

QUEEN'S BENCH DIVISION

B E T W E E N:

- (1) ESSO PETROLEUM COMPANY, LIMITED
(2) EXXONMOBIL CHEMICAL LIMITED**

Claimants

-and-

(1) PERSONS UNKNOWN WHO, IN CONNECTION WITH THE 'EXTINCTION REBELLION' CAMPAIGN OR THE 'JUST STOP OIL' CAMPAIGN, ENTER OR REMAIN (WITHOUT THE CONSENT OF THE FIRST CLAIMANT) UPON ANY OF THE FOLLOWING SITES ("THE SITES")

- (A) THE OIL REFINERY AND JETTY AT THE PETROCHEMICAL PLANT, MARSH LANE, SOUTHAMPTON SO45 1TH (AS SHOWN FOR IDENTIFICATION EDGED RED AND GREEN BUT EXCLUDING THOSE AREAS EDGED BLUE ON THE ATTACHED 'FAWLEY PLAN')**
(B) HYTHE OIL TERMINAL, NEW ROAD, HARDLEY SO45 3NR (AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED 'HYTHE PLAN')
(C) AVONMOUTH OIL TERMINAL, ST ANDREWS ROAD, BRISTOL BS11 9BN (AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED 'AVONMOUTH PLAN')
(D) BIRMINGHAM OIL TERMINAL, TYBURN ROAD, BIRMINGHAM B24 8HJ (AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED 'BIRMINGHAM PLAN')
(E) PURFLEET OIL TERMINAL, LONDON ROAD, PURFLEET, ESSEX RM19 1RS (AS SHOWN FOR IDENTIFICATION EDGED RED AND BROWN ON THE ATTACHED 'PURFLEET PLAN')
(F) WEST LONDON OIL TERMINAL, BEDFONT ROAD, STANWELL, MIDDLESEX TW19 7LZ (AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED 'WEST LONDON PLAN')
(G) HARTLAND PARK LOGISTICS HUB, IVELY ROAD, FARNBOROUGH (AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED 'HARTLAND PARK PLAN')
(H) ALTON COMPOUND, PUMPING STATION, A31, HOLLYBOURNE (AS SHOWN FOR IDENTIFICATION EDGED RED ON THE ATTACHED 'ALTON COMPOUND PLAN')

(2) PERSONS UNKNOWN WHO, IN CONNECTION WITH THE 'EXTINCTION REBELLION' CAMPAIGN OR THE 'JUST STOP OIL' CAMPAIGN, ENTER OR REMAIN (WITHOUT THE CONSENT OF THE FIRST CLAIMANT OR THE SECOND CLAIMANT) UPON THE CHEMICAL PLANT, MARSH LANE, SOUTHAMPTON SO45 1TH (AS SHOWN FOR IDENTIFICATION EDGED PURPLE ON THE ATTACHED 'FAWLEY PLAN')

(3) PERSONS UNKNOWN WHO, IN CONNECTION WITH THE 'EXTINCTION REBELLION' CAMPAIGN OR THE 'JUST STOP OIL' CAMPAIGN, OBSTRUCT ANY OF THE VEHICULAR ENTRANCES OR EXITS TO ANY OF THE SITES (WHERE "SITES" FOR THIS PURPOSE DOES NOT INCLUDE THE AREA EDGED BROWN ON THE PURFLEET PLAN)

SKELETON ARGUMENT ON BEHALF OF THE CLAIMANTS

FOR THE RETURN DATE HEARING ON 27 APRIL 2022

Introduction

1. The hearing on 27 April 2022 is the Return Date hearing following grant of the interim injunction by Ellenbogen J on 6 April 2022 (“the 6 April Order”).
2. The time estimate for the hearing is one day.
3. Pre-reading of the following would be of assistance:
 - Claimants’ Skeleton Argument dated 4 April 2022 (“the Original Skeleton Argument”)
 - Note of Ellenbogen J’s judgment
 - First Witness Statement of Anthony Milne dated 3 April 2022
 - Third Witness Statement of Nawaaz Allybokus dated 22 April 2022
 - Fourth Witness Statement of Nawaaz Allybokus dated 22 April 2022
 - Draft Order (as amended and filed with this Skeleton Argument)

Hearing before Ellenbogen J and subsequent steps

4. A hearing before Ellenbogen J took place on 5 April 2022. The Judge handed down judgment on 6 April 2022 and made the 6 April Order.
5. The 6 April Order and the hearing bundle were served as required by paragraph 9 of that Order: see paragraphs 5 to 6 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.

