

IN THE HIGH COURT OF JUSTICE

Claim No. PT-2025-001017

CHANCERY DIVISION

PROPERTY, TRUST & 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)

(3) Greenpeace Limited

(Company registration number 01314381)

Defendants

NOTE OF "RETURN" HEARING

BEFORE MR JUSTICE TROWER

LISTED FOR 24 OCTOBER 2025 AT 10:30

The hearing commenced at 10.41 Appearing for the Claimant **Timothy Morshead KC ("TM")** and **Jacqueline Lean ("JL")** before Honourable **Mr Justice Trower ("J")**).

Preliminary Matters

1. The Court confirmed receipt of the updated hearing bundle, the authorities bundle, a supplementary authorities bundle and a copy of the application notice (to add Greenpeace

Limited as a third Defendant, for the purposes of Greenpeace Limited giving an undertaking to the Court) and its enclosures, including a draft order.

Undertakings given by Greenpeace UK Limited & Greenpeace Limited

2. TMKC explained that Greenpeace UK Limited and Greenpeace Limited – the Greenpeace ("GP") entities – had, since the without notice hearing on 3 October 2025 before Mr Justice Rajah, given undertakings in an attempt to resolve this matter insofar as GP were concerned. TMKC noted that the giving of these undertakings was, in and of itself, an implicit indication that GP had accepted there was a credible threat of repeat trespass occurring across RWE's power-station sites; enough of a threat to warrant the giving of these undertakings to the Court so as to avoid an injunction being granted against them.
3. J recognised and acknowledged the undertakings, but expressed discomfort that the undertakings were signed by in-house lawyer Jack Robirosa. He indicated a willingness to accept the undertakings, subject to a director of Greenpeace (or a person with requisite authority) writing to RWE within approximately 72 hours confirming his authority, or some other similar method of confirmation.

Submissions on the Law

4. J requested that two key points be clarified through submissions: (1) application of the "compelling need" threshold set out in *Wolverhampton CC v London Gypsies & Travellers* [2024] AC 983, and (2) analysis as to the proportionality questions raised and discussed in arguments by Greenpeace and RWE, by the grant (or continuation) of the injunction.
5. TMKC sought first to contextualise the decision in *Wolverhampton CC v London Gypsies & Travellers* [2024] AC 983 regarding newcomer injunctions. TMKC noted that, from a legal taxonomy perspective, two key contributions emerged from *Wolverhampton*:
 - 5.1 First – conceptually, Persons Unknown are bound by an order of the Court not because they become defendants to the litigation, but because they are bound by notice of the order; and
 - 5.2 Second – this injunctive relief largely assumes the Claimant will succeed at trial, and so has demonstrated strong evidence of a cause of action, etc. However, it is also assumed that anyone who dislikes the order may argue against it having been made.
6. TMKC then noted that there were relevant considerations specific to Traveller cases that might not apply in other cases. One, typically, was that these injunctions were sought by local authorities in the difficult position of having a statutory duty to provide a space for Gypsies and Travellers, while also seeking to prevent Travellers camping on open land when they had arguably failed to exercise that statutory duty.
7. TMKC submitted *Wolverhampton CC v London Gypsies & Travellers* [2024] AC 983 as the main authority regarding factors influencing when a newcomer injunction might be granted in the "novel exercise of judicial discretion" (p.167 of the judgment): (i) a compelling need for the protection of civil rights, (ii) procedural protection for the rights of newcomers, (iii) compliance with a strong duty of disclosure on the applicants, (iv) territorial and temporal limitations on the terms of the injunction, and (v) that it be just and convenient to grant such an injunction on the facts.
8. TMKC and J agreed the "controlling" factor was that of compelling need. TMKC submitted the UK Supreme Court's ("UKSC") approach to compelling need was couched in the absence of adequate alternative remedies, and argued that assessing the question of "compelling need" was a valiative exercise based on the availability of other remedies. TMKC relied on the ambiguity of the decision in *Cambridge University v Persons Unknown* [2025] EWHC 454 (KB) to emphasise the point. TMKC submitted that, in conducting that valiative exercise, injunctive

relief was appropriate in this case. As to why injunctive relief was appropriate, TMKC submitted that Mrs Justice Farbey's reasoning and his own submissions in *Exolum Pipeline System Limited & Ors v Persons Unknown* [2024] EWHC 1015; [2025] EWHC 1913 (KB) were to be preferred – namely, that there might be a compelling need for the Court to grant injunctive relief in relation to a small risk of future disruption if the consequences of that risk materialising were serious.

