

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
PROPERTY, TRUST AND PROBATE LIST

BETWEEN:

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

NOTE OF "WITHOUT NOTICE" HEARING
BEFORE MR JUSTICE RAJAH
LISTED FOR 3 OCTOBER 2025 AT 10:30

The hearing commenced at 10:40. Appearing for the Claimant Timothy Morshead KC ("**TMKC**") and Jacqueline Lean ("**JL**") before Honourable Mr Justice Rajah ("**J**")

J had received the hearing bundle, the authorities bundle and the Claimant's skeleton argument.

Opening and preliminary matters

1. TMKC introduced an urgent application for an interim injunction made on an ex parte basis. TMKC explained that the application was made ex parte due to the risk of tipping off potential protesters which could result in further direct action taking place prior to an injunction being obtained.
2. J recognised the interim nature of the relief sought and indicated that a return date should follow promptly.

3. J queried whether the hearing needed to be held in private. TMKC did not consider that absolute privacy was needed.

Direct action at Staythorpe Power Station

4. TMKC explained that the Claimant had been subject to a direct action protest at its site known as Staythorpe Power Station on 22 September 2025 and that the Second Defendant had publicly claimed responsibility for this on its website and social media platforms. TMKC explained how activists acting under the Second Defendant had scaled the perimeter fence at the site and climbed a tall structure, before unfurling banners.
5. TMKC directed J to photographs taken of the direct action protest at Staythorpe Power Station (from page 86 of the hearing bundle).

Identification of injunction areas

6. TMKC set out the six sites which would be subject to the injunction if granted, by reference to Plans 1-6 annexed to the First Witness Statement of Rachel Jane Smith. TMKC explained that the areas edged red on Plans 1-6 were broadly those areas within the perimeter fence at each site.
7. TMKC then set out, by reference to the areas shown blue in Plans 1A-6A annexed to the First Witness Statement of Rachel Jane Smith, the areas of the sites where the Claimant could not establish legal title but which should still be included in the injunction, if granted, to enable effective relief. TMKC referred to these areas as Third Party Areas.
8. In relation to J's question regarding whether access to the Third Party Areas would require trespass over the Claimant's land, TMKC explained that it was likely that the owners of the Third Party Areas had rights of access over the Claimant's land.
9. J emphasised the need for clarity and strict geographic limits mapped to the physical security fences at each site. J dismissed any need to carve out the Third Party Areas from the relief sought.
10. In relation to J's question regarding whether the owners of the Third Party Areas had been notified of the application, TMKC explained that this had not taken place due to the risk of tipping off. J acknowledged the risk and also the likelihood that the owners of the Third Party Areas would seek to also benefit from the injunction if granted. J commented that the owners of the Third Party Areas should be notified before the return date hearing.
11. In relation to J's question as to the area shaded purple on Plan 2A, TMKC confirmed that this area was the subject of a potential sale to a third party and that an existing internal fence marking the area over which relief was sought was in place.
12. In relation to J's question as to the line hashed black on Plans 1A-6A, TMKC confirmed that these showed the security fences at each site and aligned with the red lines shown in Plans 1-6.

Threat and compelling need

13. TMKC provided a summary of the threats arising from any direct action at the sites and the compelling need for an injunction, by reference to the First Witness Statement of William Henry Jeffery.
14. In relation to the importance of the Claimant's sites to the national grid and the complexity of the electricity network, TMKC directed J to pages 72-74 of the hearing bundle. TMKC referred J in particular to paragraphs 85, 89(a) and 91 of the First Witness Statement of William Henry Jeffery, in relation to the risk of a total black out following the shutting down of one of the sites.