The Properties and the Claimants

6. The Sites which are the subject of the claim, the titles to the Sites and the Claimants’ interests in those Sites are set out in the Witness Statement of Stuart Wortley dated 4 April 2022. See also paragraphs 4-7 of the Original Skeleton Argument.
7. The Sites are shown in the Plans attached to the 6 April Order.

The Direct Action

8. Over recent months, there had been indications of potential threats of trespass and acts of nuisance in relation to the Just Stop Oil and Extinction Rebellion campaigns: see paragraphs 7.1 to 7.5 and 9.1 to 9.30 of the Witness Statement of Anthony Milne dated 3 April 2022.
9. This has resulted in an extensive and co-ordinated campaign of direct action against oil terminals and refineries, which commenced on 1 April 2022. Details of the direct action as at 4 April 2022 can be seen at paragraphs 8.1 to 8.8 of the Witness Statement of Anthony Milne dated 3 April 2022 and at paragraphs 40 to 41 of the Witness Statement of Stuart Sherbrooke Wortley dated 4 April 2022.
10. The direct action that has occurred since then is described in the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022. This demonstrates the continuing real risk of direct action posed by those protesting in connection with Just Stop Oil and Extinction Rebellion.
11. We refer back to the position on risks as at 4 April 2022 (see Original Skeleton Argument, paragraph 13) and there is no reason to think that the risks no longer remain. Indeed, the campaign has been consistent throughout and has escalated in some respects. In particular, as set out in paragraph 22 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022:
 - 11.1 On 4 April 2022, 15 individuals attended the West London Terminal and 2 of them climbed on top of tensegrity structures in order to block the entrance to the Terminal.
 - 11.2 On 6 April 2022, a group of individuals blocked a roundabout on the main route from the M25 and London to the Purfleet Terminal by jumping onto a truck and gluing themselves onto the road.
 - 11.3 On 6 April 2022, a group of individuals blocked a roundabout on the main route to the West London Terminal by jumping onto trucks.
 - 11.4 On 8 April 2022, around 30 individuals blocked a main route from the M25 and London to the Purfleet Terminal.
 - 11.5 On 13 April 2022, a group of individuals blocked an access road near the Purfleet Terminal and 3 individuals climbed on top of a tanker.

12. This is against the background of direct action continuing at other oil sites around the country: see paragraphs 23 to 24 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.
13. More generally, there have been well over 200 arrests of those carrying out direct action in connect with the Just Stop Oil and Extinction Rebellion campaigns: see paragraph 21 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.
14. Even though the statement by Just Stop Oil on 19 April 2022 indicated a pause in the direct action, in fact the pause was expressed only to last until 25 April 2022. If the Government does not before then state that it will “*immediately halt all future licensing and consents for the exploration, development and production of fossil fuels in the UK*”, not only will the direct action resume, but Just Stop Oil’s “*campaign of civil resistance*” will “*escalate*”: see paragraphs 26 to 27 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.
15. In addition, the Just Stop Oil website states that:

“The new campaign JUST STOP OIL will mobilise 1000+ people from all walks of life to oppose the plans for new UK Oil fields during 2022...

We are growing a movement, holding 20-30 public meetings per week, online and in person, across the UK”
16. In relation to Extinction Rebellion, its “*XRUK Strategy 2022*” reveals its campaign of “*Mass Resistance*” throughout 2022 and into 2023: see paragraphs 30 to 32 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.
17. This demonstrates that the risk of direct action from both Just Stop Oil and Extinction Rebellion looks likely to continue for some time.