The Impact of Trespass & Future Risk of Reoccurrence

9. TMKC provided some detail about the Sites themselves and – by reference to the Witness Statement of William Henry Jeffery – submitted that even small interference with any of the Claimant's six power stations (in respect of which injunctive relief was being sought) might, in addition to costing the Claimant millions of pounds in damage, also result in large-scale disruption to the National Grid, disruption to the UK's national electricity system, and great harm to the protesters themselves and surrounding end users of the electricity supplied.
10. J considered the photos accompanying William Henry Jeffery's witness statement, as evidence of potential risk of harm to the protesters themselves and as evidence of the extent of the trespass that occurred on the Claimant's Staythorpe power station site on 22 September.
11. TMKC moved on to argue that there was sufficient risk of trespass activity recurring on these Sites so as to justify a compelling need for an injunction, by reference to the sentiments in William Henry Jeffery's witness statement that environmental direct action and protest activity had been on the rise, including increased targeting of critical national infrastructure particularly since 2022 and since the Just Stop Oil wave of campaigns. The prior trespass at Staythorpe power station and the surrounding publicity were, it was argued, sufficient inspiration for such protest groups to possibly strike the Claimant's power stations again.
12. TMKC relied on evidence from GP's website and advertising materials, to further demonstrate an increased risk in protest activity notwithstanding the undertakings already provided, whether by persons from GP or by persons so inspired.

ECHR & Proportionality

13. J considered the ECHR and proportionality arguments raised by Greenpeace's in-house counsel, by letter to the Court dated 23 October 2025, in which it was argued that the grant of a newcomer injunction needed to be balanced against those Persons Unknown's Article 10 (freedom of expression), Article 11 (freedom of assembly and association with others) and Article 14 (enjoyment of Convention rights and freedoms shall be secured without discrimination on any ground such as (inter alia) race, religion and political or other opinion) rights.
14. TMKC pointed again to *Wolverhampton CC v London Gypsies & Travellers* [2024] AC 983 at paragraph 183, in which the UKSC noted the following (**emphasis added**):
 - 14.1 *"The appellants' final main point was that it would always be impossible when considering the grant of an injunction against newcomers to conduct an individualised proportionality analysis, because each potential target Traveller would have their own particular circumstances relevant to a balancing of their article 8 rights against the applicant's claim for an injunction. If no injunction could ever be granted in the absence of an individualised proportionality analysis of the circumstances of every potential target, then it may well be that no newcomer injunction could ever be granted against Travellers. But we reject that premise. To the extent that a particular Traveller who became the subject of a newcomer injunction wished to raise particular circumstances applicable to them and relevant to the proportionality analysis, this would better be done under the liberty to apply if, contrary to the general disinclination or inability of Travellers to go to court, they had the determination to do so."*

15. TMKC argued that the above, together with the development of the ECHR as rights that had to be asserted, demonstrated that it was inevitable in a case in this jurisdiction that balancing the supposed and hypothetical rights of people wanting to protest against the undoubted rights of people owning land and not wanting to have their property trespassed upon was supremely unlikely to come down in favour of the protesters.
16. J agreed with TMKC's analysis.

Conclusion

17. TMKC and J considered that the main questions on substance had been addressed, including the points as to the ECHR Convention analysis.
18. J confirmed that the injunctive relief was to be granted in principle, and that his oral judgment would explain both the principles and the reasoning on which he was convinced.

