IN THE HIGH COURT OF JUSTICE **Claim no. KB-2024-002336**

KING'S BENCH DIVISION

B E T W E E N :

GATWICK AIRPORT LIMITED

Claimant

-and-

PERSONS UNKNOWN WHOSE PURPOSE IS OR INCLUDES PROTESTING ABOUT FOSSIL FUELS OR THE ENVIRONMENT WHO ENTER OR REMAIN ON THE PREMISES AT LONDON GATWICK AIRPORT SHOWN OUTLINED IN YELLOW AND SHADED YELLOW ON PLAN 1 ATTACHED TO THE CLAIM FORM (WHETHER IN CONNECTION WITH THE JUST STOP OIL CAMPAIGN OR EXTINCTION REBELLION CAMPAIGN OR OTHERWISE)

Defendants

NOTE OF HEARING BEFORE MR DUNCAN ATKINSON KC (SITTING AS A DEPUTY JUDGE IN THE HIGH COURT) ON 18 JULY 2025

References in the form SB/x are to pages of the Supplemental Hearing Bundle.

References in the form AB/x are to pages of the Authorities Bundle.

1. The hearing commenced at 10:30 in Court 17 before Mr Duncan Atkinson KC ("**J**"). Tim Morshead KC ("**TMKC**") and Evie Barden ("**EB**") appeared for the Claimant. No one attended for the Defendants.

Procedural matters

2. TMKC noted that the time allotted was 2 hours, but that was fixed because of uncertainty in case of representations by third parties attending. It was not a target to be hit. Experience suggests that a review can be accomplished in less time and it depends on how much detail the Court would find helpful and the opportunity the Court has had for pre-reading.
3. J relayed that he had read the skeleton argument, the two witness statements from Mr Robertson and had considered the draft order. He also had read the note of the hearing from July 2024 from Ritchie J.
4. TMKC explained that the formalities were covered in Mr Robertson's two statements. The bulk of evidence in the first statement related to updating the order and how Ritchie J's order had been complied with. It relayed how the site is so big and the approach taken by the Claimant so cautious that it took a long time for the physical warning notices to go up, which created complications.
5. TMKC explained that the second statement set out the measures taken to notify the application. This took place over a number of days, including putting up notices. TMKC submitted that anyone paying attention would know that the hearing was happening and

had an opportunity to attend. TMKC noted that there remained permanent liberty to apply on 72 hours' notice, which would not be diluted by the review taking place.

Principles for a review hearing

6. TMKC addressed the applicable principles for a review hearing, noting that the courts have been expressing these in slightly different ways, with the same ultimate effect. TMKC noted the most recent summary, by Sweeting J in the review in *Esso Petroleum Company, Limited and Exxonmobil Chemical Limited* v *Persons Unknown and others* [2025] EWHC 1768 (KB) ("**Esso**") at AB/122 (paragraphs 5 – 8).

7. TMKC submitted that it would be an exaggeration to say the position is fixed and J could take the view that a different approach should be taken but the starting point was that there was no need to revisit the exercise of discretion that has been made so far by Ritchie J beyond the extent needed to understand the circumstances that led to the making of the order, and whether any changes since then were material.

8. J noted that, on the basis of Graeme Robertson's witness statements and the chronology, the Court needed to consider on the one hand incidents that there have been since the order was made (e.g. the announcement by Just Stop Oil ("**JSO**")) but also the analysis of those incidents that the witness evidence and skeleton provided. The Court also needed to consider the question of whether the limited incidents since the order was because of the injunction rather than because the risk that led to the injunction had gone away.

9. TMKC agreed and noted that the other material consideration was to check that the law had not moved on so as to impugn the way in which the judge exercised his discretion the first time round. TMKC submitted that there had been no change to any substantive matter of law – there had been no case of which he was aware in which the Court held that too low a threshold had been set. TMKC noted that there had been discussion, following a judgment of Nicklin J, on two points of practice and procedure – (1) how 'persons unknown' should be described and (2) whether C should be required to seek the Court's permission before seeking to commit anyone for breach of the injunction. TMKC said that he would address these points later.

Ongoing threat

10. TMKC observed that airports are not like universities – they are not open spaces. There is a high premium on people behaving in a predictable way and on orderly conduct, not least because of the rapidity with which events can cascade. Also, because of the peculiarity of an airport, there is a risk – alluded to by Ritchie J – that outright terrorists may seek to use perfectly innocent protests as a mask to get in and do something unexpected. Because it is such a sensitive site, there is a risk of a disproportionate response. Innocent protests could come under suspicion because of the possibility that they could evolve into something more.

11. TMKC noted that he was emphasising this because, in this sort of case, it would be onerous for the Claimant to have to seek permission before bringing committal proceedings – it would not be proportionate to have to satisfy two judges.

