initial reading of the interim Order I was surprised at the restraints on parking but the visit served to elicit my general support for such – the earlier history of protests coupled with the nature of Woolley Road and its verges underlines the wisdom of a general restraint. That said, I could not discern any difficulty in finding an off road parking place for one vehicle in the immediate vicinity of the designated area and it is not difficult to envisage the advantage of having a nearby vehicle to an elderly protestor, not least as a place of rest or shelter – the designated area is extremely exposed to the elements. With requirements to prevent exploitation, I can see no disadvantage accruing to either HLS or the Police – hence my modest variation on the interim Order.

26. **Megaphone.** A serious issue arose over this topic. Dr. Gastone strongly pressed for a relaxation of the present blanket ban to allow some use of a megaphone in the course of the weekly demonstration. He emphasised the fundamental legality of protest and of the use of a megaphone to convey such. It may be that having regard to a history of use of noise amplification for

effective intimidation purposes, that it would be realistic now to expect some restraints but such should be limited and proportionate otherwise the fundamental right to protest would be infringed without good reason. In response Mr. Anderson QC submitted that the present ban should remain. This submission was based upon impressive evidence from three long term employees of HLS, with experience of the early impact of noise amplification. Particularly cogent was the evidence of Dr. Paul Brooker. His objections to renewed use of a megaphone in the course of the weekly demonstrations were two fold. First, there was a candidly emotional reaction. In and between 1999 and 2004 he and his wife (a fellow employee and witness) had, along with other employees, borne the brunt of aggressive mass demonstrating, not only when going to and from the HLS site and working at it, but very importantly when at home with the then demonstrators paying domiciliary visits of a seriously intimidatory nature. All these experiences were traumatic and consistently led to exposure to all manner of noise amplification devices. Since 2004 there had been a blessed relief – to have renewed exposure to a megaphone would serve to renew the serious stresses of yesteryear. Second, there was what he described as a 'professional' objection. He participated in regular meetings held in the office building, that is, at a point in the HLS site relatively near to the designated area. He anticipated disruption of these meetings as and when dominated by megaphone enhanced noise. A third party's contribution was made on behalf of the Police by Superintendent Pearl. He drew attention to a perceived potential for damage to the hearing of attending Police Officers given their proximity to any megaphone in use.

27. Additional to the oral evidence and the submissions was the impact of my view. At it, I temporarily relaxed the interim Order so to allow use of one megaphone at various levels of voice amplification and in 'screech' mode, thereby to help reach a judgment.

28. In the event, I have decided upon a very limited relaxation of the present ban so as to allow use of one megaphone operating at the medium to low levels, for verbal amplification between 12.0 p.m. and 1.0 p.m. My reasons are as follows:

    a. I start with Dr. Gastone's point. Protest is lawful; the use of a megaphone as an adjunct of lawful protest is itself lawful. The starting point is unfettered freedom to engage in so much amplified protest as is neither intimidating or harassing. Granted that the early protest history gave ample grounds for a total restraint, such should be regarded as exceptional only to be maintained so long as there is a continuing justification for such. With matters as they now are, a justification for total restraint is increasingly difficult to justify.

    b. Of the points raised on behalf of HLS, that which impressed me most was as to the potential impact upon those traumatised in the period 1999 – 2004 of the renewed sound of amplified hostility I have no difficulty in regarding this as a factor militating against the relaxation of all restraints; I do have difficulty in regarding it as justifying a continuing indefinite total ban.

c. I further accept that amplified verbal protest may well impact upon the functioning of HLS – the 'professional' objection. That said, first, the Protestors are entitled to ask 'why not?'; and second, the irony is what I discern to be the very modest nature of such impact. The geography of the site is such that, leave aside those on gate security duty and persons entering or leaving the site, the impact does not promise to be great. When at my view a megaphone was used my driver then in a car park situate between the gate and the main building could not hear what was being said and of the three witnesses (all of whom were on site at the material time) two never heard anything.

d. With amplification limited to one megaphone I reject the suggestion that there is a resultant risk to the hearing of attending Police Officers. They are in the open air; they do not have to stand in front of the megaphone. I have reserved a power reasonably to control direction of the implement: my primary concern is to forestall its use as an instrument of intimidation; a secondary concern is to deflect, if necessary, away from officers inevitably in the immediate vicinity.

29. **Processions.** I was asked to permit a monthly protest procession on conditions as to conduct. I regard 'monthly' as being unreasonable; I regarded 'three monthly' as striking a reasonable balance subject to stringent conditions.