Summary of Oral Judgment

Contextual Background:

19. J recounted in brief the procedural history of the matter – without notice relief had been granted by Rajah J on 3 October 2025 against Persons Unknown and Greenpeace UK Limited, and continuation against Greenpeace UK Limited was not sought at the return hearing. Details surrounding the undertakings given by GP were recounted.
20. J recounted GP's 23 October 2025 letter explaining GP's stance, and recording that GP said that RWE had sued the wrong entity. J noted that he would agree to join Greenpeace Limited ("GL") as third Defendant, to give an undertaking on the same terms as Greenpeace UK Limited.
21. J identified the land: six RWE gas-fired stations (Staythorpe, Didcot, Pembroke, Little Barford, Great Yarmouth, King's Lynn). J noted that RWE owned ten in total but did not seek relief for four smaller stations and thereby had been responsible in its assessment of what it sought from the Court.
22. J noted third-party leasehold interests (National Grid, SSE Services, Eastern Power Networks) and accepted RWE had sufficient possession/control to sue, including over parts of King's Lynn reachable only by trespass over RWE land.
23. J summarised the 22 September Staythorpe protest: eight GP-associated protesters likely scaled the perimeter and then two 75 m stacks, displaying "Great Gas Rip-Off" banners.

Reasoning for Granting Injunctive Relief:

24. J acknowledged RWE's evidence of increased direct action targeting energy infrastructure in recent years. J rehearsed the potential consequences raised, including that trespass could force shutdowns, cause millions in losses, and disrupt the national electricity system and grid. J noted serious safety risks to protesters (heat, hazardous chemicals, falls) and risks to site and emergency personnel.
25. J recounted TMKC's submissions as to the relevant authorities. J confirmed the civil causes of action were made out across the Sites, including those with third-party leases, subject to ECHR considerations.
26. J addressed ECHR concerns, relying on Butcher J's analysis in *Cambridge University v Persons Unknown*. He accepted Articles 10/11 (and 14) were engaged even on private land, but found

the balance was most unlikely to favour protesters where alternative protest venues existed that did not cause such possible danger.

27. J recounted GP's argument against the likelihood of future protest, by reference to GP's letter to the Court dated 23 October 2025, citing:
 - 27.1 how the campaign was designed to target government/energy markets, not RWE; and
 - 27.2 how GP had offered undertakings to put the matter beyond doubt;
28. J found that he was more convinced by TMKC's rebuttal arguments, owing to GP website materials encouraging secrecy and acceptance of criminal risk, and submitted the publicity was likely to spur unaffiliated copycat actions by persons over whom GP had no control.
29. J noted that he had placed considerable weight on the inherent danger of power-station trespass and potential grid/consumer impacts.
30. J concluded there was a compelling need (the "controlling factor" as required by *Wolverhampton*) and in principle extended/continued the injunction granted by Rajah J, with order details to be finalised with TMKC.
31. A detailed note of the judgment is set out in Schedule 1.

Procedural Discussion – The Logistics of the Draft Order

32. J made the following points as regards the draft order submitted to the Court in advance of the hearing:
 - 32.1 The submission was for the injunction to be reviewed annually, at a hearing listed for 2.5 hours. J flagged that such a request would not come back to interim applications in the Court sitting for this hearing; a fixture would need to be obtained.
 - 32.2 J requested that C be required to make an application not less than three months before the date on which the injunction would otherwise lapse.
33. J permitted service on the second and third Defendants by email, and dispensed with service on the first Defendant (Persons Unknown); rather, the first Defendant was to be notified by affixing a copy of the order at prominent locations at each of the Sites, together with warning notices, and uploading the application to the RWE website.

The hearing ended at 12:30.

Schedule 1

Oral Judgment handed down by Mr Justice Trower

This is return date for an application for injunctive relief in relation to the case of:

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

Without notice relief was granted by Lord Justice Rajah on the 3rd October. In addition to persons unknown, Greenpeace UK Limited was named as a 2nd defendant to the proceedings. Lord Justice Rajah also granted relief against Greenpeace UK Limited, in light of the undertakings it was prepared to give. A continuation of the injunction against Greenpeace UK Limited is not sought today.