12. TMKC explained that airports being open to the public influences the importance of describing defendants and observed that this was gone into in some detail before Ritchie J. As a result of that discussion, the description was updated from the original claim form. It was unavoidable to introduce a concept of purpose into the definition to address the complexity of this mixed space. Ritchie J had also drawn attention to other characteristics of airports – they are places with very expensive equipment moving around not far from buildings themselves. It is not impossible to get behind the security arrangements at airports – there have been episodes of people breaking out onto the tarmac. That hadn't happened since the injunction was obtained but it was not impossible. Airports are dangerous places, unless the behaviour that takes place in them is orderly and takes place within predictable parameters. TMKC noted that this was a summary of the nature of these sites that makes them vulnerable to protest, compared to other sites that the Court may come across. There is less margin for error at an airport.

13. TMKC explained that the threat itself, in the Claimant's submissions, continued. The skeleton (paras. 22-23) summarised the original threat and, from the note of Ritchie J's judgment, his analysis of the threat. The updates on the threat were summarised at paras. 27-42 of the skeleton.

14. TMKC flagged the main element of the evidence that may be said to be adverse to the analysis – the JSO announcement in March 2025 (SB/184). It indicates that JSO will be "hanging up the hi vis". There is a statement that they have enjoyed success as a civil resistance campaign and so *"it is the end of soup on Van Goghs, cornstarch on Stonehenge and slow marching in the streets"*. But TMKC observed that the next paragraph starts with *"This is not the end of civil resistance"*. Over the page, it says *"As corporations and billionaires corrupt political systems across the world, we need a different approach… Nothing short of a revolution is going to protect us from the coming storms".*

15. TMKC submitted that it is possible to interpret that as a retreat from direct action. However, even the body of the text is not unambiguous. TMKC directed the Court to the 'Notes to Editors' – note [1] says *"Just Stop Oil is committed to non-violent direct action to resist the destruction of our communities as a result of climate breakdown…"* TMKC noted that it is very difficult to square a message that the hi vis jacket is being hung up with a continuing commitment to non-violent direct action.

16. TMKC submitted that violence is used here in the criminal sense, meaning violence against the person. That is apparent from the *R v Hallam* [2025] EWCA Crim 199 (*"**Hallam**"*) where Lady Carr said, in the context of Convention rights, that violence *to the person* disengages Articles 10 and 11. There, a distinction was drawn between violence to the person and damage to property. Damage to property does not disengage the Article 10 and 11 rights but they receive less weight in the balancing exercise in the criminal context and, by analogy, here. Hence, TMKC submitted that it was difficult to read the post as a renunciation of damaging property or causing disruption in the pursuit of JSO's stated goals.

17. TMKC explained that the follow-up was investigative reporting by GB News. There was a GB News article from 18 May 2025, written by journalist Ben Leo (SB/192). He says *"I can exclusively reveal that Just Stop Oil is plotting a very big comeback"* and, at SB/192, *"The meeting [of JSO activists online] continued with Dave insisting that it was essential to keep doing what he called the "spicy and naughty stuff""*

18. TMKC accepted that on its own that reporting may not carry much weight – it appears sensationalist. But JSO sent an email to its membership on 21 May 2025 – at SB/199. The point is clear from the first sentence. The second paragraph states that *"…we have stopped taking action as Just Stop Oil…".* TMKC noted that it is difficult to know what gloss to put on this. One is that the organisation is rebranding – the individuals themselves remain committed under a different rubric. But what is clear is that there remains a commitment from people who once called themselves JSO to making *"a very big comeback"*.

19. TMKC then directed the Court's attention to the attitude of the police. On the same day as JSO's email, the police were in communication between themselves at SB/197. This is from the intelligence unit within the police forces that handles information-gathering. TMKC directed the Court to the assessment in the first paragraph: *"I am grateful to John Foreman at NPOCC SIB for the below sitrep in relation to JSO and the wider protest piece in relation to UK Aviation. This may be useful if approached by your operator in consideration of their decision whether or not to apply for a further extension on High Court Injunctions obtained last year. It is fair to say that we are not in the same place we were then, and whilst I have my own view on the necessity of a further injuncted period, it would be inappropriate for me to express this opinion and for that to be a local, operator led decision."*

20. TMKC invited the Court to read the remainder of the text in that email, noting that it was a relatively relaxed assessment of the risk based at least partly on the assessment that JSO had gone.

21. In relation to the email, TMKC submitted that:

21.1 Regarding the demise of JSO, there seems to be some confusion. In the paragraph that proclaims the demise of JSO as a reason for the risk to be reduced, there also appears by way of example the case of environmental protest groups that desired to oppose the Shell AGM holding their protest away from Heathrow Airport precisely because of the injunction there. So, as a guide to whether the injunctions are effective and doing something useful, it is not giving very clear guidance.