15. Regarding J's query as to what disruption would be caused by activists scaling infrastructure and erecting a banner, TMKC explained that the Claimant might have to shut down the power plant in order to save lives (including the lives of the protesters themselves), by reference to pages 68 and 69 of the hearing bundle (paragraphs 65-67 of the First Witness Statement of William Henry Jeffery). In particular, TMKC referred J to paragraph 66(1) of the First Witness Statement of William Henry Jeffery and the risk of noxious fumes from infrastructure on site.
16. In relation to J's query regarding previous examples of power plants being shut down as a result of activists entering the site, TMKC referred J to page 143 of the hearing bundle, which set out an article regarding the Second Defendant shutting down a coal fired power station in 2007.
17. TMKC explained the threat of repeated direct action protests at the Claimant's sites, by reference to:
 - a) the evolution of environmental campaigns against power stations (pages 65 to 67 of the hearing bundle and paragraphs 54-64 of the First Witness Statement of William Henry Jeffery);
 - b) evidence of campaign tactics employed by the Second Defendant; and
 - c) evidence of events planned by the Second Defendant.
18. In relation to campaign tactics used by the Second Defendant, TMKC referred J to various extracts of the Second Defendants' website:
 - a) the Second Defendant's approach to protests (page 213 of the hearing bundle);
 - b) "Becoming a trained Greenpeace activist", "What Greenpeace activists do" and "Five things to know about being an activist" (pages 222 and 223 of the hearing bundle); and
 - c) "Who can be an activist", with references to secrecy and risk of criminal convictions (pages 226 and 227 of the hearing bundle).
19. In relation to events planned by the Second Defendant, TMKC referred J to the following:
 - a) correspondence between two Co-Executive Directors of the Second Defendant regarding the direct action which took place at Staythorpe Power Station on 22 September 2025 (page 200 of the hearing bundle). TMKC explained that no confirmation had been received from the Second Defendant that a further protest would not take place. J considers that a reassurance of this nature would have been material, but it had not been given;
 - b) page 206 of the hearing bundle, which sets out an invitation by the Second Defendant to sign a petition titled "The Great Gas Rip Off"; and
 - c) page 242 of the hearing bundle, which sets out details of an event planned by the Second Defendant and scheduled for 21 October 2025.
20. J agreed there was evidence of an ongoing campaign and acknowledged the material published by the Second Defendant in relation to secrecy of intended action.

Legal framework

21. TMKC summarised the legal framework set out by the Supreme Court in *Wolverhampton City Council and others v London Gypsies and Travellers and others [2023] UKSC 47* in relation to the importance of geographic and temporal limits to any relief sought.

22. TMKC also referred to *Smith v Backhouse [2023] EWCA Civ 874* and the extension of the principle set out in *Cuadrilla Bowland Ltd and others v Persons Unknown and others [2020] EWCA Civ 9* from injunctions to also include undertakings.
23. J acknowledged the check list for final relief set out in *Valero Energy Ltd and others v Persons Unknown [2024]*, in particular the need for there to be no realistic defence, and recognised a lower threshold would be required for interim relief.
24. In relation to the importance of establishing a clear injunctive area, TMKC referred J to the legal authorities set out in:
- a) *Heathrow Airport Limited v Persons Unknown*;
 - b) *Canada Goose UK Retail Ltd & Anr v Persons Unknown and PETA*; and
 - c) *Drax Power Ltd v Persons Unknown*.

Summary of Judgment

25. J explained that this is an ex parte application dated 3 October 2025 against the First and Second Defendants for an injunction to protect six power stations owned by the Claimant and for a direction to effect alternative service.
26. J summarised the direct action protest which took place by the Second Defendant on 22 September 2025.
27. J summarised the Claimant's submissions regarding the importance of the six power stations to the national grid and electricity system and the potentially calamitous consequences should one or more of the power stations be required to shut down, including risk to life and limb.
28. J summarised the legal frameworks set out in *Wolverhampton City Council and others v London Gypsies and Travellers and others [2023] UKSC 47* and *Valero Energy Ltd and others v Persons Unknown [2024]*, and what J referred to as a useful checklist for a final injunction.
29. **Causes of action:** J stated that the primary causes of action in this case were in trespass and in nuisance. Whilst J was not satisfied that an injunction to restrain a private nuisance could be justified regarding the Third Party Areas, in circumstances where it could not yet be established what future action might occur on those areas of land, J was satisfied that injunctive relief did need to be granted in relation to the Third Party Areas in order to make the relief fully effective. J referred to the legal authority in *Cuadrilla Bowland Ltd and others v Persons Unknown and others [2020] EWCA Civ 9*, as affirmed in *Smith v Backhouse [2023] EWCA Civ 874*.
30. **Notification to owners of the Third Party Areas:** J considered whether or not the owners of the Third Party Areas should have been notified of the application. J was satisfied that any objection to the application by the owners of the Third Party Areas was hypothetical, rather than real, that the likelihood of there being any objection was low and that there was a legitimate sensitivity in tipping off third parties. J did not consider the obligation for the owners of the Third Party Areas to attend any return date hearing, if they so wished, to be overly onerous in the circumstances.
31. **Necessity and proportionality in relation to the Third Party Areas:** J considered that, in order to give effective relief, it was necessarily to grant the injunction sought over and including the Third Party Areas. J emphasised the need for clarity and that any attempts to exclude the Third Party Areas would be contrary to the purpose of the injunction, which is to discourage and prohibit protest.
32. **Articles 10 and 11 of the European Convention of Human Rights:** J considered that the injunction sought would primarily vindicate the Claimant's proprietary rights and that the

interference with the right to protest was proportionate given the high risk to life, the potential disruption to the electricity grid and the availability of protest outside the fenced perimeters.

