

IN THE HIGH COURT OF JUSTICE

CLAIM NO: PT-2025-001017

CHANCERY DIVISION

PROPERTY, TRUST AND PROBATE LIST

BETWEEN:

**(1) RWE GENERATION UK PLC
(Company registration number 3892782)**

Claimant

and

**(1) PERSONS UNKNOWN WHO WITHOUT THE CLAIMANT’S
PERMISSION ENTER OR REMAIN UPON THE PREMISES
DESCRIBED IN THE CLAIM FORM, OR WHO DAMAGE OR
DEFACE ANY OF THOSE PREMISES OR ANY PART OF THEM, FOR
THE PURPOSES OF PROTEST WHETHER IN SUPPORT OF ANY
GREENPEACE CAMPAIGN OR OTHERWISE**

**(2) GREENPEACE UK LIMITED
(Company registration number 02463348)**

Defendants

CLAIMANT’S SKELETON ARGUMENT

For urgent interim injunction hearing: time estimate 2 hours

References to documents in the Hearing Bundle denoted by [page] and in the Authorities Bundle by [AB/page]

Suggested Pre-Reading (Time Estimate: 1 hour of judicial time)

- Draft Order [6]
- Application Notice [21] & Claim Form [26]
- Particulars of Claim [31]
- Witness Statements of William Jeffery dated 1 October 2025 [55] and Rachel Smith dated 1 October 2025 [463]
- Skeleton argument

INTRODUCTION

1. The Claimant (“C”) is an owner and operator of (materially) gas-powered generation facilities for the supply of electricity to the National Grid. The Second Defendant (“D2”) has commenced a protest campaign against C. The focus of the allegations made against C is that C profiteers by charging inflated prices for the

electricity which it supplies to the National Grid especially during periods of maximum demand: eg **WJH1/124-9 [209-214]**. On 22/9/2025, this campaign materialised in a sustained trespass at one of C's sites, at Staythorpe, by individuals supporting D2's objectives and in the name of "Greenpeace". The exact mechanism of their entry is unknown but they are presumed to have scaled the perimeter fence. Once on site, they scaled a tall structure and unfolded banners conveying their protest message. When they descended, later on 22/9/2025, they were arrested by the police. C understands that they are currently on bail.

2. D2 has claimed responsibility for what occurred, in the sense that by email of 22/9/2025 1202h it wrote to C's Country Chair (Tom Glover) stating "Should you not have been informed yet, I am writing to give you a heads up that Greenpeace has scaled your Staythorpe power station early this morning" (**WHJ1/115 [200]**). C had previously been in the course of communication with D2 about environmental matters. A meeting had been scheduled for 24/9/2025. Despite this, C received no prior notification of D2's activity.
3. D2 says in that email: "The activists will leave as soon as the protest is over, they do not intend to stay and disrupt operations for longer than necessary to make our point."
4. That sentence might be interpreted as an assurance that no further trespasses will occur. If that is its intended meaning, C considers that it cannot prudently be relied on. First, it relates to the trespass then underway, without saying anything expressly about future conduct. Secondly, Greenpeace itself publicly encourages individuals to take the initiative in staging protest activities, including (explicitly) illegal ones: see **WHJ1/189-123 [222-227]**. Thirdly, not all putative protesters are affiliated with any particular organisation, or owe allegiance to any kind of command structure. Greenpeace therefore lacks the power to "put the genie back in the bottle", even if it genuinely wanted to do so. Fourthly, C considers that it cannot take assurances from Greenpeace at face value in any event, because of the duplicity of Greenpeace's recent conduct: communicating by email, scheduling a meeting due to take place on 24/9/2025 — all the while secretly plotting a disruptive unlawful trespass.
5. The claim concerns the 6 largest of C's sites ("the Sites"). Additionally to the Sites, C owns and operates a number of smaller facilities, which are not (presently) the subject of this claim, because C considers them to be less likely as potential targets, owing to the smaller contribution they make to the supply of electricity to the National Grid. Naturally, however, C will keep this under review in light of events as they develop.
6. The Sites perform a critical function. As explained in William Jeffery's evidence,