But, Greenpeace has written to the court, as of 23 October 2025, to explain its position as to why it has adopted the position it has. It also explains why it considers that RWE Generation UK Plc ("**RWE**") has not established an entitlement to an injunction against persons unknown – on which I will come back to shortly.

Greenpeace UK Limited has also contended that RWE chose the wrong entity to sue. However, the right entity – Greenpeace Limited – is prepared to give an undertaking on the same terms as Greenpeace UK Limited, for the purposes of which I will join Greenpeace Limited as a 3rd party Defendant to the proceedings.

The Land comprises 6 of the 10 gas-fuelled power stations operated by RWE in the UK – namely:

1. Staythorpe Power Station (Staythorpe, Newark, NG23 5RQ)
2. Didcot Power Station (Didcot, Oxfordshire, OX11 7YU)
3. Pembroke Power Station (Pembroke, West Pennar, Dyfed, SA71 5SS)
4. Little Barford Power Station (Little Barford, St Neots, Huntingdon, Cambridgeshire, PE19 6YT)

5. Great Yarmouth Power Station (South Denes Road, Great Yarmouth, NR30 3PY)
6. Kings Lynn Power Station (Power Station) (Kings Lynn, PE34 3RD)

RWE is the freehold owner of each premises. The remaining 4 power stations within RWE's jurisdiction are smaller.

National Grid Electricity Transmission Plc is registered leasehold proprietor of land at Staythorpe Power Station, Didcot Power Station and Kings Lynn Power Station. SSE Services Plc is registered leasehold proprietor of electricity sub-stations at Didcot Power Station. Eastern Power Networks is registered leasehold proprietor of land at Great Yarmouth Power Station and Kings Lynn Power Station. Parts of Kings Lynn Power Station are not in RWE freehold ownership, but the Claimant asserts it is a person entitled to sufficient possession or control of this area to entitle it to pursue a claim in trespass against the Defendants.

RWE proposes the injunction sought to be maintained is reviewed annually on each anniversary of the Order (or as close to this date as is convenient having regard to the Court's list) with a time estimate of 2 and a half hours, and that the injunction shall lapse at 4pm on the anniversary of the Order (or, as the case may be, the latest annual review) unless, before then, the Claimant has applied for the review to take place.

The details of the Draft Order I will consider with TM, who appeared for the Claimant, after I've finished my reasoning.

Greenpeace issued a protest campaign against RWE focusing on allegations it charges inflated prices on the National Grid. As part of that campaign, on the 22nd September eight protestors associated with Greenpeace UK entered the Claimant's facility at Staythorpe Power Station, probably by scaling the perimeter fence, and scaled two of the 75m high gas turbine "stacks" (and there displayed banners highlighting the Greenpeace UK campaign against the "Great Gas Rip-Off").

Significant publicity in local and national press occurred as a result of this action. The protestors themselves were charged with offences.

This happened despite Greenpeace UK having met with representatives from the Claimant on 16 September 2025 – at a meeting requested by Greenpeace UK to discuss its concerns – and a subsequent meeting having been arranged for 24 September 2025. Prior to the grant of the without notice injunction, Greenpeace has not ruled out taking any similar action in future, even if engagement through dialogue were to continue.

Greenpeace has changed its position since Mr Justice Rajah's decision. As to dialogues, discussions were ongoing with GP at the time of the protest on the 22nd September, but did not continue up to the time of hearing with Mr Justice Rajah. Evidence put forward by RWE also sets out in some detail the nature of historic protest and work of other protest groups relating to power stations, submitting there has been an increase in recent years of climate change and environmental activist groups targeting energy infrastructure across the UK, which has led to a number of instances of injunctions being given to deter protest activity. Examples submitted to me are all over 2 years ago, but RWE say they appear to have continuing effect.