Potential Effects of Direct Action

18. A variety of consequences arise in respect of the type of direct action which has been experienced and is apprehended, as set out in paragraphs 10.2 and 11.3 to 11.6 of the Witness Statement of Anthony Milne dated 3 April 2022:

- 18.1 The operations at the various sites can involve use for the production and storage of highly flammable and otherwise hazardous substances. The Fawley Petrochemical Complex and each of the Terminals are regulated under the Control of Major Accident Hazards Regulations 2015 by the Health and Safety Executive. As one would expect, access to these sites is very strictly controlled.
- 18.2 Whereas the relevant employees of the Claimants are appropriately trained and where appropriate are provided with protective clothing and equipment, the protestors do not understand the hazards, are untrained and unlikely to have the appropriate protective clothing or equipment. There are therefore risks in respect of personal injury and health and safety.
- 18.3 The Claimants have important contractual obligations to customers which have to be fulfilled in order to ‘keep the country moving’, including road, rail and air travel. There is a clear risk of disruption to the Claimants’ operations and the subsequent impact upon the UK’s downstream fuel resilience.

Causes of Action

19. *Trespass*

- 19.1 The entry, without permission or consent of the First Claimant (or the Second Claimant in relation to the Chemical Plant), upon the Sites is a clear trespass.
- 19.2 So too, there would be a continuing trespass by remaining upon such site(s) without the appropriate consent.

20. *Private Nuisance*

- 20.1 In relation to nuisance, a private nuisance is an “*act or omission which is an interference with disturbance or of annoyance to, a person in the exercise or enjoyment of ... his ownership or occupation of land or of some easement, profit other right used or enjoyed in connection with the land:*” *Clerk & Lindsell ‘Law of Torts’ 23nd Ed* at paragraph 19-01. The same paragraph also states that “[*t*]he essence of a nuisance is a condition or activity which unduly interferes with the use or enjoyment of land”. It is clear law that an owner of land has a private right to gain access to the highway which is separate from the right to the use of the highway as a member of the public. This is referred

to at paragraph 19-181 of *Clerk & Lindsell on Torts* (and see paragraph 42 of the judgment of Morgan J in the *Ineos* case referred to below ([2017] EWHC Ch 2945). See also *Halsbury's Laws* at Volume 55, paragraph 261.

- 20.2 The specific acts of nuisance which have arisen and which are threatened in this case involve obstructions at the accesses to the Sites so as to prevent the employees, contractors, servants, agents or licensees of the First Claimant (or those of the Second Defendant in the case of the Chemical Plant) from entering or exiting from the Sites.

Legal Principles

21. *American Cyanamid*

- 21.1 The starting point is the first stage of the test in *American Cyanamid Co v Ethicon Ltd* [1975] AC 396, namely that there must be a serious issue to be tried with respect to the Claimants' case.
- 21.2 It must also be the case damages would not be an adequate remedy.
- 21.3 In relation to the 'balance of convenience, there are more complex principles to be applied in this type of case, the relevant sub-principles of which are set out below.

22. *Section 12(3) of the Human Rights Act 1998*

- 22.1 In this context, however, the *American Cyanamid* test must be read subject to s.12(3) of the Human Rights Act 1998, which states that:

“(1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.

...

- (3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.” (emphasis added)

- 22.2 Although this provision refers to “*publication*”, it has been applied by the Court of Appeal in the case of *Boyd v Ineos Upstream Limited & Others* [2019] EWCA Civ 515 at [48] to a case concerning trespasses, private nuisance, public

nuisance and causing loss by way of unlawful means. Thus, although the Claimant reserves the right to argue the point, if necessary, in future, at first instance the Claimant proceeds on the basis that section 12(3) applies. Lord Nicholls in *Cream Holdings Cream Holdings Ltd v Bannerjee* [2004] UKHL 44 at [22]-[23] explained that the “general” interpretation of “likely” in section 12(3) as meaning “more likely than not” had to be modified in circumstances which include where “*the adverse consequences of disclosure are particularly grave*”. In this case, and for the reasons set out below, it is submitted that “the more likely than not” test is satisfied. Alternatively, it is submitted that the adverse consequences of the threatened activities are “*particularly grave*” which would justify a departure from the “more likely than not” test: see also *Hooper v Rogers* [1975] Ch 43, 50B and Sir Terence Etherton MR’s comments in *Network Rail Infrastructure Ltd v Williams* [2018] 3 WLR 1105, [71].