the GB electricity system operates on the basis of maintaining a target frequency of 50 hertz, which requires continuous, real time balancing of supply and demand (**Jeffery ¶¶ 76-7 [70]**). To do this, providers of electricity to the system must be able to respond rapidly to instructions from the National Energy System Operator (NESO) - the body responsible for the operation and balancing of the GB electricity transmission system – to address sudden changes in demand or supply (**Jeffery ¶ 80 [71]**). The availability of the Sites to generate when instructed contributes materially to the secure and efficient operation of the GB system – particularly at times of system stress or during peak demand (**Jeffery ¶ 84 [71]**). Unmet demand in the National Grid carries the potential for serious consequences, including blackouts. There are some periods of particularly high demand when the unavailability of even one of C’s larger sites (ie, the Sites), could trigger such a situation: see **Jeffery ¶¶ 89 – 92 [72-4]**.

7. The kind of protest activity inflicted on Staythorpe presents manifest danger to life and limb: to the individuals involved, to C’s employees on site and to the emergency services who might be required to deal with any harmful consequences, whether intended or unintended (**Jeffery ¶¶ 65-7 [68]**).
8. Disruption also carries the risk of substantial economic/ commercial implications for C (**Jeffery ¶ 93-7 [74-5]**).
9. In the circumstances, C now seeks the Court’s protection by way of an injunction, to restrain future incidents of trespass affecting the Sites.
10. D1 are Persons Unknown who are “newcomers”. It is intrinsic to this jurisdiction that such defendants receive no notice in the usual sense: *Wolverhampton CC v London Gypsies & Travellers* [2024] 1 AC 983 [**AB/1/3**]. In addition, however, this is also a case where publicity for the present application would create a “tipping off” risk, undermining the very purpose for which the injunction is sought, and potentially triggering the very actions which it is intended to restrain: **Jeffery ¶ 104 [77]**. Accordingly, this application is also made without notice to D2, even though D2 is a named defendant. Orders in now-conventional form are also sought in respect of notification of the Order, if made.

THE LAND SUBJECT TO THE INJUNCTION

11. Cs seek injunctions protecting the Sites described in the PoC ¶ 6 [**32**]. The PoC ¶¶ 10-28 [**33-41**]; **Jeffery ¶¶ 13-20 [58-9]**; and **Smith ¶¶ 10-12, 16** (Staythorpe), ¶¶ 18-19, 22, 25 (Didcot); ¶¶ 27-30 (Pembroke); ¶¶ 34-9, 43 (Little Barford); ¶¶ 45-6, 50 (Great Yamouth); ¶¶ 52-5, 58 (Kings Lynn)[**465-475**] provide a description

of each of the Sites. Rachel Smith’s evidence details ownership and titles to each of the Sites.¹

12. As is not uncommon in these cases, C’s title is to some extent complicated by the interposition of third party interests: predominantly, in this case, leases of substations, but also the other areas described in the PoC² [31-41]. The situation in this respect is analogous to (eg) many of the airports over which the Court granted injunctions in 2024 (reviewed earlier this year), where it is common for (eg) retail units within terminals etc to be subject to underleases: see, for example, *Heathrow Airport Ltd v Persons Unknown* [2024] EWHC 2599 (KB) ¶¶43-48 [AB/10/306-7]. Rather than trying to “carve out” such areas, the Court has consistently accepted that the injunction should cover the whole of the land within simple boundaries within the claimant’s ownership/ control, based on principles addressed later in this skeleton argument.

