IN THE HIGH COURT OF JUSTICE **CLAIM NO: PT-2025-001017**

BUSINESS AND PROPERTY 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)

(3) GREENPEACE LIMITED

(Company registration number 01314381)

Defendants

CLAIMANT'S SKELETON ARGUMENT

For the first annual review of the Order of Trower J made on 24 October 2025, listed for hearing in the window 19-21 October 2026

Listed for 2.5 hrs

***Suggested pre-reading* : bundle refs: [tab/page]**

A. Previous Order & Note of Hearing:

(1) Order of 24 October 2025 **[4/36]**

(2) Note of hearing of 24 October, including note of judgment **[5/77]**

B. Updating evidence for the present review

(3) Second Witness Statement of William Jeffery **[9/140]**, which cross-refers to his First Witness Statement filed with the claim in October 2025 **[14/437]**

(4) Second Witness Statement of Donal Kelly **[11/240]**

(5) Third Witness Statement of Donal Kelly **[16/470]**

C. Should time permit, the other earlier evidence:

(6) First Witness Statement of Rachel Smith **[13//422]**

(7) First Witness Statement of Donal Kelly **[15/464]**

A. Introduction.

1. This is the first annual review of an injunction granted on 24 October 2024 against "Persons Unknown" pursuant to the jurisdiction clarified by the Supreme Court in *Wolverhampton CC and others v. London Gypsies and Travellers and others* [2023] UKSC 47; [2024] AC 983 ("*Wolverhampton"*) **[AB/2]**.

2. The injunction was originally made on an interim *ex parte* basis by Rajah J on 3 October 2025 against Persons Unknown and the Second Defendant. Following service of that order, undertakings were offered by the Second and Third Defendants to the effect that they would not undertake, or instruct others to undertake, the actions restrained by the interim injunction for a period of 12 months, on the basis of the claim being stayed against them and dismissed without any order as to costs thereafter. The Third Defendant was joined to the claim for the purpose of those undertakings, which were accepted by the Court and can be found at Schedule 4 to the Order made on 24 October 2025 ("the Order") **[4/52-76].**

3. As explained in *Wolverhampton* at ¶225 **[AB/77]**, the purpose of a review is that it:

> " …will give 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."

4. That formulation assumes a "contested" review. In the present case, the Second and Third Defendants have indicated that they do not intend to attend the review hearing (**Kelly2 ¶30 [11/247]** & **[12/359]**). No other person has, to date, sought to identify themselves as a person falling with the description of the First Defendant or to otherwise contest the proceedings.

5. In the case of an un-contested review, the Courts have held that the primary focus

for the Court on review is not to revisit the merits of the case as if *de novo* but, rather, to assimilate each matter sufficiently to take an informed view about whether the injunction has outlasted the compelling need which led to its being made in the first place, in view of any changed circumstances. See, inter alia, *Valero Energy Limited v. PU (2026 review)* [2026] EWHC 397 (KB) at ¶¶5–13 **[AB/85-7]**.

B. Background.

6. The Claimant ("C") is an owner and operator of (materially) gas-powered generation facilities for the supply of electricity to the National Grid.

7. In or around September 2025, Greenpeace commenced a protest campaign, "the Great Gas Rip Off", which accused companies such as C of profiteering by charging inflated prices for the electricity it supplied to the National Grid, especially during periods of maximum demand (**Jeffery 1 ¶¶33-44 [14/444-5]**).

8. On 22/9/2025, this campaign materialised in a sustained trespass at one of C's sites, at Staythorpe, by individuals supporting Greenpeace's objectives and in the name of "Greenpeace". They appear to have obtained entry by scaling 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 and subsequently released on conditional bail (**Jeffery 1 ¶¶21-28 [14/442]**).

9. The CPS has recently notified C that they will not be proceeding with the prosecution of those individuals. C understands that the bail conditions previously in place will therefore have fallen away (**Kelly 2 ¶¶38-9 [11/248]**).

10. The Second and Third Defendants gave undertakings, with which they have complied, so far as C is aware (**Jeffery 2 ¶7 [9/142]**). However, Greenpeace has publicly celebrated the trespass action that took place at C's Staythorpe site in September 2025, claiming it as part of the actions which led to its "massive win" in the form of the Government announcing a new policy to start delinking gas and electricity prices (**Jeffery 2 ¶13 [9/142-3]** & **[10/177]**).

11. It is also clear, from the material on Greenpeace's website, that (i) the campaign continues (**Jeffery 2 ¶12** & **[10/31-33]**) and (ii) that direct action, with potential legal consequences for the individuals involved, continues to be promoted by Greenpeace – albeit in slightly less forthright terms than appeared on its website when the Order was made (**Jeffery 2 ¶¶13.1 & 13.2 [9/143]** & **[10/183-188]**).