23. *Articles 10 and 11 ECHR*

23.1 The Defendants’ only possible substantive defence to the claim is based on their rights to freedom of expression, and assembly and association. However, the case law demonstrates that direct action occurring on private land will not be protected by Articles 10 and 11 ECHR.

23.2 In the recent case of *DPP v Cuciurean* [2022] EWHC 736 (Admin), the Divisional Court found at [45] and [76]-[77] that:

“We conclude that there is no basis in the Strasbourg jurisprudence to support the respondent's proposition that the freedom of expression linked to the freedom of assembly and association includes a right to protest on privately owned land or upon publicly owned land from which the public are generally excluded. The Strasbourg Court has not made any statement to that effect. Instead, it has consistently said that articles 10 and 11 do not “bestow any freedom of forum” in the specific context of interference with property rights (see *Appleby* at [47] and [52]). There is no right of entry to private property or to any publicly owned property. The furthest that the Strasbourg Court has been prepared to go is that where a bar on access to property has the effect of preventing any effective exercise of rights under articles 10 and 11, or of destroying the essence of those rights, then it would not exclude the possibility of a State being obliged to protect them by regulating property rights.

...

Thirdly, a protest which is carried out for the purposes of disrupting or obstructing the lawful activities of other parties, does not lie at the core of articles 10 and 11, even if carried out on a highway or other publicly accessible land. Furthermore, it is established that serious disruption may amount to reprehensible conduct, so that articles 10 and 11 are not violated...

Fourthly, articles 10 and 11 do not bestow any "freedom of forum" to justify trespass on private land or publicly owned land which is not accessible by the public..."

23.3 There have been several authorities relevant to the scope of injunctions against "persons unknown", some of the more recent of which have included *Boyd v Ineos Upstream Ltd* [2019] EWCA Civ 5151, *Canada Goose Retail Ltd v Persons Unknown* [2020] EWCA Civ 303, *Cuadrilla Bowland Ltd v Persons Unknown* [2020] EWCA Civ 9, all of which have recently been reviewed in the context of final injunctions by the Chancellor, Vos J in *Barking and Dagenham LBC v Persons Unknown* [2021] EWCA Civ 13. For present purposes, reference is made below to a few of the cases involving protest situations involving potential trespasses and obstructions of access to operational sites.

23.4 In *Boyd v Ineos Upstream Ltd* [2019] EWCA Civ 515, the claimant companies undertook fracking and obtained interim injunctions restraining unlawful protesting activities such as trespass and nuisance against persons unknown. At first instance ([2017] EWHC Ch 2945), Morgan J said at [105]:

"In the present case, if a final injunction were sought on the basis of the evidence presented on this interim application, the court is (to put it no higher) likely to grant an injunction to restrain the protestors from trespassing on the land of the claimants. The land is private land and the rights of the claimants in relation to it are to be given proper weight and protections under Articles 10(2) and 11(2). The claimants' rights are prescribed by law, namely the law of trespass, and that law is clear and predictable. The protection of private rights of ownership is necessary in a democratic society and the grant of an injunction to restrain trespass is proportionate having regard to the fact that the protestors are free to express their opinions and to assemble elsewhere. There would also be concerns as to safety in the case of trespass on the claimants' land at a time when the land was an operational site for shale gas exploration.

I take the same view as to the claim in private nuisance to prevent a substantial interference with the private rights of way enjoyed in relation to Sites 3 and 4. I would not distinguish for present purposes between the

claim in trespass to protect the possession of private land and the claim in private nuisance to protect the enjoyment of a private right of way over private land.”