21.2 What is perhaps significant is that, bearing in mind the advice was to be looked at locally, SB/196 shows that the Metropolitan Police passed this on to London City Airport, emphasising that the injunction had had a real impact on the Shell protest. The view of the Metropolitan Police was that removing the injunction would open London City Airport up to protest. The advice noted that, whilst JSO were diminishing, other groups may emerge and maintaining the injunction would be very much recommended. TMKC noted that there was no indication from the police force responsible for Gatwick as to its view, but it was difficult to see a different rationale in the case of Gatwick from Heathrow or London City.

21.3 In any event, TMKC observed that later in the day came along the JSO email discussed earlier.

22. TMKC concluded that those are the features of the evidence – the high point of the full and frank disclosure.

23. TMKC explained that the evidence suggests that there are other groups. There is one called Shut the System, which on 16 April 2025 put out a communication (SB/186) that describes its *"pledge to target property and machinery of the destructive industries owned by the wealthiest and most responsible for the greatest crisis humanity has ever faced"*. It articulated its strategy to *"disable the physical infrastructure of significant carbon emitters"* and stated that *"We do not consider the destruction of machinery to be violence. We consider it necessary."* TMKC noted that this is anything but a comforting message for an airport such as Gatwick.

24. TMKC also drew the Court's attention to the slightly more well-known organisation, Extinction Rebellion ("**XR**"), which had likewise done little to allay the Claimant's fears. An XR communication from 19 June 2025 is at SB/208. The post passionately decries the situation on the environment and says in the second paragraph that *"XR local and community groups all over the nations and regions of the UK are getting ready for a summer filled with defiant action…"* TMKC noted that at SB/209 there is a list of specific parts of the programme – by reference to the heading "Stop Private Jets", air travel was still on the agenda.

25. TMKC submitted that it was a reasonable inference from the evidence as a whole that the protest movement had responded to the presence of the injunctions by shifting targets to those not protected by injunctive relief. That is compatible with the pattern of behaviour after companies within the oil infrastructure obtained injunctions in 2023-24. In September 2023, attention shifted elsewhere and by the summer of 2024 it came to be focussed on airports. TMKC submitted that it was a reasonable inference that, if Court now lifted the injunctions, the airports would again become targets. The protest organisations are not unsophisticated operators. There is a degree of opportunism and a material risk that the opportunity would be identified to reignite protest and disruption at airports should the Court decide not to continue the injunction.

26. TMKC summarised that the foregoing demonstrates that the threat profile had not changed in a way that is material. It seemed to be held at bay in large part by the injunctions.

27. TMKC then addressed the Court on the 'Gatwick Airport 8', who were arrested for offences under the Public Order Act 2023 ("**POA**") at Gatwick Airport in July 2024 but were acquitted in June 2025. TMKC flagged that an article describing this was at SB/203. The District Judge there found that the prosecution had not shown more than minor hindrance to passengers as a result of the lock-on activities in July 2024. The activities happened after Ritchie J had granted the injunction but before the warning notices had gone up all over the site. TMKC noted that a debate could be had as to whether enough notice had been given

to bring committal proceedings and submitted that it had. But TMKC explained that a precautionary approach was taken – the Claimant decided not to commit those individuals.

28. TMKC noted that this was an example where the general law can fall short compared with an injunction. The offence under the POA, as applied by the District Judge, was not held to capture the precise mischief of protesting at an airport. It is not only the disruption that happens that is problematic – it is the disruption that *may happen* at any moment when the peaceful protest stops being peaceful. The District Judge may or may not have been right, but the injunction offers something concrete compared with the general law.

29. TMKC summarised, by reference to paras. 64-67 of the skeleton, that the injunctions are effective and that they are still needed. In relation to full and frank disclosure, the high point was the possibility of interpreting the JSO announcement as a withdrawal from direct action.

30. TMKC flagged further points by reference to paras. 74-77 of the skeleton:

30.1 First, should the Claimant have informed the Court more quickly regarding the JSO announcement? TMKC noted that there is a risk in these cases of a claimant not spotting that something is material and then being in breach of its implied obligation to come back and bring it to the Court's attention. TMKC submitted that the JSO announcement was only part of a broader pattern of materiality, including the background threat. Even taking it on its face, it was ambiguous. There is a balance to be struck – does a claimant come back to court with everything that might be taken to affect the position or does it make a judgement call and then take the risk when it does come back to court? TMKC submitted that it would not have been appropriate to accelerate the review to deal with that communication.

