IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Claim No. KB-2024-004175

B E T W E E N :

TELEDYNE UK LIMITED

Claimant

-and-

(1) JULIAN ALLEN GAO

(2) – (7) OTHER NAMED DEFENDANTS AS LISTED AT SCHEDULE 1 TO THE CLAIM FORM

(8) PERSONS UNKNOWN WHO ARE WITHOUT THE CONSENT OF THE CLAIMANT ENTERING OR REMAINING ON LAND AND IN OR ON BUILDINGS ON ANY OF THE SITES LISTED IN SCHEDULE 2 TO THE CLAIM FORM, THOSE BEING:

A. THE 'SHIPLEY SITE' (TELEDYNE UK LIMITED, AIREDALE HOUSE, ACORN PARK, SHIPLEY BD17 7SW);

B. THE 'LINCOLN SITE' (TELEDYNE UK LIMITED, 168 SADLER ROAD, LINCOLN LN6 3RS);

C. THE 'WIRRAL SITE' (TELEDYNE UK LIMITED, UNIT A, 6 TEBAY ROAD, BROMBOROUGH, BIRKENHEAD, WIRRAL CH62 3PA);

D. THE 'CHELMSFORD SITE' (TELEDYNE UK LIMITED, 106 WATERHOUSE LANE, CHELMSFORD CM1 2QU);

E. THE 'PRESTEIGNE SITE' (TELEDYNE UK LIMITED, BROADAXE BUSINESS PARK, PRESTEIGNE LD8 2UH); AND

F. THE 'NEWBURY SITE' (TELEDYNE UK LIMITED, REYNOLDS NAVIGATION HOUSE, CANAL VIEW ROAD, NEWBURY RG14 5UR).

(9) PERSONS UNKNOWN WHO FOR THE PURPOSE OF PROTESTING ARE OBSTRUCTING ANY VEHICLE ACCESSING THE 'SHIPLEY SITE' (TELEDYNE UK LIMITED, AIREDALE HOUSE, ACORN PARK, SHIPLEY BD17 7SW) FROM THE HIGHWAY

(10) PERSONS UNKNOWN WHO FOR THE PURPOSE OF PROTESTING ARE OBSTRUCTING ANY VEHICLE ACCESSING THE HIGHWAY FROM THE 'SHIPLEY SITE' (TELEDYNE UK LIMITED, AIREDALE HOUSE, ACORN PARK, SHIPLEY BD17 7SW)

(11) PERSONS UNKNOWN WHO FOR THE PURPOSE OF PROTESTING ARE CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FREE FLOW OF TRAFFIC ON TO, OFF OR ALONG THE ROADS LISTED AT SCHEDULE 3 TO THE CLAIM FORM

(12) – (20) OTHER NAMED DEFENDANTS AS LISTED AT SCHEDULE 1 TO THE CLAIM FORM

Defendants

CLAIMANT'S SKELETON ARGUMENT
for the hearing listed on 25 July 2025 (plus ½ day allocated judicial pre-reading)

Bundle references

- Procedural bundle – **[PB/page number]**
- Evidence bundle – **[EB/page number]**

Suggested essential pre-reading

- Re-Amended Claim Form dated 24 March 2025 **[PB/70-81]**;
- Order of Tipples J dated 24 January 2025 **[PB/5-23]**;
- Order of Murray J dated 21 March 2025 **[PB/24-41]**;
- Draft Order (filed with this skeleton)

- First witness statement of Nicholas James Wargent **[EB/4-38]**;
- Second witness statement of Nicholas James Wargent **[EB/392-297]**;
- Third witness statement of Nicholas James Wargent **[EB/402-415]**;
- Fourth witness statement of Manan Singh **[EB/474-483]**;
- First witness statement of Scott Douglas Patterson **[EB/550-568]**;
- Fourth witness statement of Nicholas James Wargent **[EB/596-622]**;
- Fifth witness statement of Manan Singh **[EB/712-719]**;
- Seventh witness statement of Manan Singh (dated 21 July 2025) – the Claimant seeks permission to rely on this additional statement.

INTRODUCTION

1. This hearing is listed pursuant to paragraph 12 of the Orders of Tipples J and Murray J, and is (i) the final hearing of the claim against the remaining Named Defendants and (ii) a review of the Order against Persons Unknown.

2. In the claim, the Claimant seeks injunctive relief to:

   i. restrain acts of trespass at six of its sites (Shipley, Lincoln, Wirral, Chelmsford, Presteigne and Newbury). Three of these sites (Shipley, Lincoln and Chelmsford) hold Facility Security Clearance (formerly known as 'List X' status) by reason of the Claimant holding contracts with the UK Ministry of Defence, which requires the Claimant to safeguard assets classified 'SECRET' or above on its premises;

   ii. restrain interferences with its common law right to access the highway from the Shipley Site only;

   iii. restrain acts of public nuisance (obstruction of the highway) in relation to the adopted highway serving the Shipley Site only (that road being known as 'Acorn Park').

3. At this hearing, the Claimant seeks final injunctive relief against the remaining 12 Named Defendants, and a continuation of the Order against Persons Unknown (specifically, a five-year order, subject to annual review).[1] A draft order is filed with this skeleton argument.

4. Counsel apologises for the length of this skeleton. Given the different tests that are to be applied to Named Defendants (for whom this is the final hearing of the Claim) and Persons Unknown (in respect of whom this is a review hearing), that three causes of action are relied upon and that the Claimant is subject to a duty of full and frank disclosure, it has been necessary to exceed the ordinary 25 page limit.

Seventh witness statement of Manan Singh

5. Since the filing and serving of the Claimant's evidence in May 2025 in accordance with the directions of Tipples J and Murray J, further significant events have occurred that are relevant to the claim against Persons Unknown (most notably the proscription of the group

[1] The Claimant sought the five-year order subject to annual review before Tipples J. The Judge declined to grant the relief at that time given the ceasefire deal that had recently been agreed, and instead listed the Persons Unknown Order for review alongside the final hearing of the claim against the Named Defendants (Wargent WS4 paras 75-76 **[EB/618-619]**).

known as Palestine Action). The Claimant, mindful of its duty of full and frank disclosure in relation to Persons Unknown, produces and seeks to rely on the seventh witness statement of Manan Singh dated 21 July 2025. Save for one small updating matter, the evidence contained therein relates only to Persons Unknown, and updates the court as to matters that have occurred since 27 May 2025.

Remaining Named Defendants against whom relief is sought

6. The following Named Defendants remain live defendants to the claim:

   i. D1 – Julian Allen Gao;
   ii. D2 – Ruby Hamill;
   iii. D3 – Daniel Jones;
   iv. D4 – Najam Shah;
   v. D5 – Ricky Southall;
   vi. D6 – Amareen Afzal;
   vii. D7 – Serena Fenton;
   viii. D14 – Autumn Taylor-Ward;
   ix. D16 – Lara Downes;
   x. D17 – Gabrielle Middleton;
   xi. D19 – Mary Ensell;
   xii. D20 – Harry Wade.

7. D5 (Ricky Southall) and D14 (Autumn Taylor-Ward) signed a consent order settling the claim, but did **not** sign the relevant accompanying undertaking. Solicitors for the Claimant have chased for the missing signature on several occasions, but this has not been forthcoming (Wargent WS4 para 62 **[EB/613]**). In the absence of the signed undertaking, D5 and D14 remain live defendants to the claim.

8. No Named Defendant has acknowledged service of, or filed or served any evidence in defence of, the claim.

9. There is an extant contempt application against D19 (Mary Ensell) and D20 (Harry Wade), which is listed for a sanctions hearing on 28 July 2025.

Notice of this hearing

10. The Named Defendants have been served with the Tipples J and Murray J Orders (as applicable)[2] which list this hearing, in accordance with the service provisions set out at paragraph 3 of those Orders. Certificates of service are produced in the Procedural Bundle at **[PB/139-142]** and **[PB/150-154]** (certificates of service in relation to the injunction signs at the six sites can be found at **[PB/111-138]**).