23.5 This test was considered by Mr Justice Barling in relation to HS2 protests in *Secretary of State for Transport v Persons Unknown* [2018] EWHC 1404 (Ch) at [58] where he said:

“In my view the claimants have clearly surmounted the American Cyanamid hurdle in all respects, both as to the seriously arguable case and as to the inadequacy of any relief in damages. With respect to the higher hurdle that applies in the present case, I also consider, in the light of the material before me, that it is likely at trial that the claimants would succeed in obtaining the kind of protective orders that they seek, both in relation to the application for trespassory injunction and the application for an injunction in respect of activities in or about the entrance compounds, north and south. I make these findings having carried out the balancing exercise which is appropriate given that Articles 10 and 11 are engaged here. The defendants are undoubtedly exercising their freedoms of expression and assembly in protesting as they have done (and will in all likelihood continue to do) about the activities carried out on this site. However, in my view the balance very clearly weighs in favour of granting relief because the defendants’ right to protest and to express their protest both by assembling and by vociferating the views that they hold, can be exercised without trespassing on the land and without obstructing the right of the claimants to come in and out of the land from and on to the public highway. What the defendants seek to do by carrying out these activities goes beyond the exercise of the undoubted freedoms of expression and assembly, what they wish to do, as well as protesting, is to slow down, or stop, or otherwise impede the work being carried out. Whilst a legitimate process might encompass an element of pressure, so that how we protest and how far we are allowed to go in protesting about something which we do not agree, may involve a difficult balance and assessment, here the defendants have clearly treated being what those qualified rights under the Convention entitles them to do. I consider that in all the circumstances the balance of convenience favours the grant of relief, and that is just and convenient for me to do so.”

23.6 A similar approach was applied by Mr David Holland QC (sitting as a Deputy Judge) when the injunction was renewed ([2019] EWHC 1437 (Ch) at [127] and also in *UK Oil & Gas v Persons Unknown* [2021] EWHC 599, where the claimant applied for a variation and continuation of an interim injunction

previously granted in 2018 in relation to a protest concerning the oil and gas industry and the injunction granted prevented the persons unknown from entering or remaining upon one of the claimant's sites, from climbing on to vehicles or trailers coming out of the site and from obstructing a particular entrance and thereby preventing the claimants, their contractors, agents and servants from entering. Mrs Justice Falk said at [54]:

“Having regard to the revised scope of the injunction, which is very narrowly focused on people actually trespassing on the site, people climbing onto vehicles seeking access to or coming from the site, and obstructing the entrance to the site in a way that prevents people or vehicles coming into and out of the site, I am satisfied that in the narrowed manner there is a fair balance being struck between the rights of individuals and the rights of the Claimants to go about their lawful business”

24. *Section 12(2) of the Human Rights Act 1998*

24.1 Section 12(2) provides that:

- “(1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.
- (2) If the person against whom the application for relief is made (“the respondent”) is neither present nor represented, no such relief is to be granted unless the court is satisfied-
 - (a) that the applicant has taken all practicable steps to notify the respondent; or
 - (b) that there are compelling reasons why the respondent should not be notified.”

25. *Injunctions against Persons Unknown*

25.1 In *Boyd v Ineos Upstream* [2019] EWCA Civ 515 (“*Ineos*”) Lord Justice Longmore set out various requirements that must be satisfied in order to grant an injunction against Persons Unknown and these were developed further in *Canada Goose Retail Ltd v Persons Unknown* [2020] EWCA Civ 303 and in *Barking and Dagenham LBC v Persons Unknown* [2021] EWCA Civ 13. In summary, the principal substantive requirements can be summarised, for present purposes, as follows:

- (a) There must be a sufficiently real and imminent risk of a tort being committed to justify *quai timet* relief;
- (b) It is impossible to name the persons who are likely to commit the tort unless restrained;
- (c) It is possible to give effective notice of the injunction and for the method of such notice to set out in the order;
- (d) The terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit unlawful conduct
- (e) The terms of the injunction must be sufficiently clear and precise to enable persons potentially effected to know what they must not do; and
- (f) The injunction should have clear geographical and temporal limits.