33. **Balance of convenience and compelling justification:** J considered that there was a clear danger to the protesters themselves, to employees of the Claimant and to emergency services in the event a power station was required to shut down.
34. **Damages as an adequate remedy:** J considered that this was clearly not the case, due to the potential risk to life as a result of a shutdown of a power station and the potential that the First Defendant may not be able to meet any level of damages ordered.
35. **Ex parte application:** J considered why notice had not been given to the Second Defendant and was satisfied that an ex parte application was necessary, due to the risk of tipping off. J emphasised that the current order would act as a placeholder until the return date hearing, when the Defendants would have the opportunity to make submissions.
36. **Safeguards:** J was satisfied to grant the injunction sought, provided sufficient procedural safeguards were built into the order.
37. A detailed note of the Judgment is set out in Schedule 1.

Draft Order

38. **Penal Notice:** J considered the wording of the penal notice and ordered the removal of references to "helps or permits".
39. **Return date hearing:** J ordered that the return date hearing was to be listed for 24 October 2025.
40. **Evidence in response:** J required any evidence in response be filed and served by the Defendants by 17 October 2025.
41. **Service:** J approved alternative service as set out in the draft order. J suggested that service was also effected on the two Co-Executive Directors of the Second Defendant but that inclusion of any private email addresses in the order was not necessary.
42. **Deemed Service:** J agreed that deemed service should apply to each Site individually.
43. **Acknowledgement of Service:** J ordered that the date for filing and serving of an Acknowledgement of Service be amended to the date of the return date hearing.
44. **Notification to owners of the Third Party Areas:** J required the inclusion of wording regarding notification of the order to the owners of the Third Party Areas.
45. **Variation:** J ordered that any variation should be notified to the Claimant 48 hours in advance and that if evidence were to be relied upon, such evidence should be provided to the Claimant at least 24 hours in advance of any hearing.
46. **Undertakings:** J ordered that the deadline for the Claimant to complete item 1 in Schedule 1 of the draft order be amended to no later than 5pm on 7 October 2025.

Schedule 1

This is an application for an injunction brought by RWE Generation UK Plc against the First Defendant - 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 - and the Second Defendant - GREENPEACE UK LIMITED.

The Claimant, RWE Generation UK Plc, is the owner and operator of gas powered generation facilities for the supply of electricity to the national grid, amongst other things. There is a campaign by the Second Defendant against gas powered generation facilities for the supply of electricity. The focus of allegations, made against the Claimant by Greenpeace, is that the Claimant is profiteering. This materialised on 22 September 2025 in a trespass to one of the Claimant's sites at Staythorpe by activists, who claimed to be acting on behalf of Greenpeace. Greenpeace has certainly claimed the protests as one of its own and photographs of the protest have appeared on their website, Instagram and TikTok.

The protests involved – it appears - the scaling of the perimeter fence and the climbing of a tall structure / chimney and the unfurling of banners. The protestors eventually descended and were arrested by police and are now on bail with conditions that prevent them from repeating what they have done. As I say, Greenpeace has claimed responsibility for what occurred. At the time of the protest, two people claiming to be Co-Executives of Greenpeace were in communication with the Claimant seeking to have meetings to set out their views. This protest took place two days before a second meeting. In email correspondence from those two individuals from Greenpeace, it was clear that they were fully aware of the protest and indeed they informed the Claimant of the fact the protest was taking place.

This claim concerns six of the largest of the Claimant's sites. There are a number of other smaller facilities which are not the subject of the claim. These sites, the Claimant claims, perform a critical function because they supply the electricity to the national grid and the system (the GB electrical system) operates on a basis which requires continuous real time balancing of supply and demand. A shutdown of one of these sites could be calamitous. I have been taken to evidence which suggests that when a power plant has had to shut down unexpectedly, it has resulted in black outs or a power cut to hundreds of thousands, if not millions, of people. One doesn't really need to think too hard about that to see that the consequences of a power blackout in modern times can be extremely dangerous and represent a risk to life as well as a major disruption to the economy and to the ordinary operation of daily life. Just in relation to the risk to life: hospitals, ambulances, fire stations, emergency systems all require electricity and a shutdown is something which jeopardises their ability to operate.