11. Throughout June 2025, four packages sent to D4 (Najam Shah) have been returned to the Claimant's solicitors, marked to indicate that Mr Shah no longer resides at the address. The returned packages contained settlement documents (x2), the return date skeleton and the return date bundle. It is submitted that Mr Shah has been properly served. Clauses 3(i) to 3(iv) of the alternative service order are to be treated conjunctively, and each have been complied with. Further, clause 3(iii) expressly provides that postal service need only occur where the address of a Named Defendant is known. The Claimant has posted all documents to be served to the address for Mr Shah provided by West Yorkshire Police in the course of the CPR 31.17 disclosure. In any event, the packages serving the Claim Form and various injunction orders on Mr Shah have not been returned.

12. Persons Unknown have also been served with both the Tipples J and Murray J Orders in accordance with the notification provisions set out at paragraph 3 of those Orders. Certificates of service are produced in the Procedural Bundle at **[PB/143-149]** and **[PB/155-161]** (certificates of service in relation to the injunction signs at the six sites can again be found at **[PB/111-138]**).

13. As against newcomer Persons Unknown, the relief is technically always sought on a without notice basis: ***Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors*** **[2024] AC 983 ('*Wolverhampton*')** at [139], [142] and [143(ii)]. That said, there remains an obligation to take all reasonable steps to draw the Application to the attention of Persons Unknown (***Wolverhampton*** at [167(ii)] and [226-229]).

[2] The Tipples J Order applies to D1-7, D14, D16 and D17. The Murray J Order applies to D19 and D20.

14. By discharging the comprehensive notification requirements at paragraph 3 of the Tipples J and Murray J Orders, it is submitted that this obligation has been complied with.

Human Rights Act 1998, s12

15. In the interests of full and frank disclosure, the Court's attention is drawn to the **Human Rights Act 1998, s12(2)** (as it was at both the without notice and return date hearings).

16. Section 12 applies if the relief granted might affect the exercise of the defendant's article 10 rights (see **s12(1)**). As the relief in this claim is sought in the context of protest, a Person Unknown may argue that this section applies. **Section 12(2)** further provides:

> *If the person against whom the application for relief is made ("the respondent") is neither present nor represented, no such relief is to be granted unless the court is satisfied –*
>
> *(a) that the applicant has taken all practicable steps to notify the respondent; or*
>
> *(b) that there are compelling reasons why the respondent should not be notified.*

17. It is submitted that the steps taken to notify Persons Unknown in accordance with the Tipples J and Murray J Orders discharge the obligation to take all practicable steps to notify Persons Unknown.

18. Whilst the Claimant does not consider it necessary to do so, and therefore does not expand upon the point here, if required, the Claimant will also make the submission that **s12(2)** does not in any event apply (i) in the context of a trespass claim and (ii) against newcomer Persons Unknown (and will be mindful of its duty of full and frank disclosure when making that submission).

BACKGROUND

The Claimant

19. The Claimant holds the freehold title to the Shipley, Lincoln and Chelmsford Sites, and the leasehold title to the Wirral, Presteigne and Newbury Sites (all as defined in the claim), from which it conducts its business.

20. The Claimant produces specialised components and subsystems for medical, science, aerospace, defence and industrial applications. The Claimant, across its UK sites, mainly manufactures products for commercial use in a wide range of industrial markets, including defence and aerospace. The manufactured components and subsystems are incorporated by the Claimant's customers into their own products. Some products have military end-uses, and are manufactured for use by the UK Ministry of Defence, NATO member states and other allied nations. Some products are exported under licence to Israel.

21. By reason of its business, the Claimant has become a target for direct-action protest, especially by activists protesting at the conflict in the Middle East. In particular, and as explained in detail throughout the Claimant's evidence, the group known as 'Palestine Action' has frequently targeted the Claimant's sites in an aggravated manner, causing significant property damage.

The Defendants

22. Each of the Named Defendants has been arrested at one of the Claimant's sites throughout either 2024 or 2025 in connection with alleged acts of unlawful protest, which they undertook under the banner of Palestine Action. Specifically:

    i. D1 (Julian Allen Gao), D2 (Ruby Hamill), D3 (Daniel Jones) and D4 (Najam Shah) were all arrested at the Shipley Site on 2 April 2024;

    ii. D5 (Rickly Southall), D6 (Amareen Afzal) and D7 (Serena Fenton) were all arrested at the Shipley Site on 15 May 2024;

iii. D14 (Autumn Taylor-Ward) was arrested at the Wirral Site on 5 July 2024;

iv. D16 (Lara Downes) and D17 (Gabrielle Middleton) were arrested at the Wirral Site on 2 October 2024; and

v. D19 (Mary Ensell) and D20 (Harry Wade) were arrested at the Shipley Site on 28 January 2025.

23. The Eighth to Eleventh Defendants (inclusive) are defined categories of newcomer Persons Unknown (defined in accordance with the established principles now summarised and approved by the Supreme Court in ***Wolverhampton*** at [221]).

24. Palestine Action, prior to its proscription and the removal of its online content, incited and encouraged unlawful acts of protest including (but not limited to) acts of (aggravated) trespass and criminal damage (see the 'Underground Manual' published by the group at **[EB/167-180]**). Other groups, such as 'Bradford Friends of Palestine' have also targeted the Claimant's Sites, albeit in a less aggravated manner.

Injunction Orders made in the claim to date

25. The following injunction orders have been sought and obtained in the claim to date:

i. **[PB/42-58]** 20 December 2024 (Bourne J) – without notice injunctive relief granted against D1 to D7 inclusive (Named Defendants) and D8 to D11 inclusive (Persons Unknown). Short informal notice of the hearing was given by way of email to various protest groups (the hearing was treated and conducted as if it was without notice). Relief was sought in December 2024 as there had been a notable increase in the frequency of incidents of unlawful protest at the Claimant's sites throughout 2024, and notably in the last quarter of the year. The Christmas holiday period was also imminent and, historically, there had been a correlation between holiday periods and acts of unlawful protest (specifically Boxing Day 2023, Easter 2024 and October half-term 2024);

ii. **[PB/5-23]** 24 January 2025 (Tipples J) – at the return date hearing the injunction was continued against D1 to D11 (inclusive), and D12 to D18 (Named Defendants) were added to the claim and the injunctive relief, following police disclosure of their identities. Directions were given to this 25 July hearing;

iii. **[PB/24-41]** 21 March 2025 (Murray J) – D19 and D20 (Named Defendants) were added to the claim and the injunctive relief, following an incident at the Shipley Site on 28 January 2025. This Order was made without a hearing. The same directions as found in the Tipples J Order were made in relation to D19 and D20.

Acts of protest and other relevant factual background

26. Mr Wargent's fourth witness statement exhibits an updated spreadsheet summarising the incidents of protest that have occurred at the Claimant's sites **[EB/628-632].** This has been further updated, and is exhibited to Mr Singh's seventh witness statement. Many of the incidents recorded in that spreadsheet were incidents of peaceful protest, and are not relied upon for the purposes of this Claim.

27. As is set out variously throughout the Claimant's evidence, the incidents relied upon at its own sites are:

i. 9 December 2022, Presteigne Site (see Wargent WS1 paras 72-77 **[EB/21-22]**);

ii. 28 September 2023, Chelmsford Site (see Wargent WS1 paras 78-82 **[EB/22-23]**);

iii. 26 December 2023, Shipley Site (see Wargent WS1 paras 83-86 **[EB/23-24]**);

iv. 2 April 2024, Shipley Site (see Wargent WS1 paras 87-91 **[EB/24-25]** and Patterson WS1 paras 25-34 **[EB/556-558]**);

v. 15 May 2024, Shipley Site (see Wargent WS1 paras 92-96 **[EB/25-26]** and Patterson WS1 paras 35-45 **[EB/558-560]**);

vi. 5 July 2024, Wirral Site (see Wargent WS1 paras 97-101 **[EB/26]** and Wargent WS4 paras 46-53 **[EB/607-608]**);

vii. 2 October 2024, Wirral Site (see Wargent WS1 paras 102-106 **[EB/26-27]** and NJW WS4 paras 54-59 **[EB/608-612]**);

viii. 30 October 2024, Shipley Site (see Wargent WS1 paras 107-111 **[EB/27-28]**);

ix. 20 November 2024, Shipley Site (see Wargent WS1 paras 112-115 **[EB/29]**);

x. 28 November 2024, Shipley Site (see Wargent WS1 paras 116-119 **[EB/29-30]**);

xi. 19 December 2024, Shipley Site (see Wargent WS2 paras 9-19 **[EB/395-397]**);

xii. 28 January 2025, Shipley Site (see Singh WS4 paras 20-36 **[EB/479-482]** and Patterson WS1 paras 46-66 **[EB/560-567]**); and

xiii. 18 February 2025, Shipley Site (see Patterson paras 67-68 **[EB/567]**).