Grounds of application

26. Against the background of the principles and authorities referred to above, it is submitted that the relief sought to restrain the threatened trespass(es) and acts of nuisance is justified on the following grounds:

26.1 There is a serious issue to be tried

There is strong evidence that, if the injunction was not granted, there would be further acts of trespass and acts of nuisance: see paragraphs 6-10 above. Although Just Stop Oil announced, on 19 April 2022, that it was pausing its campaign of direct action, this pause was expressly only to last until 25 April 2022. If the Government does not “*halt all future licensing and consents for the exploration, development and production of fossil fuels in the UK*” by then, Just Stop Oil “*will be left with no choice but to escalate our campaign of civil resistance. We will not be bystanders.*” Consequently, not only does the threat of further trespass and acts of nuisance remain, it appears that after 25 April 2022 the threat from Just Stop Oil will increase.

26.2 Damages would not be an adequate remedy

It would also be the case that damages would not be an adequate remedy. The risks which arise in this case involve serious health and safety risks as well as financial risks in the event that the proposed protests involve operational disruptions. These damages are unquantifiable and there is a risk that none of the Defendants would be able to pay such damages: see paragraph 12.3 of the Witness Statement of Anthony Milne dated 3 April 2022.

26.3 *Articles 10 and 11*

To adopt the words of Mr Justice Barling in *Secretary of State for Transport v Persons Unknown* [2018] EWHC 1404 (Ch) at [58] in relation to this case, the facts are such that “*the balance very clearly weighs in favour of granting relief because the defendants’ right to protest and to express their protest both by assembling and by vociferating the views that they hold, can be exercised without trespassing on the land and without obstructing the right of the claimants to come in and out of the land from and on to the public highway.*”

26.4 *The requirements of section 12 Human Rights Act 1998 are satisfied*

For the purposes of section 12 Human Rights Act 1998, the Court can be satisfied that the Claimants have taken all practicable steps to notify the Defendants. In particular:

26.4.1 By the time of the hearing on 5 April 2022, the Claimants had sent two emails to email addresses it held for Extinction Rebellion and Just Stop Oil. The first, sent on 4 April 2022 at 1:23pm, notified them that a claim would be filed imminently for an injunction and that urgent interim relief was also being sought. The second, sent on 4 April 2022 at 4:27pm, notified them that the hearing would be taking place on 5 April 2022 at 11am at the Royal Courts of Justice and provided them with a link to the hearing bundle. It also requested the names of anyone who had been involved in the direct action or who intended to take part in the future. See the First Witness Statement of Nawaaz Allybokus dated 5 April 2022.¹

¹ It should be noted that, on Sunday 10 April 2022, the Claimants subsequently received an “email delivery failure” notification with respect to the email it had sent to Just Stop Oil (juststopoil@protonmail.co.uk). As a result, on 13 April 2022, the Claimants’ representatives sent a further email to a different email address

26.4.2 In her judgment, dated 6 April 2022, Ellenbogen J found that the Claimants satisfied both section 12(2)(a) and section 12(2)(b) of the Human Rights Act 1998.

26.4.3 Subsequently, the 6 April Order and the documents relied upon by the Claimants at the hearing on 5 April 2022 were served in the manner provided for by the 6 April 2022 Order: see paragraphs 5 to 6 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.

For the purposes of section 12(3), the Court can be satisfied that the Claimants are likely to establish the case for trespass and nuisance at trial.

26.5 Each of the elements of the test for pre-emptive relief against persons unknown is satisfied:

26.5.1 *There is a sufficiently real and imminent risk of a tort being committed*

For the reasons set out in Paragraphs 6-10 above, it is submitted that this element of the test is satisfied with respect to each of the Sites and the Chemical Plant.

Once the pause in direct action by Just Stop Oil ends on 25 April 2022, its “*campaign of civil resistance*” will “*escalate*”.

26.5.2 *It is impossible to name the persons who are likely to commit the tort unless restrained*

The nature of the proposed trespass means that there will potentially be a large number of different individuals trespassing and it is not possible to discover their identities.

In order to aid identification, however, the Claimants seek a third party disclosure order against the relevant police authorities (see further below).

26.5.3 *It is possible to give effective notice of the injunction and for the method of such notice to be set out in the order*

(juststopoilpress@protonmail.com) with links to the hearing bundle and 6 April Order. See paragraphs 10 to 12 of the Third Witness Statement of Nawaaz Allybokus dated 22 April 2022.