Against that background, it is said by the Claimant that a protest represents a manifest danger to life and limb. The Claimant also relies on the fact that a protest of this nature represents a danger to the protestors themselves. Mr Jeffery's witness statement (at paragraph 67) sets out a whole list of risks the protestors are exposing themselves to. In addition to that, the employees of the Claimant may be required to take action if there is a protest and may therefore come into danger. This is as well as the emergency services who may have to respond to a protest. So, in addition to a risk of a shutdown, there are other risks as well, as a result of such activity.

What the Claimant therefore seeks, is an injunction to prevent further trespasses from affecting their sites.

The law in relation to claims of this nature / injunctions of this kind was considered in *Wolverhampton*. The court here held that there was no immovable obstacle in the way of granting injunctions against newcomer travellers without notice, on an interim or final basis, but that this was only likely to be justified in certain circumstances set out in that judgment at paragraph 167. These considerations are summarised in the skeleton argument from Mr Morshead and Ms Lean at paragraph 20(3). The overarching questions are:

- Firstly, 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;
- Secondly, have adequate procedural safeguards been provided to protect the affected newcomers; and
- Thirdly, overall, is it just and convenient for an injunction to be granted on the facts of the case.

The Supreme Court also drew particular attention to the duty of the applicant to give full and frank disclosure, to the point it might go against the application. The Supreme Court also made clear in that case that these principles are not intended to be prescriptive to non-traveller cases, like in the case of protests as we have here and I bear that in mind. In *Valero Energy*, which dealt with persons unknown, the principles of *Wolverhampton* were drawn together by Mr Justice Ritchie in the context of a protest case in what is a useful checklist for a final injunction. He did that in paragraph 58 of that judgment. It is helpful to work through that list, although not necessarily in the same order.

The obligation for full and frank disclosure, for example, is a fundamental and pervasive obligation which does not lend itself to a tick box exercise. Further, the injunction sought here is an interim order, not a final order, so the reference by Mr Justice Ritchie to the obligation of the court to be satisfied that there is no defence with a realistic prospect of success is somewhat lesser, on the basis that there will be an opportunity to review the merits of the claim at the return date and, if necessary, at trial.

What is clear is that there must be a good cause of action. The primary causes of action are in trespass and in nuisance. So far as the trespass is concerned, the Claimant has filed evidence to establish that it owns and is entitled to immediate possession of the majority of each of the sites, although there are certain parts of the sites which have been leased or where the Claimant cannot show legal, as opposed to de facto, control or ownership. These areas are marked blue on the various plans. I will need to come back to those. In relation to the blue shaded areas of the plans, the Claimant does not seek to rely on trespass or an injunction to restrain trespass. Instead, the Claimant seeks an injunction here on the basis of preventing a private nuisance, or on the basis that it is necessary in order to make the remedy effective.

I am not really satisfied that an injunction to restrain a private nuisance can be justified regarding the blue shaded areas, in circumstances where it cannot be established what future action might occur on that blue shaded area and where it may or may not cause a nuisance to the Claimant as owner / occupier of the remaining land on the site. If an injunction were to be granted on the blue shaded land, it has to be on the basis that it is necessary to provide the Claimant with an effective remedy. I am satisfied that the court is entitled to grant relief extending further than the cause of action, such as a trespass, where necessary and proportionate to make the relief fully effective. This was stated by the court in *Cuadrilla* and recently affirmed by the Court of Appeal in *Smith v Backhouse*.

The question I have to ask myself is whether or not this is necessary relief. In many cases, the access to the blue land may require or involve a trespass over land which belongs to the Claimant, but not in all instances. In theory, it is possible that the leaseholders of the blue land could grant permission to persons to enter onto the blue land, for purposes of protest. So it is possible that there could be a protest on the blue land which is lawful and the injunction which I am being asked to make could therefore restrain lawful activity authorised by persons who have right to possession of the blue land and in circumstances where the leaseholders are not aware of these proceedings and have not been given notice of this application.