28. Significant losses have been suffered by the Claimant as a result of the protests. Those losses include, but are not limited to:

i. Presteigne Site (9 December 2022) – £1.2million property damage, US$1m sales unable to be completed and shipped, £266,000 loss by reason of disruption to business;

ii. Shipley Site (26 December 2023) – £35,000 property damage;

iii. Shipley Site (2 April 2024) – £571,000 property damage, £300,000 loss of revenue;

iv. Shipley Site (15 May 2024) – £68,000 property damage, £60,000 loss of revenue;

v. Wirral Site (5 July 2024) – £1000 property damage, £6400 loss of revenue;

vi. Wirral Site (2 October 2024) – £148,000 property damage (temporary repairs only), a further £335,00 is expected to be spent on permanent repairs, £14,000 loss of revenue;

vii. Shipley Site (28 January 2025) – £3402.16 property damage.

29. In addition, it appears that on 23 September 2024, the Shipley Site was subjected to reconnaissance by a lone female. A female was later arrested (on 25 September) in connection with this incident. The camera used in the incident was not recovered, but other incriminating material was found (see NJW WS1 paras 7-9 **[EB/404-405]**).

30. The Claimant considers many of its sites, including the Shipley Site, to be a 'prohibited place' under the National Security Act 2023, which gives the police additional powers in relation to those sites, and prohibits some activities (such as filming). The Claimant has erected the necessary signs at the relevant premises (Wargent WS1 paras 137-138 **[EB/37-39]** and Wargent WS4 paras 40-41 **[EB/40-41]**).

31. Since the commencement of this claim, Keystone Law, and Manan Singh (the Partner with conduct of this case), have also been targeted by unidentified supporters of the Palestine Action group (see Singh WS5 paras 5-24 **[EB/714-717]**). Specifically:

i. 10 March 2025, Keystone Law (Chancery Lane) – four unidentified persons attended Keystone Law's offices at 2:19am and smashed the front window. A re-purposed fire extinguisher was used to spray red paint on the outside of the building, and the hose also inserted in the hole in the smashed window to spray paint inside the reception area. The pavement was stencilled with "DROP TELEDYNE". The action was publicised on the Palestine Action Instagram account;

ii. 10/11 May 2025, Black Sheep Coffee (Southampton Buildings – off Chancery Lane) – multiple posters were affixed to the outside of the coffee shop, in which Mr Singh was named and pictured, and his affiliation with Keystone Law given, and was accused of being complicit in war crimes and genocide. The poster carried the Palestine Action group logo;

iii. 15 May 2025, King's College London – a student contacted Mr Singh by email to advise that they had come across the same poster when leaving the library the day before.

32. The Claimant operates its business from other sites throughout the UK; relief is only sought in relation to these six sites as the addresses of these six sites were published on the Palestine Action website (prior to its removal upon the group's proscription) and listed as 'targets' for direct-action (Wargent WS1 paras 9 **[EB/7]**, 55 **[EB/16]** and 55(ii) **[EB/17]**). Mr Singh confirms that, on 25 June 2025 (shortly before the website was taken down on 4 July 2025), the addresses of the six sites continued to be published on the website (Singh WS7 para 57).

CAUSES OF ACTION

Trespass

33. Trespass to land is the interference with possession or the right to possession, and includes instances in which a person intrudes upon the land of another without legal justification. The key and well-established features of trespass are:

i. it is a strict liability tort, such that the defendant need not know that they are committing a trespass to be liable for the same; and

ii. the tort is actionable per se, such that the claimant does not have to prove damage to establish liability for the tort.

34. A person does not commit a trespass where they enter onto the land of another pursuant to a licence, whether express or implied. However, where a person enters onto land pursuant to a licence, and proceeds to act in a way that exceeds the scope of that licence, or remains on the land after the expiration of the licence, a trespass is committed (***Hillen v ICI (Alkali) Ltd* [1936] AC 65** at 69 per Lord Atkin).

Interference with the common law right to access the highway

35. The relevant elements of this cause of action are summarised by Jonathan Hilliard KC (sitting as a Deputy Judge of the High Court) in ***Arla Foods Limited & Anr v Persons Unknown & Ors*** **[2024] EWHC 1952 (Ch) (*'Arla'*)** at [88]-[93].

36. The owner of land adjoining the highway has a right of access to the highway from any part of his premises. The rights of the public to pass along the highway are subject to that right of access, just as the right of access is subject to the general rights of the public (***Marshall v Blackpool Corp*** **[1935] AC 16** at 22 per Lord Atkin).

37. The right to access the highway is also summarised at **paragraph 19-178** of ***Clerk & Lindsell 24ed***. In that summary, it is noted that an interference with the right is actionable per se, and if an interference is such as to cause loss to business, damages can be obtained. Morgan J, in ***Ineos Upstream Ltd & Ors v Persons Unknown & Ors*** **[2017] EWHC 2945 (Ch) ('*Ineos*')**, acknowledged the existence of a private landowner's right to access the highway from his adjoining land as distinct from the right of the landowner to use the highway as a member of the public (see [42], [101], [107], [150]).

38. The Deputy Judge in ***Arla*** considered ***Ineos*** at [107] in light of ***Marshall v Blackpool Corp*** at 22, and found that a reasonable use of the highway by members of the public will not constitute an unlawful interference with a landowner's right to access the highway (see [91]).

Public nuisance (obstruction of the highway)

39. The law in relation to the obstruction of the highway in the context of protestor injunctions was also summarised by the Deputy Judge in ***Arla*** at [75] to [87] and Julian Knowles J in ***Thurrock Council & Anr v Persons Unknown*** **[2024] EWHC 2576 (KB) ('*Thurrock Council*')** at [52] to [83].

40. It is well-established law that some obstructions of the highway will amount to a public nuisance. The cause of action was considered by Morgan J in ***Ineos*** at [42]-[46] and [64]-[65]. The parties in ***Ineos*** assumed that the same basic principles applied to both the tort

and the criminal offence of obstructing the highway. To that end, at [65], Morgan J set out that, for there to be an offence under the **Highways Act 1980, s137** it must be shown that:

i. *there is an obstruction of the highway which is more than de minimis; occupation of part of a road, thus interfering with people having the use of the whole road, is an obstruction…;*

ii. *the obstruction must be wilful, i.e., deliberate;*

iii. *the obstruction must be without lawful authority or excuse; 'without lawful excuse' may be the same thing as 'unreasonably' or it may be that it must in addition be shown that the obstruction is unreasonable.*

41. The question of whether assembly on the highway was lawful was considered by the House of Lords in ***DPP v Jones*** **[1999] 2 AC 240** (**'*Jones*'**). At pp245G-255A, Lord Irvine said:

> *The question to which this appeal gives rise is whether the law today should recognise that the public highway is a public place, on which all manner of reasonable activities may go on. For the reasons I have set out below in my judgment it should. Provided these activities are reasonable, do not involve the commission of a public or private nuisance, and do not amount to an obstruction of the highway unreasonably impeding the primary right of the public to pass and repass, they should not constitute a trespass. Subject to these qualifications, therefore, there would be a right to peaceful assembly on the public highway.*

42. At p257D, Lord Irvine concluded:

> *I conclude therefore the law to be that the public highway is a public place which the public may enjoy for any reasonable purpose, provided the activity in question does not amount to a public or private nuisance and does not obstruct the highway by unreasonably impeding the primary right of the public to pass and repass: within these qualifications there is a public right of peaceful assembly on the highway.*

43. Accordingly, the law in relation to obstruction of the highway can now be summarised as follows (as per Julian Knowles J in ***Thurrock Council*** at [64]):

(a) There is a right to peaceful assembly on the highway, but it must be remembered that the highway is more than just the carriageway. The assembly on the highway in Jones, was concerned with the grass verge;

(b) That right does not extend so far as to allow the committing of a public nuisance;

(c) While the right to use the highway comprises activities such as assembly on the highway, such activities are subsidiary to the use for passage, and they must be not only usual and reasonable but consistent with the primary use of the highway to pass and repass, if a person is deliberately interfering with the primary use to pass and repass, they are obstructing the highway;

(d) That public nuisance may arise by the unreasonable obstruction of the highway, such as unreasonably impeding the primary right of the public to pass and repass;

(e) Whether an obstruction of the highway is unreasonable is a question of fact, but will generally require that the obstruction is more than de minimis, and must be wilful.