30.2 Next, some of the campaigning has started to focus on Palestine Action. Acknowledging that the campaigning movement is multifaceted, TMKC submitted that it had been demonstrated that the environmental side of things has not been abandoned. It is a growing list of targets, not a shrinking one.

30.3 On whether the Claimant should join the Gatwick Airport 8 as named parties, TMKC explained that the Claimant decided not to – it didn't think that they are likely to come back and TMKC submitted that the Claimant should not be required to sue people it is not inclined to sue, though noting that if the Court requires the Claimant to do so, it would do. TMKC submitted that the requirement in *Wolverhampton City Council and others v London Gypsies and Travellers and others* [2023] UKSC 47 (***"Wolverhampton"***) is to name defendants that you know. But that does not answer the question whether a named person is an appropriate defendant. If you have no reason to consider them a likely repeat offender, they are not suitable for injunctive relief.

30.4 J enquired whether there would be any argument by any of the Gatwick Airport 8 if they were to engage in protest at Gatwick, contrary to the terms of the injunction, and committal proceedings were brought against them, that they were not "persons unknown" because they had been there before.

30.5 TMKC accepted that there likely would and explained that the Claimant had chosen to recognise them not as a threat to be captured by the injunction. They would not answer the definition of "persons unknown" as they are not unknown to the Claimant.

30.6 J noted that, in *Wolverhampton,* the focus was on members of the travelling community and settlements being established by them. On the one hand, you have identifying people that have been moved on before and then on the other hand you have others that may follow them. On the ability to predict who is going to turn up at a protest, there would be an argument that if they have turned up before they are more likely to turn up again. But you could equally say that if you have been involved in a JSO protest outside Esso's head offices, that would mean you are more likely to then turn up at an airport to protest there than someone who has never been in a protest before. But that cannot be what *Wolverhampton* had in mind.

30.7 TMKC submitted that *Wolverhampton* is about ensuring that known threats are identified with whatever precision is available. That is not the same as directing the Claimant as to

how to locate the risks. TMKC accepted that if it turned out that the eight persons were to decide to protest at Gatwick, the Claimant would need to come back to court separately to get an order specific to them, to the extent necessary. TMKC noted that the probability is that they wouldn't turn up just as a group of eight that were immune – they would be part of a larger group – and therefore the threat of a committal action against the persons who are unknown would be likely sufficient to meet the problem.

30.8 TMKC also noted that there is a question of proportionality – as soon as the Claimant identifies named individuals, they may give an undertaking and may say they wish to turn up. This adds to mobilisation costs and affects the shape of any order, which may need to be tailored to circumstances specific to the named individuals. TMKC accepted that the Claimant was on risk of not having done this – the risk being that it was not able to commit any of those eight individuals. The Claimant would need to come back to court and get an order to deal with them specifically. It would be disproportionate to the risk that they actually present to name them as defendants now.

31. TMKC referred to paras. 71-72 of the skeleton and explained that they clarified how Articles 10 and 11 work in the case of trespass. In *Hallam* at AB/393, in relation to the proposition that Articles 10 and 11 are not engaged in the case of trespass, Lady Carr says (paras. 33-36) that is the wrong analysis. Trespass does not displace Articles 10 and 11 – it means that they get less weight.

32. TMKC observed from the note of the 2024 hearing that Richie J did not consider defences under Articles 10 and 11 re trespass. But TMKC observed that there are limited extents where third party areas are covered by the injunction. The hearing note was not full on that, but it was covered. Ritchie J's conclusion was at para. 123 of the hearing note (SB/42). Ritchie J conducted a balance due to the small parcels of third party land within the airport.

33. TMKC suggested to the Court that it was not necessary to conduct afresh the balancing act – the question is whether the clarification of the law justified a different approach. TMKC submitted that, if the balance struck was correct re third party areas, the same approach should be taken re trespass. If the Court preferred to conduct the balancing afresh, the position was submitted to be short – this is a case where the Claimant's rights clearly outweigh any Convention rights under Articles 10 or 11 given the availability of other places in the country to conduct protest lawfully. TMKC noted that this was not one of those rare cases where there is nowhere for someone to conduct protest, such that private persons have to yield for protest to take place. Additionally, TMKC cited the helpful point from *Wolverhampton* regarding the limited extent to which the Court can draw out Articles 10 and 11 in a case like this. It is for individuals to come forward and explain how their rights are being interfered with disproportionately.