Occold

30. **Generally.** This time I refer to Plan B as appended to the Order. The HLS site is substantial and situate in a relatively isolated rural setting. I write 'relatively': there are two residential houses situate in the near vicinity. Access to the site is again by a narrow country lane with verges wholly inappropriate for car parking. The whole area is relatively remote; the village of Occold constitutes the nearest centre. As at Alconbury so much of the site as does not abut on to the access road is surrounded by farmland. Again, the site is guarded by impenetrable fencing and the only entrance is by way of a main gate controlled by security guards.

31. The present protest regime – undoubtedly strongly contrasting with that which prevailed before the interim Orders came into force – is as follows. As with Alconbury, there is leave for weekly protest demonstration by up to 25 persons upon 24 hours notice to the Police. The geography militates against protest. There is no space for a 'head-on' designated area as at Alconbury and protestors have to stand in a lay-by with backs to the site and no focus save for those entering or leaving it. There is currently no leave for any form of voice amplification and for Protestors there is a ban with respect to driving along or parking upon the approach road. Further, on my understanding, there is no convenient if unofficial parking place outwith the Exclusion Zone. As at Alconbury there is a reasonable relationship between the Police (this time, the Suffolk force) and the protestors, many of whom are local 'regulars'. There was no thrust for major alterations to the interim Order – again it was certain particular issues that I had to address, as follows.

32. **Prior Notice To The Police.** As with Alconbury, there was no pressure for alteration, either from Protestors or Police.

33. **Numbers.** I was asked to consider an increase upon 25; for a reason developed below, I am not minded to allow such.

34. **Delivery To and From Designated Area.** My stance is as at Alconbury. If anything the need for relaxation to allow such is the more cogent given the relevant geography.

35. **Parking**. The situation is, if anything, more intractable that at Alconbury – there are no ad hoc parking spaces near to the designated area. The Protestors present at my view suggested that if the designated area could be moved to a point adjacent to the gateway (a point which had accommodated the original protests) then there could be parking in the lay-by that now supplies the designated area. I thought that there was a lot to be said for this suggestion but it was pointed out that this proposed designated area would be on HLS land and that I could only designate such as the protest area with agreement of HLS, which agreement has not so far been forthcoming. That returns focus to the lay-by that is the current designated area. Balancing all the relevant factors I think it reasonable and proportionate to make an inevitably not very satisfactory Order and that is to permit the parking of one car within the designated area for the duration of the demonstration. It is with this mind that I am refusing at Occold to increase the permitted number above 25; indeed I am assuming, reasonably as I think, that a 25 person turnout is unusual. However at the end of the day the parking of one car is purely for the benefit of Protestors, and particularly those who are elderly; it is for the Protestors in conjunction with the Police to make the less than ideal resultant situation work. For the rest, I see no alternative having regard to history and geography to maintaining the general parking ban with half a mile.

36. **Megaphone.** Inevitably I was tempted to make for Occold a provision similar to that for Alconbury. In the event the view failed to elicit particular pressure for such relaxation at that site, essentially because of the geography. A megaphone equipped protestor at the designated area is facing open farm land with significant HLS buildings quite some way to his rear. Ironically the obvious immediate recipient of verbal amplification would be a presumably occupied house on the opposite side of the road from the gateway. Overall I do not presently think that I would be justified in making a megaphone provision similar to that to be made for Alconbury. It may well be that if the Alconbury provisions prove to be exploited responsibly that the situation at Occold can be revisited although it will never be easy to reconcile megaphone use with the particular locus.

37. **Processions.** My position is as with Alconbury.

Enforcement

38. The balance of the Order calls for no comment save as to one omission from the interim Order. The interim Order (and its predecessors) included, without objection, the term: “The Claimants have permission to enforce the Order

herein as against the members of SHAC and the Protestors as defined in this Order pursuant to CPR 19.6(4)(b) and to the Protection from Harassment Act 1997". It was proposed that this provision should be retained for the Final Order. I raised a question as to the propriety of the provision. After careful consideration Mr. Anderson QC acknowledged the force of my concern so as not to pursue his original proposal. That said, he asked me to record my reasoning in my judgment. This I do as follows.

39. The usual Order conferring injunctive relief is against one or more identified Defendants. In the event of a breach, options are afforded by virtue of Section 3 of the Protection from Harassment Act 1997. First, there is the option for criminal prosecution. By Section 3(6):

> "Where –
>
> (a) the High Court … grants an injunction for (the purpose of restraining the Defendant from pursuing any conduct which amounts to harassment) and
>
> (b) without reasonable excuse the defendant does anything which he is prohibited from doing by injunction, he is guilty of an offence."