Articles 10 and 11 of the ECHR: proportionality

44. Where a defendant is exercising their qualified article 10 and 11 rights, and injunctive relief interferes those rights, additional considerations arise. Specifically, the interference must be a proportionate means of achieving a legitimate aim, and necessary in a democratic society.

Trespass

45. The interaction between a defendant's article 10 and 11 rights, and the rights of a private landowner, is a contested topic.

46. Trespass is a blatant and significant interference with the Claimant's rights under article 1 of the First Protocol. The exercising of rights under articles 10 and 11 cannot normally justify a trespass ***Cuciurean v The Secretary of State for Transport and High Speed Two (HS2) Limited*** **[2021] EWCA Civ 357** at [9(1)] to [9(2)], per Warby LJ.

47. Case law reiterates frequently that articles 10 and 11 include no right to trespass (ie. article 10 and 11 rights bestow no freedom of forum in the specific context of interference with property rights): ***DPP v Cuciurean*** **[2022] 3 WLR 446 (DC)** at [40]-[50]; ***Boyd v Ineos Upstream Ltd*** **[2019] 4 WLR 100** at [36]-[37] per Longmore LJ; ***HS2 Ltd v Persons Unknown*** **[2022] EWHC 2360 (KB)** at [81] per Julian Knowles J; ***London City Airport v Persons Unknown*** **[2024] EWHC 2557 (KB)** at [8] per Julian Knowles J.

48. However, the Court of Appeal has also found that a trespasser does not automatically lose their rights under articles 10 and 11 altogether: ***R v Hallam*** **[2025] 4 WLR 33** at [34] per the Lady Chief Justice (Lady Carr) (a sentencing appeal).

49. The position is probably best captured by the Lord Chief Justice (Lord Burnett) in ***DPP v Cuciurean*** **[2022] 3 WLR 446 (DC)** at [45]-[46], by reference to ***Appleby v United Kingdom*** **[2003] 37 EHRR 38** (particularly at [47] and [52]). Specifically, at [46]:

> *Articles 10 and 11 are subject to limitations or restrictions which are prescribed by law and necessary in a democratic society. Those limitations and restrictions include the law of trespass, the object of which is to protect property rights in accordance with A1P1. On the other hand, property rights might have to yield to articles 10 and 11 if, for example, a law governing the exercise of those rights and use of land were to destroy the essence of the freedom to protest. That would be an extreme situation.*

50. Whilst declining to consider the matter in detail (the application being disposed of on other grounds), in the words of Sheldon J in ***The Office Group Properties & Anr v Persons Unknown*** **[2025] EWHC 1438 (KB)**, *'it will be an unusual case where Article 10 and 11 rights of those who trespass on private land will outweigh the A1P1 rights of the landowner*' (at [29]). Only where a prohibition on trespass has the effect of preventing any effective exercise of article 10 and 11 rights does an obligation on the state arise to interfere with or regulate property rights to protect those Convention rights.

51. It submitted that it is clear that those circumstances do not exist in this case, nor has any Named Defendant sought to defend the claim on that (or indeed any) basis.

Other cases

52. When considering the proportionality of injunctive relief, the court should have regard to the test set out by the Supreme Court in ***DPP v Zielger & Ors*** **[2022] AC 408 (*'Ziegler'*)**.

53. In ***Ziegler***, the Supreme Court was required to consider whether deliberately obstructive conduct was capable of constituting a lawful excuse for the purposes of s137(1) of the Highways Act 1980. The relevant paragraphs of the judgment are [62]-[87], which makes it plain that any interference with a protestor's article 10 and 11 rights must be proportionate.

54. In a claim such as the present one, the correct approach to the inter-relationship between ***Ziegler*** and subsequent Supreme Court case law (notably ***Reference by the Attorney General for Northern Ireland-Abortion Services (Safe Access Zones) (Northern Ireland) Bill*** **[2023] 2 WLR 33**) is set out by the Deputy Judge at [82]-[86] of ***Arla***, as approved at [79]-[80] of ***Thurrock Council*** by Julian Knowles J. Specifically, the proportionality requirements of ***Ziegler*** should be applied, but in relation to an injunction sought against Persons Unknown it is impossible to apply those requirements to any specific individual, and a proportionality test should instead be applied to the prohibitions sought with future protests in mind.

55. Accordingly, the court must ask the five ***Ziegler*** questions (see [16] and [58]), those being:

    i. Is what the defendant did in exercise of one of the rights in articles 10 or 11?
    ii. If so, is there an interference by a public authority with that right?
    iii. If there is an interference, is it 'prescribed by law'?
    iv. If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of article 10 or 11, for example the protection of rights of others?
    v. If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?

56. That fifth question in turn requires the consideration of four sub-questions to assess whether the interference is proportionate (see [16] of ***Ziegler***):

    i. Is the aim sufficiently important to justify interference with a fundamental right?
    ii. Is there a rational connection between the means chosen and the aim in view?
    iii. Are there less restrictive means available to achieve that aim?
    iv. Is there a fair balance between the rights of the individual and the general interests of the community, including the rights of others?

57. Further, their Lordships in ***Zeigler*** (at [72]) adopted the non-exhaustive list of factors set out by Lord Neuberger MR in ***City of London Corporation v Samede*** **[2012] PTSR 1624** (**'*Samede*'**) at [39]-[41] that should be considered when evaluating proportionality. Paraphrasing that content, those factors are:

i. the extent to which the continuation of the protest would breach domestic law;
ii. the importance of the precise location to the protestors;
iii. the duration of the protest;
iv. the degree to which the protestors occupy the land;
v. the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public;
vi. whether the views giving rise to the protest relate to 'very important issues' and whether they are 'views which many would see as being of considerable breadth, depth and relevance'; and
vii. whether the protestors 'believed in the views that they were expressing'.

58. Conduct that purposely '*obstruct*[s] *traffic and the ordinary course of life in order to seriously disrupt the activities carried out by others is not at the core of* [the] *freedom as protected by art.11 of the Convention*' (***Kudrevicius v Lithuania*** **(2016) 62 EHRR 34** at [97]).

PERSONS UNKNOWN

59. This hearing is a review of the Order against Persons Unknown. The Claimant seeks a five-year order, subject to further annual review.

60. The court has already, on two occasions, performed a full ***Wolverhampton***-style assessment in relation to the Persons unknown order, as well as a ***Ziegler*** proportionality assessment (at the ½ day listing of the without notice hearing, and 1 day listing of the return date). In those circumstances, it is submitted that this hearing should be conducted as a 'review' and not a *de novo* hearing, that also being the express purpose of the listing set out in paragraph 12 of both the Tipples J and Murray J Orders.

Test to be applied on review

61. The Supreme Court, in ***Wolverhampton*** at [225], expressed that the temporal limitation and periodic review of newcomer injunctions:

give[s] *all parties an opportunity to make full and complete disclosure to the court, supported by appropriate evidence, as to how effective the order has been; whether any reasons or grounds for its discharge have emerged; whether there is any proper justification for its continuance; and whether and on what basis a further order ought to be made.*

62. Ritchie J, who was dealing with an application for the continuation of an interim injunction in ***High Speed Two (HS2) Ltd v Persons Unknown*** **[2024] EWHC 1277 (KB) (‘*HS2*’)**, considered how a review hearing should be approached:

32. Drawing these authorities together, on a review of an interim injunction against PUs and named Defendants, this Court is not starting de novo. The Judges who have previously made the interim injunctions have made findings justifying the interim injunctions. It is not the task of the Court on review to query or undermine those. However, it is vital to understand why they were made, to read and assimilate the findings, to understand the sub-strata of the quia timet, the reasons for the fear of unlawful direct action. Then it is necessary to determine, on the evidence, whether anything material has changed. If nothing material has changed, if the risk still exists as before and the claimant remains rightly and justifiably fearful of unlawful attacks, the extension may be granted so long as procedural and legal rigour has been observed and fulfilled.