12. The problems experienced by C were not isolated events. Other sites in the energy sector have been targeted in the UK and abroad. This includes a protest earlier this year which specifically referenced a site in Germany where C was planning an additional gas-fired power plant block (**Jeffery 2 ¶¶19-21 [9/144-5]** & **[10/208-210]**).

13. C relies on **Jeffery 2 [9/140]** as evidence of the current state of play including the continuing threat of direct action, and the potential implications for C, and to the stability of the National Grid, if such action were to occur.

C. Service / notification.

14. **Kelly 2 ¶¶11-22 [11/242-5]** confirms that the steps required to be taken for service/notification of the Order were complied with, including notification to the third parties with land parcels within 5 of the Sites. **Kelly 2 ¶¶23 – 33** details the steps taken to serve/notify the Defendants (and, additionally, the third party landowners) of the application for the review and the listing of the hearing within the window of 19-21 October 2026. As of today (13/10/2026) we understand that the updating evidence has been served on and notified to the Defendants and Persons Unknown by the methods specified in paragraphs 6, 10 and 11 of the Order (except for Kelly 3, on which see paragraph 23 below) and that evidence to this effect will be filed ASAP.

15. **Kelly 2 ¶15** confirms that regular perimeter inspections are carried out at each of the Sites, and that any damage to signage or documentation would be quickly identified and rectified as part of those inspections.

D. The Sites.

16. The injunction protects six Sites described in the PoC ¶6 **[3/13-14]**. The PoC ¶¶10-28 **[14-18]; Jeffery 1 ¶¶13-20 [14/440-1];** and **Smith 1 ¶¶10-12, 16** (Staythorpe), **¶¶18-19, 22, 25** (Didcot); **¶¶27-30** (Pembroke); **¶¶34-9, 43** (Little Barford); **¶¶45-6, 50** (Great Yarmouth); **¶¶52-5, 58** (Kings Lynn) **[13/424-434]** provide a description of each of the Sites**.** Rachel Smith's evidence details ownership and titles to each of the Sites.

17. The Sites are the 6 largest of C's sites. They perform a critical function. As explained in **Jeffery 1 (¶¶76-7 [14/454-3]**), 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. 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 1 ¶80**). The GB system is designed to have the six Sites in operation producing the gross capacity of electricity to supply to the grid, and if one or more of those Sites was forced to reduce or stop generating electricity, it has the potential to significantly disrupt the Grid **(Jeffery 1 ¶90**). The importance of the Sites, and potential consequences of any of them being forced to stop or reduce their production, was recognised, and relied upon, by Trower J in granting the Order **[5/83-4].**

18. In addition to the Sites, C owns and operates a number of smaller facilities, in respect of which it did not seek injunctive relief 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. Trower J expressly endorsed the proportionate approach taken by C in granting the Order **[5/83-4].**

19. In granting the Order, Trower J was satisfied that C had sufficient interest in each of the Sites, and that it was appropriate to grant injunctive relief over the whole of the Sites shown marked on the Plans annexed to the Order, even though there were some areas within those Sites within the ownership of third parties (SSE Services plc, Eastern Power Network and National Grid Electricity Transmission plc), it not being possible to access those parts of the Sites without trespassing on land within C's ownership **[5/84]**. C had notified the owners of those areas of the proceedings and interim injunction prior to the hearing on 24 October 2024. It has since notified them of the Order, and application for the review. No objection has been received from any of those landowners **(Kelly 1 ¶¶17-20 [15/467-8]; Kelly 2 ¶¶18-22, 32-22 [11/244-5, 247]**).

20. **Kelly 2 ¶¶34-7 [11/247-8]** provides an update on the closure of a leasehold title at the Staythorpe Site which was the subject of a pending application at HM Land Registry at the time of the Order. This does not alter the scope of the Sites in respect of which injunctive relief is sought, the land in question falling within the red line shown on Plan 1 to the Order.

E. The Second and Third Defendants, and Mr Vincent McGoldrick.

21. The claim against the Second and Third Defendant was stayed for a period of 12 months following the Court's acceptance of the undertakings offered by those Defendants, which appear at Schedule 4 to the Order. The Orders accepting those undertakings also provide that the claims shall stand dismissed against those Defendants, without costs, provided they have complied with the undertakings and terms of the Order within that period (or until further Order of the Court, if earlier). **Jeffery 2 ¶¶7-8 [9/142]** confirms that, to the best of C's knowledge and belief, the Second and Third Defendants have complied with those undertakings, and that the claim will therefore stand dismissed against those parties with effect from 24 October 2026.