Section 3(9) prescribes sanctions: imprisonment or a fine or both.

40. Second, there is the alternative option of proceeding by the Claimant for a civil remedy, that is, as for contempt of Court. To that end, Section 3(3), (4) and (5) prescribe machinery leading to the issue to the Claimant of a warrant for the arrest of a Defendant in breach.

41. Crucially, the premise for exercise of these respective options is the alleged breach of an Order binding upon a Defendant such as serves to restrain him or her from pursuing any conduct which amounts to harassment within the meaning of the Act.

42. Turning to the proposed Final Order it serves expressly to restrain conduct which amounts to harassment within the meaning of the Act. The issue that does arise is as to who is or could be a Defendant for the purpose of enforcement, whether civilly or criminally, given reliance upon representation as provided for by CPR 19.6. The answer lies in CPR 19.6(4):

> "Unless the Court otherwise directs any judgment or order given in a claim in which a party is acting as a representative under this rule –
>
> (a) is binding on all persons represented in the claim; but
>
> (b) may only be enforced … against a person who is not a party to the claim with the permission of the Court."

43. In the result, first, this Final Order will be binding upon "protestors", that is upon those within the wider ambit of Dr. Gastone's representation. That said, second, it is not enforceable, certainly civilly, against any individual without the express permission of the Court. This reflects a safeguard introduced into CPR 19.6 to counter risks implicit in having a wide and ill defined catchment area in terms of affected persons. The discretion is specifically drawn in this context between 'binding' and 'enforcing': HLS have the benefit of a binding Order but if they wish to enforce it against any individual then they must seek ad hoc permission from the Court, presumably based upon proof of such factual circumstances as to would serve to justify enforcement as for a contempt. By purporting to accord CPR 19.6(4)(b) permission in advance the Court would in effect be circumventing the CPR 19.6 concerns by predicting circumstances serving to justify enforcement when such must as to any individual case be a matter for speculation as at the making of the Order.

44. The basis for this, my ruling, has been simply my unaided construction of CPR 19.6. Neither Mr. Anderson QC nor I have found any authority on the point although Irwin J. in Oxford University v. Webb (2006) EWHC 2490 (QB) did draw attention to what he described as an "important additional safeguard" when referring to CPR 19.6(4)(b).

Damages

45. By way of his opening Mr. Anderson QC intimated a claim for damages in the total sum of £1,001,865.04 so as to secure a money judgment for such. I queried the forensic basis for such a head of claim in the context of an action against an unincorporated association sued by way of a representative. I drew attention to the authorities helpfully reviewed in another context by Irwin J. in Oxford University v. Webb (2006) op.cit, see paragraph 46 et seq., to which I added Mercantile Marine Service Association v. Toms (1916) 2 K.B. 243, see particularly 246. The point is short. So far as the claim is for injunctive relief to govern future conduct by way of protest, then those that are represented by Dr. Gastone have sufficiently similar interests to satisfy CPR 19.6; so far as the claim is for damages recoverable in tort, those represented by Dr. Gastone may be expected to have widely divergent interests – in essence a total absence of the commonalty that is a fundamental premise for a representative action. No doubt amongst those represented by Dr. Gastone are persons potentially liable to HLS in tort (albeit inconceivably for the full amount of the claim); and no doubt amongst such are persons who have committed no tort so as to damage the property of HLS and as individuals have no case to answer.

46. The point having been raised it was researched by Mr. Anderson QC only to have him responsibly abandon this damages claim as against these Defendants for the reason outlined above.

Costs

47. I have received no submissions on this topic, the parties preferring to await sight of judgment and Order.

Service

48. I have made uncontroversial provision for the substituted service of the Order that the circumstances plainly require.