33. On the other hand, if material matters have changed, the Court is required to analyse the changes, based on the evidence before it, and in the full light of the past decisions, to determine anew, whether the scope, details and need for the full interim injunction should be altered. To do so, the original thresholds for granting the interim injunction still apply.

63. In ***Arla***, the Deputy Judge described the annual review process at [128] as:

allow[ing] *a continued assessment of whether circumstances have changed so as to make the continuation of the injunction appropriate… the review should be of whether the position has developed since the last review.*

That observation was made at the final hearing of the claim, and in the context of a five-year order subject to annual review being sought.

64. Morris J took the same approach in ***Transport for London v Persons Unknown & Ors*** **[2025] EWHC 55 (KB) (‘*TfL*’),** specifically at [54]-[55]. At [55], his Lordship said:

In the present cases, TfL has already provided detailed evidence at a full trial and the Court has, on two occasions, already made a full determination of the issue of risk and the balance of interests. In my judgment, in those circumstances there needed to be some material change in order to justify a conclusion that the Final Injunctions should not continue. (For example, as in the HS2 case where Phase 2 of the HS project had subsequently been abandoned: see paragraph 40 above).

65. This approach was approved and applied by Hill J in the annual review in ***Valero Energy Ltd v Persons Unknown*** **[2025] EWHC 207 (KB) (‘*Valero 2025’*).** [3]

66. The question of the proper approach to a review hearing was again examined in a sequence of three cases throughout the spring of 2025: ***Basingstoke & Deane BC v Persons Unknown*** **[2025] EWHC 738** (28 March 2025) (‘***Basingstoke***’), ***Test Valley BC v Persons Unknown*** **(KB)** (9 May 2025, unrep.) and ***Rochdale MBC v Persons Unknown*** **[2025] EWHC 1314 (KB)** (28 May 2025) (‘***Rochdale***’). Those three cases concerned so-called Traveller injunctions granted against newcomer persons unknown under the ***Wolverhampton*** jurisdiction; each had been granted for a year, with the Claimants given express liberty to apply for the continuation of the order by a specified date (absent which the injunction would expire by the effluxion of time).

67. Given the subtle difference in the underlying order sought to be continued in those cases (and a specific point arising from the underlying judgment in ***Basingstoke***), and the duty of full and frank disclosure on the claimants, counsel for the claimants raised the question of which is the correct test to apply; the options being a further full ***Wolverhampton*** assessment, or the ***HS2/TfL/Valero 2025*** approach. Only in ***Basingstoke*** did the court purport to undertake a full ***Wolverhampton*** assessment (although Garnham J in ***Rochdale*** indicated at [71]-[77] that, even had a full assessment been required, the relevant tests were met).

68. In ***Rochdale***, Garnham J summarised the case law (at [42]-[52]), noting that ***Basingstoke*** was an outlier (for good reason) in the approach that was taken. His Lordship held, at [51]:

In my judgment the correct approach is dictated by the Supreme Court’s judgment in Wolverhampton and in particular [225]. This is not a “tick box” exercise, but the

[3] It would appear that the same approach was also adopted in ***Multiplex Construction Europe Ltd v Persons Unknown*** on 28 February 2025. However, no transcript or neutral citation is available for that judgment, but a summary can be found on Westlaw at [2025] 2 WLUK 578.

> *matters on which evidence should be adduced and argument focussed are (i) how effective the order has been; (ii) whether any reasons or grounds for its discharge have emerged; (iii) whether there is any proper justification for its continuance; and (iv) whether and on what basis a further order ought to be made. The parties should give full disclosure, supported by appropriate evidence, directed towards those questions.*

The Judge proceeded to test the continuation application by reference to those four criteria, and whether there had been a material change of circumstances.

69. It is submitted that, where there is no material change of circumstances necessitating a full ***Wolverhampton*** assessment, the ***Rochdale*** approach should be followed. The same appears to have been cited with approval, and applied, in ***Hanson Quarry Products Europe Ltd v Persons Unknown*** (6 June 2025, unrep.),[4] and most recently on 11 July 2025 in ***Esso Petroleum Co Ltd v Persons Unknown*** **[2025] EWHC 1768 (KB)**.

70. On 24 June 2025, the persons unknown protest injunctions held by 10 (of 13) airports came before the court for their annual review: ***London City Airport Ltd & Ors v Persons Unknown*** (unrep.)[5] (the **'*Airports Review*'**). In that review, Bourne J appears to have cited with approval, and applied ***HS2***. It does not appear from counsels' skeleton that the court was referred to ***Rochdale*** (or ***Basingstoke*** or ***Test Valley***).[6]

71. Of the remaining three airports, Heathrow's order is listed for review on 23 July 2025. It is not clear from the injunction websites when the orders held by Southend and Gatwick are being reviewed.

The *Wolverhampton* requirements

72. Whilst the Claimant's position is that a full ***Wolverhampton***-style assessment does not fall to be conducted at this hearing, the Claimant appreciates that the court will likely still wish to be appraised of the pertinent considerations from the same. The below is presented accordingly.

[4] A Westlaw summary can be found at [2025] 6 WLUK 122.
[5] A Westlaw summary can be found at [2025] 6 WLUK 499.
[6] https://assets.ctfassets.net/lmkdg513arga/733EcaFfNBtr3pO3oLrEGZ/2ae78f04e1cdcab573567d5377d7f2ea/Airports_-_skeleton.pdf.

73. Injunctive relief may be granted wherever the court considers it 'just and convenient' to do so (**Senior Courts Act 1981, s37**).

74. Following ***Wolverhampton***, any claim and application for injunctive relief against newcomer Persons Unknown is to be treated differently to those against named defendants. Throughout the course of its judgment, the Supreme Court examined the distinguishing features of such injunctions and, of particular importance, the principles that govern when such relief can and should be granted (ie. when it would be just and convenient to grant such relief). The court's attention is specifically directed to [167] and [188]-[237] of ***Wolverhampton***.

75. In this context, there is no meaningful difference between interim and final injunctive relief: ***Wolverhampton*** at [139], [143(vii)], [178] and [234] and, more recently in the protest context, ***Drax Power Ltd v Persons Unknown*** **[2024] EWHC 2224 (KB)** at [18] per Ritchie J.

76. The overarching consideration post-***Wolverhampton*** is that the claimant must show a 'compelling need' for the order sought (***Wolverhampton*** at [167(i)] and [188]). The key substantive test is set out in [218] as:

> *any [claimant] applying for an injunction against persons unknown, including newcomers … must satisfy the court by full and detailed evidence that there is a compelling justification for the order sought … There must be a strong probability that a tort … is to be committed and that this will cause real harm. Further the threat must be real and imminent.*

77. The requirements and guidance from ***Wolverhampton*** were interpreted and distilled in several protestor injunction cases throughout 2024, most notably by Ritchie J in ***Valero Energy Ltd v Persons Unknown*** **[2024] EWHC 134 (KB) ('*Valero*')** who, at [58], set out a series of substantive and procedural requirements that must be met for the grant of injunctive relief against a newcomer person unknown (albeit in the context of an application for summary judgment), and also by Sir Anthony Mann in ***Jockey Club Racecourses Ltd v Kidby & Others*** **[2024] EWHC 1786 (Ch) ('*Jockey Club*')** who, at [18], sets out a series of 14 questions that must be considered when the grant of a newcomer persons unknown injunction is sought.

78. In effect, the substance of the law and the matters that must be considered are now well-settled, even if presented differently between ***Valero*** and ***Jockey Club***. For the purposes of this skeleton argument, the structure of the [58] ***Valero*** requirements will be adopted.

79. In summary, the ***Valero*** substantive requirements are:

i. there must be a cause of action;
ii. there must be full and frank disclosure by the claimant;
iii. there must be sufficient evidence to prove the claim (although this requirement appears to be crafted with the summary judgment application in mind);
iv. there must be no realistic defence;
v. there must be a compelling justification for the remedy sought, and the court must take into account any balancing exercised that may be required if article 10 and 11 rights are engaged;
vi. damages must not be an adequate remedy.

