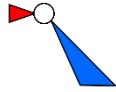


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<1912/c>	p.m. and 7 a.m.; an injunction prohibiting the dock company from permitting heavy goods vehicles to enter or leave the Chatham Dockyard by the Gillingham Gate between those hours; and a mandatory injunction requiring the dock company to take all steps within its power to prevent the use of those roads by heavy goods vehicles of the fourth and fifth defendants between those hours. The plaintiff had originally brought the action also against other defendants, seeking relief in the same terms as against the fourth and fifth defendants, but before action came to trial those defendants Norfolk Line Ltd., Kent Line Ltd., Transit Freights Ltd. and Britholdings Ltd., ceased to be parties to the action. The facts are stated in the judgment. David Widdicombe Q.C. and Gregory Stone for the plaintiff. Piers Ashworth Q.C. and Michael Douglas for the defendants. 31 July. The following judgment was handed down. BUCKLEY J. The plaintiff, Gillingham Borough Council, brings this action pursuant to section 222 of the Local Government Act 1972 'to promote or protect the interests of the inhabitants in its area.' The inhabitants in question are the residents of Medway Road and Bridge Road, Gillingham. These roads lead to that part of the old Chatham Royal Naval Dockyard which is now leased to the first defendant, Medway (Chatham) Dock Co. Ltd. ('the dock company'), which operates it as a commercial port. The only access to the port is through the Gillingham Gate which is at the north end of Bridge Road. All the port traffic, in particular heavy goods vehicles, uses the Gillingham Gate and thus Medway and Bridge Roads. It is alleged by the plaintiff that the use of these roads by numerous heavy goods vehicles at night amounts to a public nuisance for which the defendants are responsible: the dock company because it controls the Gillingham Gate and by its operation of the gate and the port in general causes or permits the heavy goods vehicles to go in and out of it at all hours, and the fourth and fifth defendants, Crescent Wharves Ltd. and Ship Link Terminals Ltd. respectively, because as sublessees of the dock company they or their customers send heavy goods vehicles in and out of the port and cause or materially contribute to the alleged nuisance. Background The Chatham Royal Naval Dockyard on the River Medway was first established in the 16th century. By 1982 it covered some 500 acres. It includes three large water basins which separate the main dockyard from St. Mary's Island. In 1982 the Government announced the closure of the dockyard and it was divided into three parts. The Chatham Historic Dockyard Trust was established to administer the western portion, which includes
 <p>Key: Footprint ConEn1 Footprint ConEn2 Footprint ConEn3</p>	<p><u>a concentration of historic buildings</u></p> <p>, and to promote knowledge of <u>its archaeological, historical and architectural significance</u>. The next portion, now known as Chatham Maritime, was made over to English Industrial Estates Corporation. Its functions and powers are set out in the Act of 1981 of that name. Its main task is to stimulate economic activity and create jobs. It trades under the name English Estates. The easternmost area of the site covers 144 acres, includes one of the water basins and the locks, and was taken over by the Medway Ports Authority ('the ports authority'). This authority was set up under the Medway Ports Authority Scheme of 1968 and the Medway Ports Authority Act 1973. Included amongst its duties is a duty to 'maintain, operate and</p>

	<p>improve port facilities.’ It has successfully developed and operated a port at Sheerness in Kent and drew on this experience in deciding to develop a commercial port in the easternmost portion of the old dockyard. It decided to do this through the dock company, a wholly owned subsidiary which was incorporated on 24 March 1982. The dock company in due course took a long lease of the area in question from the Secretary of State for Defence, although the ports authority insisted that the necessary planning consent be obtained before the lease was signed. Planning permission was granted on 15 February 1983 subject to three conditions. The only one of relevance is condition 2 which is as follows: ‘Not later than 31 December 1985 or prior to the determination of a planning application for the development of land south of the other two dockyard basins with access via Pembroke Gate, whichever is the sooner, vehicular access to the site hereby permitted shall be reviewed. Upon alternative access for heavy vehicles to a public highway being made available to the satisfaction of the local planning authority the use of Gillingham Gate for heavy vehicles shall be discontinued or reduced in accordance with details which shall have been submitted to and approved by the local planning authority. The dock company went into occupation on 1 January 1984 and thereafter commenced operations. On the evidence I have heard, it is reasonably clear that the old naval dockyard generated comparatively little heavy goods vehicle traffic and in the main it used the Pembroke Gate entrance. Plenty of motor cars went in and out through the Pembroke and Gillingham Gates but it has not been suggested that there was any real night-time disturbance from traffic using the dockyard. Pembroke Gate is on English Estates’ portion, Chatham Maritime, leaving the Gillingham Gate as the only access to the dock company’s undertaking. Bridge Road runs into Medway Road and thus all traffic, in particular any heavy goods vehicles using the dock company</p>
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