THE THREAT

13. At ¶¶ 21-64 [60-7], William Jeffery describes the threat which C has identified. The threat materialised physically in the attack on Staythorpe referenced above and described in more detail in the evidence: Jeffery ¶¶21-8 [60], WHJ1/1-51, 117-135 [86-136, 202-221].
14. In light of that evidence, C invites the Court to accept that there is a real and credible risk that persons associated with or espousing causes similar to D2’s will engage in (further) direct action at or otherwise affecting the Sites.
15. C therefore seeks injunctive relief to restrain trespass on the Sites, including by damaging or defacing them or any part of them.
16. The descriptions of action sought to be restrained reflect partly the experience of what occurred during the incident on 22/9/2025 and, partly (especially in relation to defacement/ damage, which did not occur during that the incident) what is readily foreseeable based on general experience of direct action elsewhere.
17. The risks and harms which could arise from such action include a clear risk of harm, not only to C’s employees, contractors, and others such as emergency responders,

¹ (1) Staythorpe: Smith ¶¶ 10, 14-15 [465-7], RS1/1-4, 9-23 [482-5, 490-504]; (2) Didcot: Smith ¶¶ 17, 23-24 [467 -9], RS1/24-46, 49-64 [505-527, 530-545]; Pembroke: Smith ¶¶ 26, 31 [469-71], RS1/65-101, 104 [546-582, 585]; Little Barford: Smith ¶¶ 33, 40-41 [471-3], RS1/105-110, 113-117 [586-591, 594-598]; Great Yarmouth: Smith ¶¶ 44, 49 [473-4], RS1/118-122. 125-134 [599-603, 606-615]; Kings Lynn: Smith ¶¶ 51, 55-7 [474-5], RS1/135-145, 148-154 [616-626, 629-636].

² Staythorpe ¶12; Didcot ¶ 15, Lower Barford ¶¶ 18, 20, 21, Great Yarmouth ¶ 23, Kings Lynn ¶¶ 25-28

but also to those trespassing on the Sites as well as damage to property: see **Jeffery ¶¶65-67 [68-9]**. That is in addition to the risks and harms arising from disruption, not only to C but also to the National Grid: see **Jeffery ¶¶ 85-97 [72-5]**.

INJUNCTIONS AGAINST “PERSONS UNKNOWN”: THE LEGAL CONTEXT

18. D1 are “newcomers” of the sort discussed in *Wolverhampton CC v London Gypsies & Travellers* [2024] AC 983: persons who are not identifiable at the date that proceedings are commenced, but who are intended to be bound by the terms of the injunction sought. The proceedings are typically a form of enforcement of undisputed rights rather than a form of dispute resolution: ¶143(iv) **[AB/1/57]**. They involve a “wholly new type of injunction with no very closely related ancestor from which it might be described as evolutionary offspring”: ¶144 **[AB/1/58]**. They are likely only to be justified as a novel exercise of an equitable discretionary power if the conditions in ¶167 are met: ¶¶167, 235 **[AB/1/65, 80]**.

19. The Supreme Court emphasised that its discussion had focused on injunctions against gypsies and travellers (in that context) and that “nothing we have said should be taken as prescriptive in relation to newcomer injunctions in other cases, such as those directed at protesters who engage in direct action by, for example, blocking motorways, occupying motorway gantries or occupying HS2’s land with the intention of disrupting construction. Each of these activities may, depending on all the circumstances, justify the grant of an injunction against persons unknown, including newcomers”: ¶235 **[AB/1/80]**. At ¶236, it gave guidance with respect to ‘newcomer’ injunctions against protesters:

“Counsel for the Secretary of State for Transport has submitted and we accept that each of these cases has called for a full and careful assessment of the justification for the order sought, the rights which are or may be interfered with by the grant of the order, and the proportionality of that interference. Again, in so far as the applicant seeks an injunction against newcomers, the judge must be satisfied there is a compelling need for the order. Often the circumstances of these cases vary significantly one from another in terms of the range and number of people who may be affected by the making or refusal of the injunction sought; the legal right to be protected; the illegality to be prevented; and the rights of the respondents to the application. The duration and geographical scope of the injunction necessary to protect the applicant’s rights in any particular case are ultimately matters for the judge having regard to the general principles we have explained.”