Generally

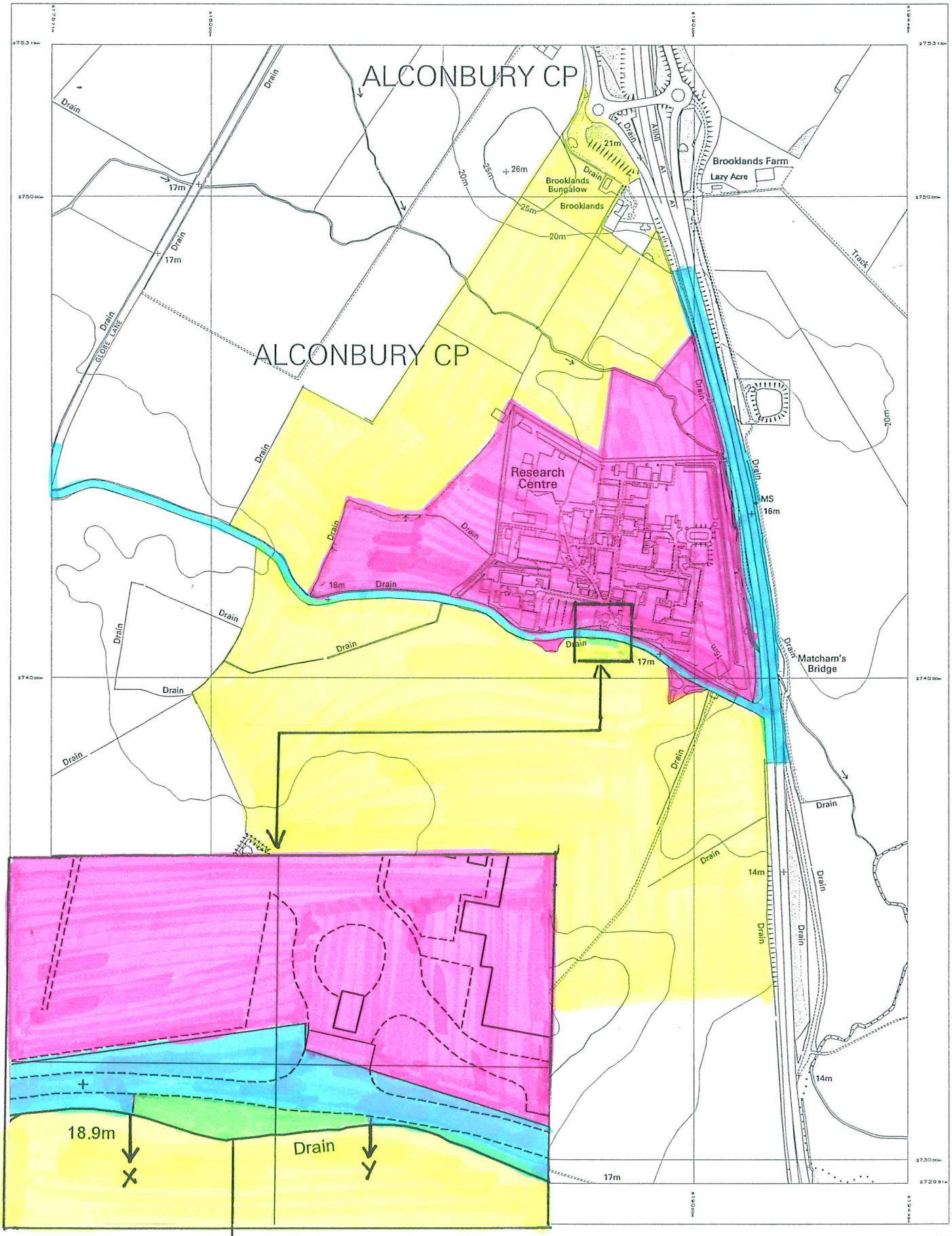
49 I received from the Claimants' solicitors no less than 36 ring binders in addition to two prepared for the early Case Management hearings. I would suggest that this was excessive by, say, about 30. My concern relates not so much to the potential waste of Court time (I correctly assumed that most of the content could be ignored for the present, essentially limited purposes), but to the cost to (presumably) HLS. I note that I am not the first Judge to draw attention to the proliferation of ring binders with immaterial contents. The short answer for the future is case preparation is to be guided by an Advice on Evidence from competent counsel.

50. I close by expressing my appreciation of the help afforded to me at the views by the Senior Police Officers: Chief Inspector Hetherington of the Cambridgeshire Police, Chief Inspector Brighton of the Suffolk Police, respectively supported by Superintendent Pearl. It would be prudent and courteous to supply copies of this judgment and the Final Order to each of these officers

PLAN A

Ordnance Survey®

OS Landplan®



Plotted 07 Mar 2007 from Ordnance Survey digitally derived data.

Produced using significant survey information from Ordnance Survey large scales digital data, and incorporated into OS Landplan Mar 2006.