80. In summary, the ***Valero*** procedural requirements are:

i. Persons Unknown must be clearly and plainly identified by reference to the tortious conduct to be prohibited, and clearly defined geographical boundaries (if possible);
ii. the prohibitions in the injunction must be set out in clear words and avoid legal terminology. Further, if any lawful conduct is sought to be prohibited, that must be made clear, and the Court must be satisfied that there is no other more proportionate way of protecting the claimant's rights;
iii. the prohibitions must match the torts claimed;
iv. the prohibitions must be defined by clear geographic boundaries (if possible);
v. the injunction should be temporally limited to that which is reasonably necessary to protect the claimant's rights;
vi. the proceedings and any order made must be served by alternative means (referred to as 'notification' and not service in ***Wolverhampton***). The court should have regard to the Human Rights Act 1998, s12(2);
vii. there must be a right to set aside or vary any order made;
viii. provision should be made for the review of the injunction in the future.

81. The Claimant seeks precautionary relief (although the relief is not 'pure' precautionary relief, as the apprehended wrongs and resulting harms have already been suffered). Ordinarily, the Court should therefore have regard to the multi-factorial test set out by Marcus Smith J in ***Vastint Leeds BV v Persons Unknown*** **[2019] 4 WLR 2 ('*Vastint*')** at [31], as approved by Vos MR in ***London Borough of Barking and Dagenham & Ors v Persons Unknown & Ors*** **[2022] EWCA Civ 13; [2023] QB 295** at [83].

82. However, it is submitted that the ***Vastint*** test has now be subsumed into the ***Wolverhampton*** requirements (and therefore also the ***Valero*** distillation of the same). That submission was recently accepted by Garnham J in ***Rochdale*** at [78], but with the Judge also finding that the ***Vastint*** test provides a useful 'double check'.

83. Accordingly, in so far as it is relevant, the ***Vastint*** test requires two questions to be answered in the affirmative for injunctive relief to be granted:

    i. first, is there a strong possibility that, unless restrained by an injunction, the defendant will act in breach of the claimant's rights?; and

    ii. second, if the defendant did act in contravention of the claimant's rights, would the resulting harm be so grave and irreparable that, notwithstanding the grant of an immediate interlocutory injunction (at the time of the actual infringement of the claimant's rights) to restrain further occurrence of the acts complained of, a remedy of damages would be inadequate.

84. Marcus Smith J, still at [31], proceeded to then set out multiple factors relevant to the assessment of each of those questions:

    i. in relation to the first question: if the infringement is purely anticipatory, what steps has the claimant taken to ensure that the infringement does not occur; the attitude of the defendants; where infringements have already been committed, it may be that the defendant's intentions are less significant than the natural and probable consequences of his or her act; the time frame between the application for relief and

the threatened infringement may be relevant (the courts often use the language of imminence, meaning that the remedy sought must not be premature);

ii. in relation to question two: how easily can the harm of the infringement be undone by ex post rather than ex ante intervention; the gravity of the anticipated harm.

Human Rights Act 1998, s12(3)

85. A Person Unknown might argue that the **Human Rights Act 1998, s12(3)** should apply to this review. That section, which applies only when article 10 rights are engaged, provides that relief that restrains publication before trial should not be granted unless the court is satisfied that the applicant is '*likely*' to establish that publication should not be allowed at trial (with 'likely' taken to mean *'more likely than not*' ***Cream Holdings Ltd v Banerjee*** **[2005] 1 AC 253** at [22] per Lord Nicholls).

86. There will be no 'trial' of the Persons Unknown claim (see paragraph 75 above), therefore reference to trial is reference to a purely hypothetical trial. Further, the 'trial' has arguably already taken place when the full ***Wolverhampton***-style assessment was done, and this hearing is a review of the order so made.

87. In any event, the Claimant's position is that it does not seek to restrain publication (even in its widest definition – see ***Birmingham City Council v Afsar*** **[2019] EWHC 1560 (KB)** at [60] per Warby J). Where injunctive relief applies restrictions on <u>where</u> a defendant may express themselves, as opposed to <u>what</u> the defendant may say, **s12(3)** does not apply: ***Shell UK Oil Products Limited v Persons Unknown*** **[2022] EWHC 1215 (QB)** at [66]-[76] per Johnson J and ***Thurrock Council & Anr v Adams & Ors*** **[2022] EWHC 1324 (QB)** at [83] per HHJ Simon sitting as a Judge of the High Court.

88. The Claimant acknowledges that there are arguments to the contrary, and does not consider there to be any prejudice to it not contesting this point. The overarching test of 'compelling need' is a higher threshold than the 'serious issue to be tried' that applied prior to ***Wolverhampton***; if 'compelling need' is established, it is difficult to see how the threshold of 'likely' would not also be established.

Conclusion

89. It is submitted that, in the circumstances of this review, and there being no material change of circumstances that necessitates a further full-***Wolverhampton*** assessment, the court should adopt the same approach as that set out in ***Rochdale***. That approach is an arguably deeper inquiry than that set out in ***HS2/TfL/Valero 2025***, but still falls short of a full ***Wolverhampton***-style assessment (which has already been twice performed in relation to this Order).

PERSONS UNKNOWN: SUBMISSIONS

90. There has been no material change of circumstances since the hearing before Tipples J in January 2025. Accordingly, the court should adopt the ***Rochdale*** approach to this review.

Efficacy of the Order

91. Mr Patterson and Mr Wargent summarise the efficacy of the injunction in their witness statements (Patterson WS1 paras 69-71 **[EB/567-568]** and Wargent WS4 paras 36-41 **[EB/605-606]**).

92. Since the grant of relief on 20 December 2024, there have been two incidents of unlawful protest at the Shipley Site: 28 January 2025 and 18 February 2025. Whilst the incident on 28 January 2025 was a major incident, it led to the identification of D19 (Mary Ensell) and D20 (Harry Wade), and the contempt proceedings shall shortly conclude. Mr Patterson describes the incident on 18 February as 'minor' (full details are at paras 67-68 **[EB/567]**). Leaving aside 28 January 2025, there have been no further incidents in which access to the Shipley Site has been obstructed, with protestors continuing to protest lawfully outside the site and without obstructing access.

93. There have been no further incidents of unlawful direct-action protest at any of the other five sites protected by the injunction.

94. That is set against the history of the following incidents of direct-action protests at the Claimant's sites, many of which included significant property damage running to hundreds of thousands of pounds per incident:

    i. 2022 (1 incident);
    ii. 2023 (2 incidents);
    iii. 2024 (8 incidents, 5 of which occurred after October).

95. It is submitted that there is a causal link between the significant decrease in incidents of unlawful direct-action protest and the grant of injunctive relief. That is not only an inference drawn by the Claimant, but is also confirmed by the observations recorded on the spreadsheet of incidents; the organisers of the protest outside the Shipley Site on 12 April 2025 were advising those in attendance of the injunction, and warning them not to breach the same (Wargent WS4 para 39 **[EB/605-606]**).

96. It is submitted that the significant reduction in unlawful protest incidents is not evidence that the threat has dissipated, but evidence that the injunction is having its intended effect (***Valero 2025*** at [34]; ***Rochdale*** at [57]). In any event, as shall be summarised below, Palestine Action (and those who now stand in solidarity with that group) remain active, and continued (until recently) to list the Claimants six sites as a 'targets', such that the threat has clearly not dissipated. The proven efficacy of the injunction is a reason for its continuation.

97. Lastly the efficacy of the injunction is clearly demonstrated by the activity of Palestine Action. Mr Wargent set out examples of the group's recent direct-action (Wargent WS4 paras 71-74 **[EB/616-618]**). Mr Singh's seventh witness statement also sets out examples of the group's direct-action that has occurred since Mr Wargent's fourth statement. In both statements there are multiple examples of sustained aggravated trespass and significant property damage being caused to target sites. To the Claimant's knowledge, none of these sites or entities have the benefit of injunctive relief, unlike the Claimant.

Are there grounds for discharge?