Acts of trespass on these large sites is said to be very significant if it cause RWE to cease operations – it would cause millions of loss to RWE and disrupt the national electricity system, forcing RWE to stop output to ensure safety of protestors. That would be extremely serious.

Evidence is if that were to happen, this may mean a knock on disruption to the National Grid and widespread short term power failure. There are large and continuing consequences in relation to unauthorised access. I should add there would be some impact on RWE if trespass were to occur on the 4 smaller power stations – however, RWE doesn't seek injunctive relief on those for reasons of

proportionality. I accept this shows how responsible in practice RWE have been in assessing the extent of damage from the public and its own perspective in the event of trespass action across its stations.

Potential of harm – RWE points out there are serious risks to protestors exposing themselves to very serious harm in the course of a trespass, including contact with high gas temperature exposure to hazardous chemicals and falls from stack towers – which would be even more serious if protestors climbed to the top of stacks to impede regeneration.

RWE have taken extensive security measures to stop trespass. Perimeter fence lines and crucial assets are monitored by CCTV. The Claimant has enhanced security measures across all stations, including strengthening liaison with local police forces.

Nonetheless it is concerned that in the absence of injunctive relief similar events in future at Staythorpe and the other sites will occur. As indicated, GP agreed to give an undertaking. The focus of this hearing has therefore been if relief should continue against persons unknown. The principles stem from *Wolverhampton CC v London Gypsy and Traveller* [2024] AC 983 – the leading authority in injunctions against newcomers.

As was explained at paragraph 143 – these types of proceedings generally form a form of enforcement in cases where the persons restrained are unlikely to have any right or liberty to do that prohibited by the Order, rather than dispute resolution – this is relevant to the precise test the court should apply in deciding to grant the relief sought today.

Wolverhampton was concerned with newcomer injunctions in gypsy and traveller cases – much of what the UKSC said is specific to that case, but paragraphs 235 and 236 of the judgment sees the UKSC address the position regarding protest cases – such as protestors who engage in direct action by, for example, blocking motorways, occupying motorway gantries or occupying HS2's land with the intention of disrupting construction, etc. In each instance, what is required is full and careful assessment of the justification sought, rights interfered with, and proportionality of the interference. As with all newcomer cases, the Court has to be satisfied that there is compelling need for the order sought – although I accept what TM submits for present purposes – that when considering the question of compelling need, one of the critical questions for the court is whether or not there is an effective alternative to the injunction sought.

This is a developing jurisdiction – TM also drew my attention to number of other decisions, inc. Justice Ritchie in *Valero Energy* [2025] EWHC 207 (KB), which sets out at p58 factors court should have regard to in ordering relief against persons unknown.

Nonetheless, for my part I found the analysis of Wolverhampton at paragraph 167 of the judgment of particular assistance – TM also referred in his skeleton argument to the decision of *Jockey Club Racecourses Ltd v Persons Unknown & Ors* [2024] EWHC 1786 Chancery – in that case, there was threat by protest movement to impact running of the Derby – the approach in Wolverhampton was adopted.

It goes without saying there must be civil cause of action in the claim form and PoC – here, the case of previous trespass and the 'quia timet' fear of protest going forward. This aspect is satisfied in all areas where the sites are not leased to 3rd parties and there is no defence to the underlying claim.

As to the parts let to 3rd parties – RWE does not have a right of occupation, but I understand these parts cannot be reached without trespass over rights of occupation on land it does hold.. Subject only to further consideration of ECHR rights, I agree.

As to the ECHR, I found the analysis from Justice Butcher in *Cambridge University v Persons Unknown* informative. Mr Justice Butcher carried out a necessary balancing exercise, balancing the freedom of exercise by the Defendants of their Article 10 (Freedom of Expression), Article 11 (Freedom of Assembly & Association with others) and Article 14 (Enjoyment of Convention rights and freedoms shall be secured without discrimination on any ground such as (inter alia) race, religion and political or other opinion).