34. TMKC concluded that those points, combined with the skeleton argument and witness statements, were probably sufficient for the Court to evaluate whether the circumstances had so changed to justify the continuation of the order or not – on the approach commended, per Sweeting J in *Esso*. TMKC also suggested that Linden J's observations in *Esso Petroleum Company Limited v PU* [2023] EWHC 1387 (KB) ("**Esso (2023)**") are astute and of materiality to the present circumstances on the evidence. See AB/390, paragraph 67: *"As to the form that that disruption will take, it appears that the effect of the various injunctions which have been granted in this case and others has been to prevent or deter them from taking the steps prohibited by the orders of the court although, of course, not invariably so. If, therefore, an injunction is refused in the present case the overwhelming likelihood is that protests of the sort which were seen in 2021/2022 will resume, and that they will include acts of trespass of the sort to which I have referred."*

Practice points

35. TMKC then addressed the Court on the case of *MBR Acres Limited v. Curtin* [2025] EWHC 331 (KB) (*"**MBR Acres**"*) and the practice points suggested by Nicklin J (skeleton at paras. 52-56).

36. On simplifying the definition of "persons unknown", TMKC acknowledged the jurisdictional basis for Nicklin J's concern. The judge considered it unnecessary to describe defendants

other than as "persons unknown". But TMKC submitted that this was difficult to reconcile with a more straightforward reading of *Wolverhampton* re the importance of identifying defendants. TMKC explained that the approach taken so far on review is to recognise that the descriptive form of defendants does not contain any error. The descriptions were appropriate at the time the orders were made and nothing justifies revisiting that on review. Narrowing the description of persons unknown works protectively and against the Claimant. Fewer people are caught in the net. Bourne J in the reviews of the airport injunctions did not revisit the descriptions of persons unknown. Neither did Sweeting J (AB/125-6). Sweeting J's view was that he preferred an interpretation of *Wolverhampton* that takes things more at face value than Nicklin J re describing defendants.

37. TMKC addressed the second topic discussed by Nicklin J – whether the Claimant should have to seek permission before bringing committal proceedings in protest cases. Nicklin J was scathing about the claimant's conduct in *MBR Acres* – he considered it vexatious. But Nicklin J's attention was not drawn to the fact that the Court can strike out contempt applications for abuse and an injunction can be discharged for such abuse.

38. TMKC submitted that the problem with rolling out a general approach like Nicklin J's is that a practice contrary to that envisaged by the Supreme Court is introduced at an early stage of the jurisdiction. Para 152 of *Wolverhampton* (AB/74) shows that the Supreme Court's sanctioning of the jurisdiction depends on *"equity's essential flexibility"*. The terms and conditions attached to the injunction are highly flexible. The emphasis was on a bespoke solution.

39. TMKC submitted, with respect to Nicklin J and understanding of his position, that it is wrong in principle that this should be rolled out in all cases. It is open to the Court to impose the requirement if considered necessary/appropriate. But that leads to the question of how the Claimant here has conducted itself – will it behave disproportionately if allowed to commit persons without first getting the court's permission? TMKC submitted that it was quite the reverse, referring to the highly precautionary approach that was taken to the 'Gatwick 8'. TMKC invited the Court to follow Sweeting J in declining Nicklin J's suggestion that a requirement for permission to bring committal proceedings should be rolled out in all these cases.

40. The Court rose to reflect on submissions. The hearing resumed at 11:50.

Judgment

41. J gave judgment as follows:

41.1 On 19 July 2024 Ritchie J granted an injunction order to Gatwick Airport Limited which prohibited persons unknown from entering, occupying or remaining on any part of the airport for the purpose of protesting about fossil fuels or environmental concerns. He directed that the order should be subject to annual review and that review has taken place before J.

41.2 Gatwick is the second largest airport in the UK and the eleventh largest in Europe. It handles c. 44 million passengers per year and has a revenue per annum of c. £1bn. Gatwick has statutory powers to make byelaws and under those byelaws persons are not entitled to protest or disrupt the airport and must leave if requested. Persons have implied consent to attend the airport for travel and concessions to run businesses there. Peaceful protest is accommodated through prior arrangement. The airport's statutory obligations in the Airports Act 1986 include a duty to mitigate risks including due to movement of vehicles, objects on tarmac and air navigation. If unsafe conditions arise, there is a statutory duty to stop flights.

41.3 The context for the application is the order of Ritchie J last year. At that time, in the summer of 2024, a number of environmental protest groups, in particular JSO and XR, planned and undertook a campaign of disruptive protests regarding fossil fuels and the environmental impact of air travel in the UK and beyond. The evidence considered last year referred to actual and planned protests at Gatwick and other airports. JSO twice wrote to the Prime Minister with its demands. The evidence identified the significant consequences of unplanned protests, including the risk to the emergency services of

having to climb up structures, the effect on passengers and safety risks including those from jet engines and fuel, which could cause an explosion.