22. C is only aware of the identity of one of the individuals who trespassed on the Staythorpe Site on 22 September 2025 (**Kelly 2 ¶40 [11/249]**). In light of the CPS decision not to continue with the prosecution of that trespass incident, and the judgment of Ritchie J in *Hanson Quarry Products Ltd (t/a Heidelberg Materials UK) v Davies* [2026] EWHC 118 (KB) (especially at ¶25) **[AB/1115]** on the enforcement of newcomer injunctions against persons who identity is, or becomes known, to a claimant, C's solicitors wrote to Mr McGoldrick on 26 September 2026, inviting him to enter into a contractual undertaking with C not to undertake the actions specified in the Order, in default of which C would seek to add him as a named defendant to the claim and the Order (**Kelly 2 ¶40 [11/249]** & **[12/419-421]**). Mr McGoldrick has since provided that undertaking, in light of which C does not seek to join him as a defendant to the claim, or to vary the Order to name Mr

McGoldrick as a person expressly bound by the injunction (**Kelly 3 ¶¶9-12 [16/9-12]**).

23. C also seeks permission to rely on **Kelly 3**, it not having been possible to file and serve/notify that witness statement not less than 14 days before the hearing (as provided for by paragraph 3 of the Order) for the reasons explained therein.

F. Continued threat of direct action by Persons Unknown.

24. C relies on **Jeffery 2** as evidence of the current state of play including the continuing threat of direct action, especially at **¶¶12-24 [10/142-146]**. The evidence indicates that the threat has not by any means abated and the risk of direct action remains real and tangible.

G. Harm.

25. The risks and harms which could arise from the direct action enjoined by the Order include a clear risk of harm, not only to C's employees, contractors, and others such as emergency responders, but also to those trespassing on the Sites as well as damage to property (**Jeffery 1 ¶¶65-67 [14/450-1]**. That is in addition to the risks and harms arising from disruption, not only to C but also to the National Grid (**Jeffery 1 ¶¶85-97 [14/454-7]**). The potential harm arising from the direct action enjoined was a material factor in Trower J's decision to grant the Order **[5/86].** Those risk and harms remain unaltered – and the implications to National Grid potentially even greater, given events of this summer: **Jeffery 2 ¶23-4 [10/145-6].**

H. Submissions.

26. The legal principles are as stated in ¶¶3 and 5 above.

27. C submits that nothing material has changed since the Order to warrant discharge or amendment of that Order. There is a continued threat of direct action at the Sites for the reasons set out above. The injunction has not outlasted its need.

(1) How effective has the Order been?

28. There have been no further incidents at the Sites since the Order was made. C submits that it may properly be inferred from the same that the Order has been effective in deterring further incidents of direct action at the Sites.

(2) Have any reasons or grounds for its discharge emerged?

29. No: rather the reverse. C submits that the correct inference from **Jeffery 2** is that apart from a continuation of the injunctions there remains a real and tangible risk of direct action at one or more of C's Sites.

30. In *Exolum Pipeline System Limited v Persons Unknown* [2025] EWHC 1913 (KB),

at ¶14 **[AB/103]**, Swift J observed:

> "The continuation of the Order made by Bennathan J has become necessary as orders of this type have themselves become features of what appear to be contests of attrition between activist organisations, such as Just Stop Oil, and any event or operation that those activists consider will, if disrupted, obtain publicity for and advance their cause. The attacks that Just Stop Oil undertakes are essentially opportunistic. As one or other target is made less accessible by orders such as the one now under consideration, activists will turn their attention somewhere else. The application to continue the Order made in 2022 rests on the premise that were this order to be discharged these terminals would once again be targeted and, having previously been the subject of an injunction, those terminals would be all the more an attractive target. Experience shows that such pessimism is warranted. I fear that, once made, the need for orders such as this one can almost become self-perpetuating, in that any decision to remove the order would, from the point of view of the activists, wave a flag above these terminals marking their return to the category of targets for disruption. Even though Just Stop Oil and other likeminded organisations may be opportunistic, experience shows that they are also persistent and will take any opportunity that presents itself."

(3) Is there any proper justification for continuance of the injunction

31. Yes: this is a corollary of the foregoing submission and, on the facts of the present case, raises no separate issues.

(4) Whether and on what basis a further Order ought to be made

32. C asks that the Court order that the Order be continued on the same terms, save for the proposed amendments at Schedule 2 of the draft order, and subject to annual review. The basis for the continuation of the Order remains the same as that which justified it being granted in the first place.

I. Full and frank disclosure.

33. **Jeffery 2 ¶¶26-7** confirms that C is aware of the ongoing duty of full and frank disclosure and that he has set out all relevant factual matters within his knowledge including those which might tend against continuation of the Order – including the absence of any protest activity at the Sites since the Order was granted.

34. **Jeffery 2 ¶¶12-22** sets out why C considers there to be a real and tangible risk of action by persons unknown, if the Order is not continued, despite the claim against the Second and Third Defendants standing dismissed with effect from 24 October 2026, and it being protest action directly linked with Greenpeace which provided the original trigger for this claim.

35. A potential for a defence based on ECHR Articles 10 and 11 was addressed by Trower J in granting the Order. There is nothing which has occurred, or come to light, since that hearing which provides any basis for departing from that analysis.

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13 October 2026