I can see each of those rights in theory engaged in the present case, and also accept Article 10 and 11 are engaged even in the context of trespass. As TM submitted over the course of his submissions, against the hypothetical rights of persons unknown must be balanced RWE's rights to peaceful enjoyment of its possessions under Article 1, and the common law rights as regards trespass and nuisance.

In my judgment, this balance is most unlikely to come down favour of protestors when there are plenty of other places they could protest. Against that background, the overarching conclusion is there is a compelling justification for the order sought in the way described in the authorities. GP say in its letter to the Court dated 23 October 2025 that notwithstanding the events of 22nd September at Staythorpe, RWE have not established a compelling justification. They say the GP campaign isn't directed at RWE per se, it's much more general than an attack on RWE itself. It calls for the government to get rid of gas power stations and to place them in strategic reserve. They say there is no proper basis to say persons unknown would be particularly compelled by this campaign to target RWE's sites. Making this point, Ms Areeba Hamid - the executive director of Greenpeace - is quoted in Greenpeace's letter, and commented to RWE on the events at Staythorpe as follows:

"The objective of that protest was to highlight that gas is what is keeping our bills high and letting it stop from setting our energy prices will bring down bills [...] We made a deliberate choice not [to] name or single out RWE because our campaign is not about one company but about the energy markets and resetting them and ultimately our demand is towards the government to do the right thing."

GP say in terms it has no intention of further protest across the sites and the reason Greenpeace is prepared to offer undertakings across the 6 sites is to put the matter beyond doubt.

Greenpeace then went on to criticise 3 aspects of the evidence before Lord Justice Rajah:

1. History of trespass on RWE premises – it was pointed out that none of them involved Greenpeace UK and none resulted in consumers left without power. Only one that did involve was Germany 2019 – protest to interrupt an RWE board meeting
2. Since early 2022, the points regarding increases in protest activity by direct action targeting petroleum and gas infrastructure – Greenpeace pointed out Just Stop Oil announcing it had ceased all activities.
3. Greenpeace pointed out it was wrong for RWE to assert Greenpeace was duplicitous, making the following point:

"As explained in the email of Areeba Hamid dated 24 September 2024, as a campaign organisation Greenpeace regularly blends external pressure with private communication. Peaceful protest can be uncomfortable for companies but that does not make it duplicitous, nor does the lack of prior warning. Mr Glover of RWE said in response "I understand completely how Greenpeace approaches his strategies [...] we are fundamentally aligned with many of your objectives [...] many thanks for keeping the dialogue open"

Against this RWE makes several points;

1. TM did not resile from contending Greenpeace is still duplicitous. I agree – notwithstanding 22nd September.
2. Second, aims and statements on Greenpeace's website includes materials thought to incite commission of criminal offences and at least warn activists of the risk of criminal convictions, if they so participate.

3. The publicity generated by the Staythorpe incident and Greenpeace's new campaign will encourage other persons not affiliated with GP to target other power stations in a similarly unlawful way. TM submitted people with strong passions are an important aspect of the background risk when assessing the extent to which persons unknown may take their lead from protests that have already been heard.

It seems to me these are all powerful considerations and there is material risk of further conduct of this sort, in some way 'copycat protests', and a risk they will occur. I'm satisfied there is an enhanced risk of increased activity on RWE sites, because of what already occurred on September 22nd.

Also, I have in mind 2 other material factors:

1. On the evidence there is sometime no more than a loose connection between individuals who may or may not hold themselves out as GP but are not de facto affiliated, who utilise Greenpeace as a spring board for their own unlawful activity even where not instructed or authorised by Greenpeace itself.
2. I have placed considerable weight on the consideration that trespass on power stations is inherently dangerous – if it affects operations, it does damage not just to RWE but also to the operation of the national grid and the interests of the end users for whom electricity is supplied.

Taking all those considerations into account, I am satisfied there is a compelling need for the injunction sought by RWE established in this case and I will in principle extend the award made by Lord Justice Rajah.