It is possible in this case to give effective notice. The Order can be served by affixing it to prominent positions at the Sites and the Chemical Plant, in order to ensure that it comes to the attention of any person who is in close proximity, and in various other ways. The methods of service are those already used in the 6 April Order.

That these methods of notice are effective is clear from the fact that on 7 April 2022 the Claimants' solicitors were contacted by Hodge Jones & Allen solicitors – acting for an individual who is associated with Extinction Rebellion – requesting copies of various documents.

26.5.4 *The terms of the injunction must correspond with the threatened tort and not be so wide that they prohibit lawful conduct*

The forms of relief in the first two injunctions set out in the Draft Order sought would prohibit the Defendants from entering or remaining upon the sites in question or causing damage or affixing themselves or items thereto or erecting structures thereon. The third form of relief seeks to prohibit the Defendants from obstructing the rights of access to and egress from the Sites.

26.5.5 *The terms of the injunction must be sufficiently clear and precise as to enable persons potentially effected to know what they must not do*

The terms of the injunction sought are precise. It is submitted that it will be obvious to all persons what activities they are prohibited from undertaking, namely entering or remaining upon the identified sites, causing damage, affixing people or objects to the Sites, erecting structures on them and obstructing the accesses to and exits from the Sites: see, for example, the order at *Ineos* [36]-[37].

26.5.6 *The injunction should have clear geographical and temporal limits*

The prohibition is clearly defined by reference to the specific sites, the geographical location of which is identified by their address and the accompanying plans. In relation to the temporal limits, a 1-year period is sought at this stage subject to further order in the meantime: in similar circumstances, a 1-year period has been granted in *UK Oil Pipelines Ltd v Persons Unknown* (2022) and *Secretary of State v*

Persons Unknown [2019] EWHC 1437 (Ch). A slightly shorter period of approximately 10 months was granted in *Valero Energy Limited v Persons Unknown* (2022). It is submitted that 1 year would strike the appropriate balance. If the period was longer than this, it might be considered disproportionate and if it was shorter, this might entail further unnecessary costs and court resources if there is a need to renew it.

Undertaking in damages

27. In the Witness Statement of Anthony Milne dated 3 April 2022, evidential confirmation is provided of the necessary cross-undertaking to pay damages: paragraphs 13.2 to 13.3. For the reasons set out in the same Witness Statement, no issue arises as to the ability of the Claimants to satisfy any such cross-undertaking.

Third party disclosure

28. In order to aid identification of those carrying out direct action on the Claimants' Sites, the Claimants seek disclosure orders against the five police authorities referred to at paragraph 14 of the Fourth Witness Statement of Nawaaz Allybokus dated 22 April 2022. This would require those police authorities to disclose to the Claimants, amongst other things, the names and addresses of those arrested for carrying out direct action at the Sites in connection with the Just Stop Oil or Extinction Rebellion Campaigns.
29. None of the police authorities object to the Claimants' application for such disclosure: see paragraph 15 of the Fourth Witness Statement of Nawaaz Allybokus dated 22 April 2022 and Exhibit NA4.

Draft Order

30. The Draft Order attached to this Skeleton Argument is materially similar to the 6 April Order. The following differences are brought to the attention of the Court:
- 30.1 The Draft Order contains a 1-year temporal limit, subject to the possibility of a further order in the meantime. It is the Claimants' intention to apply for

summary/default judgment once the period for filing an Acknowledgement of Service/Defence has expired.

- 30.2 In the event that a Defendant seeks to vary or discharge the Order, a longer period of notice to the Claimants' solicitors is now provided for – 3 clear days rather than 24 hours.
- 30.3 The minimum size of the warning notices is described as “A2” rather than “1.5m x 1m”.
- 30.4 The correct email address for Just Stop Oil is included.
- 30.5 Third party disclosure is now sought in relation to the five police authorities referred to above.

Conclusion

31. The Court is therefore respectfully requested to grant an order in the terms of the Draft Order.

KATHARINE HOLLAND QC
YAASER VANDERMAN
Landmark Chambers
25 April 2022