20. *Wolverhampton* shows that:

(1) This is an emerging jurisdiction, equitable and discretionary, still in its early stages, with a dynamic role for the Courts to play in working out the ‘rules’ or practices which should apply as experience of such cases accumulates (¶185 **[AB/1/69]**). For that reason, it would be wrong to treat authorities articulating, or purporting to articulate, a series of principles or ‘tests’ as

decisive or prescriptive at this point in time.

- (2) There is no difference in point of substance between interim and final orders, largely because whether expressed as an interim order or as a final order, they are always *ex parte* in relation to newcomers, with the result that it is never too late (before breach) for a newcomer to apply to vary or set aside the injunction in reliance on “any reasons which could have been advanced in opposition to the grant of the injunction when it was first made”; this principle, combined with express provision for anyone to apply to vary/ set aside the injunction, fully meets the requirements of procedural fairness: eg ¶¶ 139, 143, 144, 177, 178, 232 [AB/1/56-8, 68, 79]. See also more recently in the protest context, *Drax Power Ltd v. Persons Unknown* [2024] EWHC 2224 (KB) ¶18 (Ritchie J) [AB/9/292].
 - (3) The overarching questions are those identified in *Wolverhampton* at ¶167 [AB/1/60], specifically: (i) is there a compelling need sufficiently demonstrated by the evidence that justifies the exercise of the court’s jurisdiction to give effective protection to the claimant’s rights; (ii) have adequate procedural safeguards been provided to protect the affected newcomers; and (iii) overall, is it just and convenient for an injunction to be granted on the facts of the case.
21. Subject to that, the principles outlined by the Supreme Court in *Wolverhampton* were helpfully drawn together and synthesised with then-established practice, by Ritchie J in *Valero Energy Ltd v Person Unknown* [2024] EWHC 134 (KB) at ¶¶57–58 [AB/12/350-3], posing quite a long list of questions. Essentially the same requirements might be expressed in different and perhaps more succinct ways (eg, in *Jockey Club Racecourses Ltd v Persons Unknown* [2024] EWHC 1786 (Ch) at ¶¶14–20 [AB/11/315-8]; in *Shell Oil UK Ltd v. Persons Unknown* [2025] PTSR 1213 at ¶59 [AB/7/224]) — but provided it is viewed (as intended) as a helpful checklist, rather than as a straitjacket, Ritchie J’s approach has stood the test of time to date, so far as we are aware.

SUBMISSIONS

The substantive case for the injunction

22. There is a clear and compelling need for the injunction, sufficiently demonstrated by the evidence, to justify the exercise of the Court’s jurisdiction to grant the injunction sought, which is necessary to protect C’s rights effectively. Working through Ritchie J’s checklist:

23. The causes of action on which C relies are detailed at ¶¶ 33-36 of the PoC [38-9]. They seek to restrain acts of trespass and of nuisance.
24. Trespass: C owns (and is entitled to immediate possession) of each of the Sites — subject in some cases to areas which have been leased to third parties or in relation to which C cannot, in the time available, demonstrate legal ownership as distinct from *de facto* control: these are the “third party areas” shown in blue on the “A” series of plans [49-54].
25. Details are provided at PoC ¶¶ 12 (Staythorpe), 15 (Didcot), 20-1 (Little Barford), 23 (Great Yarmouth), and 25-28 (Kings Lynn) [34-7] and **Smith** ¶ 15 [466] (Staythorpe), ¶ 24 [469] (Didcot), ¶¶ 37-39, 41 [472-3] (Little Barford), ¶ 49 [474] (Great Yarmouth), and ¶¶ 55-57 [475] (Kings Lynn).
26. Nuisance and effective remedy:
 - (1) In relation to the blue-shaded “third party areas”, C cannot (or does not in these proceedings seek to) rely on trespass *simpliciter*. Instead, it relies on the following two principles: (a) Private nuisance is any continuous activity or state of affairs causing a substantial and unreasonable interference with a claimant’s land or his use or enjoyment of that land: *High Speed Two (HS2) Ltd v Persons Unknown* [2022] EWHC 2360 (KB) (‘HS2’), at ¶85 [AB/13/378]. (b) Effective remedy: The Court is entitled to grant relief extending further than is strictly supported by a cause of action (eg, trespass) where this is necessary and proportionate to make its relief fully effective: this was clarified by the Court of Appeal in *Cuadrilla Bowland Ltd v. Persons Unknown* [2020] 4 WLR 29 ¶¶49–50 [AB/5/169] (adopted in *Canada Goose UK Retail Ltd v. Persons Unknown* [2020] 1 WLR 2802 at ¶¶73, 82(5) [AB/4/153, 156]; alluded to in *Wolverhampton* at ¶¶222–223 [AB/1/78]; and approved in *Smith v. Backhouse* [2024] 1 WLR 807 *per* Asplin LJ at ¶¶35–36 [AB/3/127], adopting the same approach in relation to the Court’s acceptance of undertakings).
 - (2) As applied to the third party areas in the present case: a person who has obtained access to any of the third party areas could move between that area and an area over which C does have an immediate right of possession or control. So, protest in a third party area could easily ‘spill over’ into C’s land. Additionally, as indicated by the plans, C controls the perimeter of the Site and the access routes to the third party areas.
 - (3) An additional consideration, going to the Court’s discretion in considering the “effective remedy” analysis, is the value of clarity (as emphasised in *Wolverhampton*): it would be unhelpful to C, and potentially a disservice to

any potential defendant, to create an impression that there might be “islands of immunity” within an otherwise clearly-defined perimeter.

27. There is sufficient evidence of the need for the injunction by reason of a real and imminent threat to the Sites: **Jeffery ¶¶62-64, 98, 104 [67, 75, 77]**. “Imminent” in this context means, relevantly, an absence of prematurity: eg *London City Airport Ltd v. PU* [2024] EWHC 2557 (KB) *per* Julian Knowles J at ¶29 [AB/8/280].
28. There is no realistic defence which could successfully be advanced by the Defendants.
29. ECHR: the Sites are situated on private land to which the public has no right of access whether for the purposes of protest or otherwise. The Court of Appeal has recently clarified that this is not enough to “disengage” Articles 10 and 11 completely, but they attract limited weight where the “protest / expression” relied on involves criminal trespass: *R v. Hallam* [2025] 4 WLR 33 *per* Lady Carr LCJ at ¶¶30–36 [AB/2/93]. Lady Carr also drew attention to Article 17 of the ECHR, which had not been relied on in the arguments in *Hallam*, but which provides:

“ARTICLE 17 Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”
30. Applying the balancing exercise which must be conducted in view of the framework summarised in *Hallam* ¶30, informed also by the principles enshrined by Article 17, C would commend as directly or at least sufficiently analogous the recent evaluation J in *Cambridge University v. Persons Unknown* [2025] EWHC 2330, *per* Butcher J at ¶¶54–66 (with the difference that C does not accept that it is a “public body”, unlike the concession made by the University) [AB/6/195-6].
31. Damages would not be an adequate remedy for the Claimant: see **Jeffery ¶ 98.6 [76]** with more details of the harms and risks referred to therein at ¶¶65-67 [68-9] and ¶¶ 85-97 [72-5].
32. There is a sufficiently real and imminent risk of damage so as to justify the grant of a precautionary injunction which has been substantiated by C’s evidence. There is a compelling need for the Order.

The procedural requirements

33. The identity of the defendants: these have been identified by reference to the acts sought to be restrained, and by reference to the areas shown edged red (on Plans 1 – 6 [14-19]).