Ordinarily, in most cases, that would be an end to the application so far as it concerned the blue land. But, in the circumstances of this case, I am satisfied that the likelihood of there being any objection by the owners of the blue land to the relief sought by the Claimant is hypothetical rather than real and the likely reality is they will be supportive of this application and will want to be under the umbrella of the application. In addition, in the circumstances of this case, I am satisfied that the sensitivity regarding how many people are aware of these proceedings is a legitimate sensitivity. I am conscious that this is merely an interim injunction, until a return date, so there will be an opportunity for the owners / occupiers of the blue land to object to the application. I do not regard that as an unduly onerous obligation. In many cases it would be but I am prepared to assume in this case, due to the commercial nature of this site operation, that the occupiers of the blue land are likely to be substantial entities for whom attendance on the return date, if they wish to attend, would not be an unduly onerous burden.

On the question regarding whether the granting of the injunction is necessary and proportionate, in order to give effective relief, the answer to that is clearly yes. There is a fenced perimeter and it is clearly only desirable to make an order which refers to that perimeter, so that it is clear where the

boundaries are and where protests may legitimately happen or not happen pursuant to this order. The key point which is made is that there needs to be clarity in an injunction of this nature and I accept that. Attempts to carve out islands of immunity, to borrow Mr Morshead KC's phrase, would not add clarity - indeed it would be contrary to the purpose of the injunction which is to discourage / prohibit protest. Islands of immunity might encourage persons to think they can find a creative way to protest on the site.

I am satisfied that, notwithstanding the fact that the Claimant is not the owner entitled to immediate possession of the entirety of the site, and I will need to look in more detail at the precise nature of the plans in due course, the Claimant has a good cause of action and an injunction over these parts of the site is necessary for an effective remedy.

There is the question of the rights of the Persons Unknown to protest and their ECHR rights (under Articles 10 and 11). There is a balancing exercise required here. I am satisfied that an injunction is proportionate. The Claimant is seeking primarily to vindicate its proprietary rights. To the extent they interfere with the protestors' rights, it is significant that what the Claimant is seeking to do is a legitimate aim, namely trying to vindicate its private law rights. The interference with the protestors' rights is proportionate. The risk is high in view of the potential consequences and the reduction in the protestors' rights is limited. They are not prohibited from protesting outside the boundaries of the sites. Finally, the injunction will be consistent with what the protestors can lawfully do.

The next question, on the balance of convenience, and there is a higher threshold in these cases, is whether there is a compelling reason for the injunction to protect the Claimant's rights. I am satisfied that there is. At paragraphs 65-67 of Mr Jeffery's statement, there is clearly a danger to the protestors themselves - if one looks at the example of the past protest which included the scaling of a very large building - there is danger from noxious fumes, and danger to employees of the Claimant and to emergency services who may be called upon to take action, in the event of a protest, and a danger to the nation in the event that a power station needs to be shut down.

For all of those reasons, it seems to me there is a compelling justification for an injunction to protect private law rights.

Could damages be an adequate remedy? Clearly not. First, the risk includes danger to life, which cannot be compensated by money. It is inherent in an application against persons unknown that we do not know whether the Persons Unknown would be good for any damages.

It is important to look at the procedural safeguards and Mr Morshead KC has invited me to deal first with the principle of whether an injunction should be granted, then I will review the terms of the draft order to ensure that there are sufficient procedural safeguards.

One point I will deal with is the fact that no notice has been given to the second Defendant. I listened carefully to the explanation as to why notice had not been given. It is due to the danger of tipping off. I have been taken through the material produced by Greenpeace that makes it clear that: (a) there is a campaign against gas powered stations such as those operated by the Claimant; (b) this company (the Claimant) has already been targeted by protests which Greenpeace claim to be its own; and (c) Greenpeace's policy, if I can put it that way, is to conduct creative, unannounced and unheralded protests and to do so even though it continues in parallel to conduct itself lawfully, so it professes an intention to be dynamic and take creative action to disrupt, and it tells its activists that they should be willing to break the law and conduct activity in secret. In circumstances where that is a published modus operandi, I am satisfied that it is appropriate for an injunction to be granted without notice to Greenpeace, so that there is no risk that by tipping them off, further action is provoked before an injunction can be granted.

It is important to say that, in this case, all I am being asked to do is give an interim order. This order will simply hold the ring until Greenpeace will be able to attend the return date hearing and explain why there is no risk of a further protest and / or why this injunction should be lifted, or should not have been granted.

So I will, in principle, make the injunction, provided I am satisfied there are sufficient procedural safeguards built into the order.