41.4 In another judgment of Richie J on the same issue, *Leeds Bradford Airport Ltd v. Persons Unknown* [2024] EWHC 2274 (KB), he said at paras. 30-31 (AB/11):

"… Airports are a part of the national infrastructure which are acutely sensitive to terrorist threats and are highly regulated in relation to safety, maintenance and security. They are also complicated organisations, involving the moment of thousands of members of the public, close to highly combustible materials and within fast-moving, huge pieces of equipment. Such organisations are acutely sensitive to chaotic disruption caused by unlawful direct action.

I also take into account the fear, which I think is justified, of the Chief Executive Officers, that terrorism is facilitated by chaos. I take into account the human rights of the passengers, adults and children, families and individuals, whose business trips and family holiday trips would be potentially catastrophically interrupted, delayed or cancelled by disruption at any of these airports in the summer season. Although not pleaded, it is not irrelevant to take into account the knock-on effect on employment, union members and the businesses which are run in the airport and which run the airport, financially…"

Law relevant to injunction under review

41.5 The injunctions granted by Ritchie J in *Leeds Bradford* and the present case were directed to "persons unknown". That such orders are permissible was made clear in *Wolverhampton*. "Persons unknown" in this context mean persons who are not identifiable at the date the proceedings commence but are intended to be bound by the injunction. Proceedings are typically an enforcement of undisputed rights rather than a form of dispute resolution. Whilst the facts of that case related to the traveller community, it made clear that it was not limited to such cases. The Court said at para. 235 (AB/93):

"… nothing we have said should be taken as prescriptive in relation to newcomer injunctions in other cases, such as those directed at protesters who engage in direct action by, for example, blocking motorways, occupying motorway gantries or occupying HS2's land with the intention of disrupting construction. Each of these activities may, depending on all the circumstances, justify the grant of an injunction against persons unknown, including newcomers…"

41.6 The correct approach, as the Supreme Court identified at para. 236, is that each case calls for full and careful assessment of the judgment sought, the rights interfered with and the proportionality of interference. Insofar as the applicant seeks an injunction against newcomers, the Court must be satisfied that there is a compelling need for the order. Often circumstances vary significantly as regards the range and number of people that may be affected, their legal rights and geographical scope. They are ultimately matters for the judge.

41.7 The Court further identified that such orders should be made subject to review, the purpose of which is set out at para. 225, being: to allow *"all parties 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"*.

41.8 Against that background, as was made clear by Sweeting J in *Esso* at paras. 5-8, the Court's role 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 as to whether the injunction has outlasted the compelling need that led to it being made in the first place. That, he assessed, was the best and most proportionate way of dealing with these matters. Such a review is also an opportunity to make any necessary adjustments to the order.

The approach of Ritchie J

41.9 In his *ex-tempore* ruling, Ritchie J identified factors to be considered when considering injunctions against persons unknown:

41.9.1 First, the substance of the cause of action. He concluded that there was a valid cause of action. This included trespass, private and public nuisance, ownership of the roads, byelaws prohibiting protest and consent to enter only for travel purposes.

41.9.2 Second, full and frank. He was satisfied that the Claimant had provided full and frank disclosure.

41.9.3 Third, sufficient evidence to prove the claim. He considered the evidence before him more than sufficient to prove the claim that there was a risk of torts being committed at Gatwick Airport as had been committed elsewhere.

41.9.4 Fourth, absence of realistic defences. His approach was to observe as regards private land that there was no real defence under the Human Rights Act 1998 ("**HRA**") based on protest as it can take place on public land. As regards third party land, he considered, on balance, that the injunction should cover small parcels of third party land, which would protect businesses run within the land. He added that the impingement on persons unknowns' right to freedom of speech is relatively small compared to the damage if persons unknown decided to run into Gatwick and hide in third party stores to not be covered by the injunction.

41.9.5 In relation to that consideration of human rights, J noted the decision in *Hallam*. There the Lady Chief Justice at para. 36 made clear that trespass does not remove the trespasser from the scope of Articles 10 and 11 of the ECHR. However, she went on to make clear that protest does significantly weaken the protection those rights afford. J was satisfied that *Hallam* did not undermine or alter the approach identified by Ritchie J to the question of whether there were realistic defences here. In any event, as Ritchie J found, the impingement of those rights regarding unknown persons is relatively small compared to the damage that may be caused by such persons. J considered that the rights of the Claimant in this regard, and those legitimately using the airport, far outweigh any such impingement of the persons who may be affected by this injunction.

41.9.6 Ritchie J also considered whether there was compelling justification for granting an application *ex parte* and against persons unknown. He considered this was made out, given the high level of threat identified.

41.9.7 Next, Ritchie J considered whether alternative remedies would be sufficient. He took account of the byelaws and penalties under criminal law for persons who had protested in airports in the past. He was satisfied that damages were not an adequate remedy. The alternative remedy of relying on the byelaws was insufficient.