98. No grounds for discharge have emerged.

99. On the contrary, further grounds for the continuation of the injunction have emerged. Tipples J was reluctant to grant the five-year order subject to annual review at the January 2025 hearing because it was at that time unclear what the effect of the then newly agreed ceasefire would have on protest activity. That ceasefire has since broken down, and it is in any event clear from the Claimant's evidence that supporters of Palestine Action continue to engage in frequent ats of unlawful direct-action protest. Even if the ceasefire had not broken down, Mr Wargent explains that the Claimant would have continued to apprehend further acts of unlawful protest, as pro-Palestinian protests are not simply a product of the current Gaza conflict (Wargent WS4 paras 75-79 **[EB/618-619]**).

100. Whilst Palestine Action is now a proscribed group, the proscription has in fact caused the mobilisation and agitation of many direct-action groups in the pro-Palestinian sphere and beyond, as is explained in Mr Singh's seventh witness statement. The irony is that the proscription appears to have increased the pool of activists who are now an imminent risk to the Claimant. Further, the proscription of the group does not cause those activists to disappear; they still exist, and splinter groups have already started to form (see for example the 'Yvette Cooper' group, and 'shut down Leonardo' – Singh WS7 paras 34 and 48), and there are of course the 'lone wolf' activists who pose an imminent risk to the Claimant.

Is there a proper justification for continuance?

101. There is a proper justification for continuance:

i. until its recent removal following the proscription, the Claimant's six sites remained listed as 'targets' on the Palestine Action website, and their addresses published (Singh WS7 para 57). Further, the Claimant was listed as a target on the 'about us' page of the Palestine Action website, and is also listed as a target in the so-called 'Underground Manual', which was available to download (Wargent WS4 paras 69-70 **[EB/615-616]**; **[EB/170]**);

ii. supporters of Palestine Action continue to frequently engage in unlawful direct-action protest, including acts of aggravated trespass resulting in significant property damage (Wargent WS4 paras 71-74 **[EB/616-618]**; Singh WS7 paras 12-18);

iii. Palestine Action continued to recruit and train new activists until its proscription (Wargent WS para 68 **[EB/615]**). Even when proscription was imminent, online training sessions were still being delivered, and targets being discussed (Singh WS7 para 29);

iv. even with the benefit of injunctive relief, two incidents of alleged unlawful protest have occurred at the Shipley Site (28 January and 18 February 2025);

v. the proscription has prompted a swell of support for Palestine Action and its tactics from other direct-action groups. Further, in its final statement before removing its website and online content, Palestine Action encouraged others to continue to engage in direct-action (Singh WS7 para 42);

vi. protests, which are peaceful and about which the Claimant does not complain, continue to take place at the Claimant's sites. Historically, some of these protests have evolved to include acts of obstruction at the Shipley Site, which West Yorkshire Police were unable to manage effectively. Accordingly, the injunction is necessary to moderate the behaviour of those protesting outside of the Shipley Site, which protests continue to occur.

102. It is submitted that the decrease in incidents of unlawful protest at the Claimant's sites is a result of the efficacy of the injunction. Should the relief be discharged, the Claimant apprehends that further imminent acts of direct-action, and significant resulting harm, will again be committed by Persons Unknown.

Whether and on what basis a further order should be made

103. It is submitted that the Order should be continued. In line with other injunctions of this nature, it is submitted that a five-year order subject to annual review is appropriate. As the Deputy Judge in ***Arla*** (at [128]) found, a one-year order would be too short in circumstances where there is an established history of protest by an activist group; rather, a longer order with annual review allows for the continued assessment of whether circumstances have

changed, and alleviates the costs that will be incurred by the Claimant by it not having to start afresh each year and apply for a new Order.

NAMED DEFENDANTS

104. As to the Named Defendants, none have acknowledged service of, or filed or served any evidence in defence of, the claim. The Claimant is precluded from obtaining default judgment in these circumstances only by reason of this being a Part 8 Claim.

105. In the circumstances, it is submitted that judgment should be given for the Claimant, and injunctive relief granted accordingly.

106. The criminal trial of the First to Fourth Defendants resulted in a hung jury, a re-trial has been set for February 2026 (Patterson WS1 para 34 **[EB/558]**).

107. On 22 May 2025, the Fifth to Seventh Defendants were found guilty of criminal damage and carrying items to commit criminal damage, with D5 (Ricky Southall) also found guilty of burglary (Wargent WS4 para 83 **[EB/620]**).

108. The CPS have authorised charges of criminal damage over £5000 and conspiracy to cause a public nuisance against D14 (Autumn Taylor-Ward) (Wargent WS4 para 53 **[EB/608]**).

109. At the time of Mr Wargent's fourth witness statement, the case against D16 (Lara Downes) and D17 (Gabrielle Middleton) was still being built, with both defendants on pre-charge bail until 18 June 2025 (para 59 **[EB/612]**). Both Defendants have since been charged with burglary, criminal damage and causing a public nuisance (Singh WS7 para 59).

110. Mr Wargent has also identified other instances in which D2 (Ruby Hamill), D5 (Ricky Southall) and D7 (Serena Fenton) have engaged in alleged unlawful protests under a pro-Palestinian banner, showing a propensity for such actions (Wargent WS4 para 64 **[EB/614-625]**).

PROPORTIONALITY

111. The court is respectfully reminded that the proportionality of the relief has been considered on two previous occasions (both in relation to the Named Defendants and Persons Unknown). The Claimant's position is that a ***Ziegler*** proportionality assessment does not fall to be done in circumstances where the Persons Unknown Order is being reviewed and no material change to the prohibitions are sought. The Claimant nonetheless acknowledges that the court may wish to re-consider proportionality against both the Named Defendants and Persons Unknown, even in the absence of any defence or representations from the Named Defendants.

112. It is submitted that, in line with the law set out at paragraphs 45 to 51 above, injunctive relief restraining trespass is proportionate in all the circumstances. Articles 10 and 11 carry no right to trespass on the Claimant's private land, and certainly not with the aggravating features that each of the Named Defendants have engaged in, and which have caused the Claimant significant loss. Further, the restraining of trespass does not, in the circumstances of this case, prevent the effective exercise of the Named Defendants' article 10 and 11 rights. The Named Defendants are free to protest outside the Claimant's sites, provided no other tort (such as interference with the common law right to access the highway or obstruction of the highway) is committed. Indeed, the spreadsheet exhibited at **[EB/628-632]** records that many such incidents do occur; these protests are not prohibited, and are an effective exercise of the protestors' article 10 and 11 rights.

Additional Shipley Site prohibitions

113. Only in relation to the Shipley Site are additional protections sought prohibiting the obstruction of access and the obstruction of the highway leading to the site (that being the road known as 'Acorn Park'). It is submitted that the that limited geographical scope itself speaks to the proportionality of the order being sought.

114. Prohibitions relating to these obstructions are sought because:

i. the Shipley Site has experienced such acts of protest during 2024 and 2025; and

ii. obstruction of the highway is a well-known and well-practised tactic of direct-action protest, including by Palestine Action (see for example Wargent WS1 para 51 **[EB/15-16],** and also Singh WS1 para 46 **[EB/293]**).

115. Further, if the prohibitions relating to the common law right to access the highway are granted, it is likely that the protests would be moved just a few meters away from the gate to the Shipley Site and onto the highway, such that the injunction prohibitions were not breached, but that such that access to the site was still obstructed.

116. It is submitted that the first four ***Ziegler*** questions are clearly answered in the affirmative, such that it is the fifth question (and therefore the four sub-questions and the ***Samede*** factors) with which the court should be concerned.