34. The draft Order has clear temporal and geographical limits. The land is shown by reference to the Plans [14-19]. C seeks an interim injunction at this stage with a return date to be specified in the Order [8 - 9].
35. The draft Order provides for a return date [8], and with fulsome liberty to apply [11].
36. As to service/notification, in the present case, apart from D2, C does not know the precise identity of the individuals who might fall within the description of the Defendants and/or be intending to undertake the acts which the injunction would restrain: **Jeffery ¶102 [77]**. Accordingly, apart from D2, there is no identifiable person on whom the proceedings could be served (cf *Wolverhampton* ¶221).
37. C has considered whether to identify and join the individuals who broke into the Staythorpe site on 22/9/2025: **Jeffery ¶103 [77]**. However, the conditions on which those individuals are understood to have been bailed, make it unlikely that they pose any continuing threat, though of course that assessment may need to be reviewed in light of events if they change.
38. Therefore, and in accordance with the approach set out in *Wolverhampton* (which distinguishes between ‘notification’ of the application/order to ‘Persons Unknown’ and ‘service’ on identifiable persons’: ¶¶221, 226, 230-231 [AB/1/77-79]) C seeks an order dispensing with service of the claim form, application notice, supporting documents and any Order made by this Court on D1.
39. C has set out in the draft Order [8-10] and in the evidence (**Jeffery ¶ 108 [78-79]**) the steps it intends to take to notify persons potentially affected by the proceedings of the application / injunction (if made). They follow the notification procedures which have been approved by the High Court in respect of similar injunctions during the past 12–15 months.
40. Tipping off: C submits that is an appropriate case for the application to be made ‘without notice’ to the Defendants, including D2. *Wolverhampton* proceeded on the basis that at least in traveller cases a local authority ought to try to take measures to provide notice of the intended application. However, the Supreme Court did not thereby lay down a rule of general application and, at ¶174 [AB/1/67], it cited the example of freezing orders (“where the notice may provoke the respondent into doing exactly that which the injunction is designed to prohibit”) without suggesting that equivalent concerns, in protest cases, must be ignored. Without notice applications were considered to be justified, by reference to similar concerns, in *Drax* ¶22 [AB/9/293], *Heathrow Airport* ¶¶ 8-9 [AB/10/301] and *London City Airport* ¶¶ 4-7 [AB/8/274-5]. Those concerns apply here: see **Jeffery ¶ 104 [77]**.

41. Likewise, in relation to the requirement of s.12(2) of the Human Rights Act 1998, there is clearly a compelling reason why the Defendants should not be notified of the present application prior to its consideration by this Court, for the reasons set out above (and see also *Wolverhampton* at ¶167 [AB/1/65]).

Full and frank disclosure

42. In order to support compliance with its duty of full and frank disclosure, C flags specifically these points which occur to it as matters which might be advanced against its application.
43. First, it could be argued that there is no sufficient evidence of a continuing threat, on the basis that the incident on 22/9/2025 was planned as a one-off event with there being no evidence of a likelihood of repetition, whether at Staythorpe or elsewhere. Additionally, Greenpeace’s campaigning indicated that 27/9/2025 would be a day of interest (see **WHJ1/153-156 [238-241]**) — but this passed uneventfully.
44. The continuing nature of the risk facing C, has already been addressed above.
45. Secondly, it could be argued that there is no justification for the application having been made without notice. C accepts that this is a high threshold, but has set out above why it is considered to be justified in the present case.
46. Thirdly, it could be argued that the acts complained of are already restrained by the general law, especially through the Public Order Act 2023 [AB/14/435]. However, it is notable that the general law including the 2023 Act did not deter the attack which occurred on 22/9/2025. That has been the experience more generally in the past few years: more protesters seem to be willing to “take their chances” with the criminal justice system, than with a High Court judge on a contempt application.
47. Fourthly, the Defendants are seeking to exercise rights protected under Articles 10 and/or 11 ECHR. This too has been addressed above.

TIMOTHY MORSHEAD, KC

JACQUELINE LEAN

2 October 2025

Landmark Chambers

clerks@landmarkchambers.co.uk