Present application

41.10 J then turned to the Claimant's application against that backdrop. Before considering it in terms, J considered whether sufficient notice had been given of the application. By reference to section 12 of the HRA, where the Court is considering whether to grant relief that may affect the Convention right to freedom of expression and where persons are not represented, it must be satisfied that all practicable steps have been taken or that there are compelling reasons why the persons are not to be notified.

41.11 J noted the two statements of Graeme Robertson of the firm representing the Claimants. They explain what steps had been taken to give notice of the hearing, including uploading the application for continuance and the notice of hearing to the Claimant's website, sending emails to a number of addresses identified at the time of Ritchie J's order and further email addresses identified since, and affixing of notices at relevant locations. The second statement confirms that such steps were taken.

41.12 Against that background, J was satisfied that proper notice had been given of the application. If persons wished to make representations, they had the opportunity to do so. J noted that TMKC had properly directed J's attention to matters that such persons may have been able to raise had they been in attendance.

Events since the order was made

41.13 J noted that the central purpose is whether the Court can be satisfied that the circumstances that justified the original order remain unchanged so that there remains a compelling need for the order to be continued. J noted that he had been provided with a chronology, with the details addressed in Mr Robertson's statement.

41.14 J noted evidence in both directions as regards a change of circumstances. On the one hand, there had been protests or attempts at protest leading to arrests at Heathrow, Gatwick, London City and Manchester airports. There were demonstrations at Inverness in February 2025. On the other hand, on 27 March 2025 JSO made an announcement to the press to indicate that the group was withdrawing from organised protest.

41.15 J noted that he had considered both whether this should have been drawn to the Court's attention earlier as indicating at an earlier stage that the order was no longer required and whether it means the order was no longer required as at the hearing. J observed first that the terms of JSO's announcement are ambiguous. It includes, beyond saying they are withdrawing, references to continued resistance – *"not the end of civil resistance".* The 'Note to Editors' says in terms that JSO is committed to non-violent direction action. There is rather more to the position on that announcement than may have been suggested. GB News reported on 18 May 2025 that this announcement was not JSO's settled position. It predicted a dramatic u-turn. On 22 May 2025, far from denying this, JSO commented in an email to members that *"GB News was right for once. We are "plotting a very big comeback""* That email also contained an invitation to donate to continued action.

41.16 On the same day, a police assessment as to threat level was emailed to a number of police forces. It considered the level of environmental protest at airports, considering the situation overall. It described the threat in the UK as having returned to dormant. But notwithstanding that overall assessment, it did address a number of active groups. Importantly, that national police assessment was provided by the Metropolitan Police to London City Airport. It did so providing intelligence that groups that intended to target the Shell AGM at an area covered by the Heathrow injunction had relocated. That email indicated that the injunction at Heathrow had a real impact on the protest and that to remove the injunction now would open the airport up to further protest. While JSO had stepped down, there was a cycle of new groups and maintaining the injunction would be recommended.

41.17 In June 2025, JSO and Youth Demand arranged an event described as "Seeds of Rebellion", part of a training programme for attendees to be taught tools for carrying out a nonviolent democratic revolution. JSO's fundraising page continues to invite donations for a new campaign in the works. The ambiguous nature of JSO's announcement and the strong reasons to approach it with circumspection justify the delay in bringing it to the Court's attention. J observed that it had now been brought to the Court's attention and considered by him.

41.18 J held that he agreed with Sweeting J in *Esso* at para. 25 that the principal development was JSO's announcement re hanging up the hi vis. However, as outlined above, evidence shows that the announcement cannot be taken as unequivocal and a final renunciation of direct action. The amorphous nature of the group and its previous unfulfilled statements mean it would be premature to rely on this to amend or discharge the injunction. The risk remains real and imminent.

41.19 In J's judgment, there was not only a real and present risk from JSO, not least given the clear difference between its message to the press and its members, but there remained such a risk from similar protest organisations. Four other activist groups remain active and continue to protest use of fossil fuels by direct action. No single group speaks for all such activities. J noted that he had been shown and taken note of posts in 2025 from the organisations Shut the System and XR in April and June 2025 which each refer to continued activism in this regard. Even a complete repudiation of protest by all such organisations would not preclude a risk of action by individuals or splinter groups. Whilst, as observed had been properly identified to him, a number of relevant groups have indicated change of focus (e.g. re the prohibition of Palestine Action), that does not mean

that such organisations or members, given the opportunity, would not continue their environmental activism. There was no indication from any such organisations, including JSO, that they have abandoned their convictions underpinning their action so far. In this context J noted that he had been referred to the acquittal of a number of protesters regarding action at Gatwick. They were prosecuted under public order offences and acquitted for reasons set out in the 'Gatwick 8' article. J held that, in his judgment, that does not undermine the need for the injunction sought here – if anything, the fact that other aspects of criminal law were not able to address protest action supports the need for the injunction to prevent such activism.