N

100 50 0 100 200 300 400 500

Metres

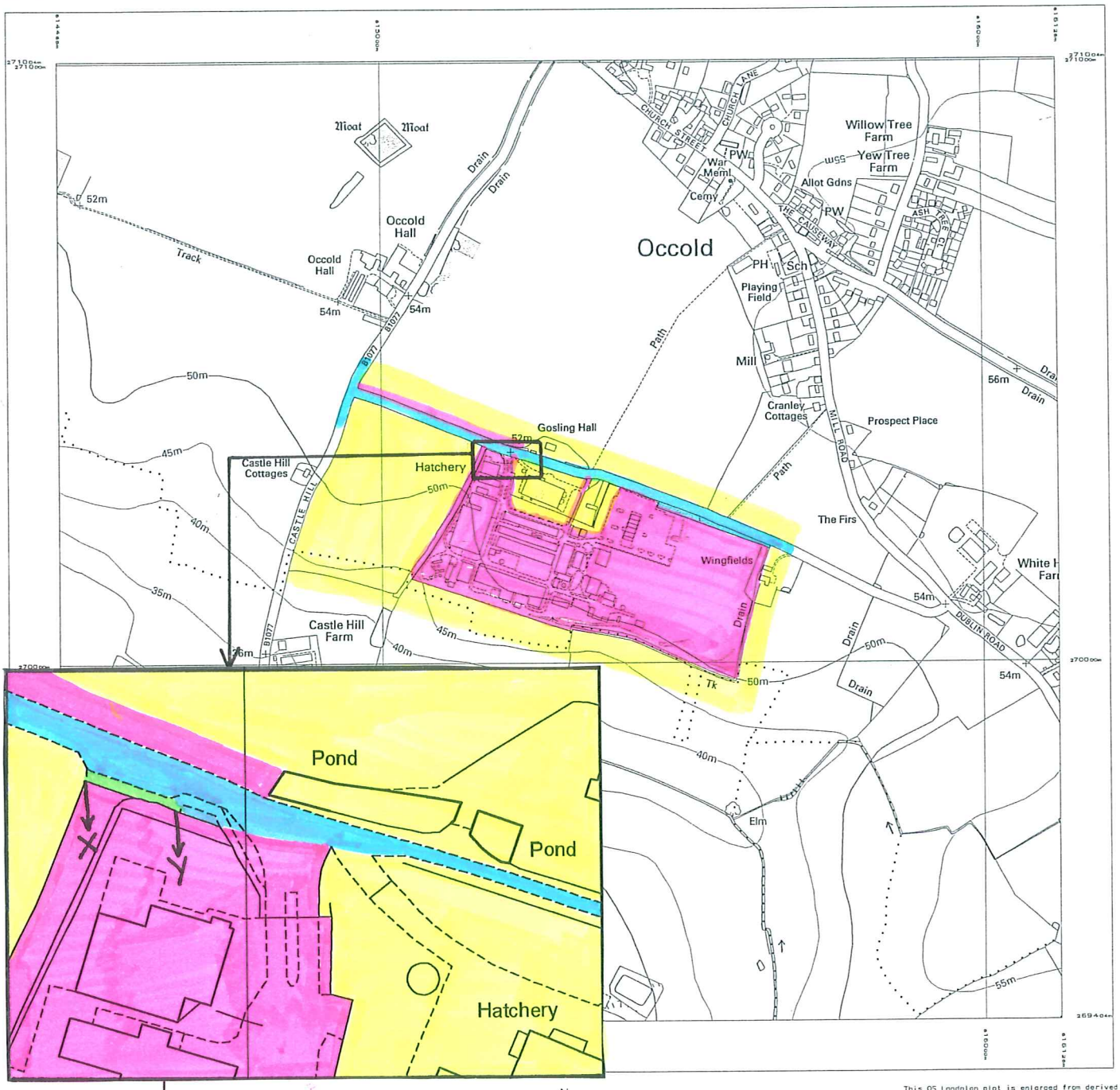
DESIGNATED AREA

- FIRST CLAIMANTS RESEARCH CENTRE
- LAND SURROUNDING WOOLLEY RD
- PUBLIC HIGHWAYS, VERGES AND LAY-BYS

PLAN B

Ordnance Survey®

OS Landplan®



Plotted 07 Mar 2007 from Ordnance Survey digitally derived data.

Produced using significant survey information from Ordnance Survey large scales digital data, and incorporated into OS Landplan May 2005.

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100 50 0 100 200 300 400 500

Metres

This OS Landplan plot is enlarged from derived mapping produced at 1:10000 scale

Contours are at 5 metre intervals.

Heights are given in metres above Newlyn Datum. The representation of a road, track or path is no evidence of a right of way.

The alignment of tunnels is approximate.

An OS Landplan symbols leaflet is available on request from Ordnance Survey Mapping and

→ DESIGNATED AREA

- FIRST CLAIMANTS RESEARCH CENTRE
- LAND SURROUNDING ELM FARM
- PUBLIC HIGHWAYS, VERGES AND LAY-BYS