117. In light of the evidence given by Mr Wargent in particular, it is submitted that the prohibitions sought are proportionate, and strike a fair balance between the rights of the Claimant to pass and repass on the highway and the article 10 and 11 rights of the Defendants. Specifically:

i. the Claimant accepts that the Defendants hold their views sincerely, and that the views relate to important issues. However, the prohibitions sought do not prevent the protestors engaging in lawful protest to make their views known. For example, the Defendants are not prevented from standing on the pavement outside the Shipley Site with banners and placards and making noise; relatedly

ii. the Claimant accepts that the location of the protest is important to the Defendants. However, the Defendants are not being excluded from the outside of the Shipley Site – they are simply prohibited from obstructing the carriageway of the road and obstructing access to the site;

iii. Acorn Park is a dead-end road which is accessed by turning off the A6038. The single point of vehicular access to the Shipley Site is off Acorn Park, and the road is also the only point of access to several neighbouring business (some of which receive frequent HGV deliveries) (Wargent WS1 paras 27-29 **[EB/12]**). Obstruction to Acorn Park will affect not only the Claimant, but also those

neighbouring businesses, and significant disruption could see traffic back-up to (and disruption being caused on) a significant A-road. That disruption did in fact come to pass during the incident on 28 January 2025 (Patterson WS1 paras 63 and 65 **[EB/565-566]**);

iv. acts of obstruction that have already occurred outside the Shipley Site have not been de minimis (and were increasing in frequency). On 30 October 2024, access to the site was obstructed for five hours (Wargent WS1 para 108 **[EB/28]**), on 20 November 2024, access to the site was obstructed for 2 hours (Wargent WS1 para 113 **[EB/29]**) and on 28 November 2024, access to the site was obstructed for approximately 3 hours (Wargent WS1 para 116 **[EB/29]**). The blockade/locking on incident on 19 December 2024 was resolved quickly by the police, such that staff were delayed in leaving the Shipley Site for 40 minutes (Wargent WS2 para 19 **[EB/397]**). During the course of these blockades, approximately 100 staff are unable to access the site and conduct the Claimant's day-to-day business, factory deliveries and collections are missed and, depending on shipping schedules, up to £90,000 of revenue can be put at risk (Wargent WS1 para 108 **[EB/28]**). The incident on 28 January 2025 lasted for some 9 hours, and all vehicular movements into and out of the Shipley Site were obstructed, and disruption was caused to the wider road network and neighbouring businesses (Patterson WS1 paras 62-66 **[EB/565-566]**);

v. the obstruction of the highway prohibitions are limited in that they are expressly tied to acts of protest (as is the definition of the relevant category of Persons Unknown) that occur for the purpose of disrupting vehicular access to the Shipley Site. The common law right to access the highway prohibitions are also limited in scope by reason of the definition of Persons Unknown being tied to protest.

118. Further, the Court is respectfully asked to keep in mind that obstructing access to the Shipley Site, which is one of the Claimant's sites that holds Facility Security Clearance, and which therefore services UK MOD contracts, affects productivity and business operations at the site. Disruption to business operations at the site can place serving personnel at increased risk of shortages and equipment failure (Wargent WS1 para 21 **[EB/10-11]** and para 133(iii) **[EB/36]**).

119. Finally, it is clear that the Defendants can protest in such a way that would be meaningful and not captured by the injunction prohibitions. The same is clear from the spreadsheet that shows that there have been and continue to be protests outside the Shipley Site that have been lawful (and which the Claimant has not relied upon when seeking relief), and which the Claimant does not seek to prohibit (**[EB/628-632]**).

Conclusion

120. It is submitted that final injunctive relief should be granted against the remaining Named Defendants.

FULL AND FRANK DISLCOSURE

121. The Shipley Site trespass prohibition in Draft Order accompanying this skeleton has been amended from the Orders of Tipples J and Murray J to reflect the presence of the footpath that runs through the site, the significance of which had not been appreciated, and which has not hitherto been reflected in the Orders made. Mr Patterson explains the location of the footpath in his witness evidence (paras 8-13 **[EB/552-554]**).

122. The fourth protestor who participated in the protest at the Shipley Site on 15 May 2024, and who was not named as a defendant as they were in custody at the time the claim was issued (such that the Claimant did not reasonably apprehend that they might engage in further unlawful action), has since been released from custody. They were found guilty of criminal damage and carrying items to commit criminal damage alongside the Fifth to Seventh Defendants (inclusive) on 22 May 2025 (Wargent WS4 para 64 **[EB/620-621]**).

123. Since the grant of the Tipples J Order, Nicklin J has handed down judgment in ***MBR Acres Limited & Ors v Curtin & Persons Unknown*** **[2025] EWHC 331 (KB)** (‘***MBR Acres***’). For the purposes of full and frank disclosure, that judgment is notable for two reasons:

i. Nicklin J, on the apparent authority of ***Wolverhampton***, granted a true *contra mundum* order. The Judge found that Persons Unknown did not need to be, and ought not to be, defined in any way (see [356] and [362] of the judgment); and

ii. Nicklin J included within the *contra mundum* order a requirement that the court's permission must be obtained before a contempt application could be made (see [390] of the judgment).

124. As to (i), it is submitted that no variation should be made to the injunction in these proceedings to make it a true *contra mundum* order. That approach is at odds with all other High Court cases decided since ***Wolverhampton***, only one of which (***Valero***) was referred to in the judgment. On one occasion, a High Court Judge on the first hearing of a without notice application followed the approach of Nicklin J (***The Chancellor, Master and Scholars of the University of Cambridge v Persons Unknown*** **[2025] EWHC 454 (KB)**), but that approach was rejected by the Judge at the return date, who preferred and retained the 'conventional' approach (**[2025] EWHC 724 (KB)**). Further, modifying the injunction to make it a true *contra mundum* order expands significantly the scope of reach of the order, for which there is no justification.

125. As to (ii), it is submitted that no variation should be made to the injunction to include such a requirement. In ***MBR Acres***, Nicklin J was responding to the specific circumstances of that case (and in particular an earlier contempt application against a former person unknown, which he considered to be totally without merit – see ***MBR Acres Ltd & Ors v McGivern*** **[2022] EWHC 2017 (QB)**). Those circumstances do not arise in this claim. Whilst a handful of other injunctions have since adopted this requirement (see **[2025] EWHC 724 (KB)** above and ***Trinity College Cambridge v Persons Unknown*** and ***St John's College Cambridge v Persons Unknown*** **[2025] EWHC 1577 (Ch)**, for example), it is submitted that this approach should not be followed here. The ordinary position is that a claimant who makes a contempt application does so at their own risk, including as to costs (***PJSC Vseukrainskyi Aktsionernyi Bank v Maksimov*** **[2014] EWHC 4370 (Comm)** at [21]-[22]). Further, there is no reason to suspect, in this case, that the Claimants will seek to bring vexatious or ill-founded contempt applications, such that to now impose the control of a permission requirement is simply unnecessary. Bourne J, in the ***Airports Review***, rejected the need for a permission requirement for these reasons.

126. The Claimants also raised the following before both Bourne J and Tipples J:

i. it is common for defendant protestors to submit that a prohibition drawn in the terms of 'approaching, slowing down or obstructing any vehicle moving along' a road is drawn too widely and captures lawful acts (including slow marching, and holding a placard where a driver chooses the slow down to read the placard). These submissions were considered by Bourne J in ***Thurrock Council & Anr v Adams & Ors*** **[2024] EWHC 2750 (KB) (*Thurrock Council v Adams*)** at [81] to [84]. Both submissions were rejected. Specifically, Bourne J found that slow marching is a deliberate obstruction of traffic that can be prohibited, and is not just a side-effect of the marching. The example of a driver slowing to read a placard is a side-effect of protest, and does not fall within the scope of the prohibition;

ii. there are now specific criminal prohibitions on acts such as locking-in contained in the **Public Order Act 2023**. Defendant protestors sometimes submit that these specific criminal provisions make injunctive relief that captures the same conduct unnecessary. Bourne J also considered this submission in ***Thurrock Council v Adams***, and rejected the same at [80]. In any event, it is submitted that there is clearly no barrier to civil and criminal measures both capturing the same conduct, with the coterminous liability in tort and criminal law for obstruction of the highway being a prime example of the same. For completeness, the submission has also been considered in ***High Speed Two (HS2) Ltd v Persons Unknown*** **[2024] EWHC 1277 (KB)**, ***Drax Power Ltd v Persons Unknown*** **[2024] EWHC 2224 (KB)** and ***North Warwickshire BC v Various Named Defendants & Persons Unknown*** **[2024] EWHC 2254 (KB)**. In none of those cases did the provisions of the **Public Order Act 2023** preclude the granting of injunctive relief.

CONCLUSION

127. The Claimant seeks, and respectfully asks the court to grant (i) final injunctive relief against the remaining Named Defendants (with an award of costs in favour of the Claimant), and (ii) a five-year order subject to annual review against the defined categories of Persons Unknown.

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21 July 2025