Effectiveness of order

41.20 It is important in this review to consider whether the injunction has been effective in meeting the risk from 2024, given the continuing presence of the risk just addressed. It is clear on the evidence seen that the injunction has been proved to act as an effective deterrent. For example, protests due to occur at London City Airport were relocated and social media indicated that was because protesters were aware of the injunction. The Metropolitan Police's assessment for Heathrow was that the injunction continued to have an important positive role. There has been a dramatic reduction in the number of actual or planned protests since the injunction was made. That is not because the threat has gone but is because the injunction is managing that threat. Hence the further important consideration, alluded to by the Metropolitan Police regarding Heathrow, that removal of the injunction would risk making airports such as Gatwick a greater target in the future. That would be all the greater because a number of injunctions have already been granted for other airports. Were Gatwick not to receive the protection of such an injunction, it would be exposed as a greater target.

41.21 As Linden J put it in *Esso (2023)* at para. 67, in the context of disruption of oil infrastructure in 2021-22, *"it appears that the effect of the various injunctions which have been granted in this case and others has been to prevent or deter them from taking the steps prohibited by the orders of the court although, of course, not invariably so. If, therefore, an injunction is refused in the present case the overwhelming likelihood is that protests of the sort which were seen in 2021/2022 will resume"*. That remains an astute observation. As TMKC submitted, these organisations are not unsophisticated in their operation. They will recognise the opportunity to protest where an injunction does not prohibit them from doing so.

Conclusion

41.22 J concluded that he was satisfied that there remains a compelling need for the injunction made in July 2024 one year on. J noted that he had reached that conclusion having undertaken the full and careful assessment required. J said that whilst it was not his task to consider the merits of the order originally made, in considering whether it remains necessary he had taken full account of the analysis of Ritchie J, to which he referred. That analysis holds good now as it did then. There had not, in J's view, been any change of circumstances to mean the order has outlasted its compelling need. J was satisfied that the order has addressed, and must continue to address, the risks identified. The order can be reviewed if that picture changes and will be reviewed in 12 months' time. J noted that he was fortified in his view, though having reached his own conclusions, by the fact that similar injunctions had been reviewed and continued by Bourne J on 23 June 2025.

41.23 As recognised by Sweeting J in *Esso*, it is permissible to make adjustments to the terms of an order in light of its practical operation. J addressed two matters to which his attention had been drawn, arising from the judgment of Nicklin J in *MBR Acres*:

41.23.1 First – Nicklin J identified that "persons unknown" was a sufficient description for defendants in an injunction such as this. In J's judgment, by reference to the observations of the Supreme Court in *Wolverhampton* at para. 221, it is important that persons unknown are identified so far as possible so it is clear whether a person is or is not affected by injunction. The more detailed description here was appropriate and J took note of the approach and reasons of Sweeting J in *Esso* in this regard at para. 28.

41.23.2 Second – Nicklin J required that claimants should be required to obtain the Court's permission before applying to commit any person in protest cases. That approach may have been appropriate on the facts of Nicklin J's case but J concluded that such an approach here would fail to give proper effect to the description in *Wolverhampton* of equity as essential flexibility. On the facts of this matter, J considered that it would be disproportionate to require the Claimant to refer any person to the Court twice – for permission and when committing them. Such double referral was not considered by J necessary to safeguard the rights of any such defendant. In any event, J found no evidence of a disproportionate application of this order by the Claimant. If anything, J considered that the Claimant's approach so far had been a cautious one.

41.24 J therefore directed that the order should continue for a further period of 12 months, subject to any amendments sought to its precise terms.

42. TMKC expressed his gratitude and noted that the draft order in the bundle had been marked up in track to identify small changes necessary – starting at SB/78. The first part was the draft order that would be the operative element – para. 1 being that the injunction order shall remain in full force and effect. The amended original order then begins at SB/80 and it is all unchanged until SB/83, where there is a new email address and a change in the name of the Claimant's solicitors and a change in phone number.

43. TMKC also noted that the plan appended to the order was sought to be minorly updated with some additional small coloured line sections to ensure it fully matches the plan appended to the Claim Form at SB/11. TMKC explained that Ritchie J had asked for minor tweaks to be added to the plan appended to the Claim Form to allow members of the public to better understand the roads affected or not affected. They were added to the Claim Form but not the eventual order. Ritchie J had not required them to be added to the order, so this was not a breach. But the spirit of the order was that the elucidation would be helpful. Hence, TMKC submitted that the form of plan should be updated to match the form of plan that found favour with Ritchie J.

44. J thanked TMKC and agreed the amendments.

45. The hearing concluded at 12:30.