CLAIM NO: KB-2024-001765
CLAIM NO: KB-2024-002132
CLAIM NO: KB-2024-002317
CLAIM NO: KB-2024-002473

IN THE HIGH COURT OF JUSTICE
KINGS BENCH DIVISION

BETWEEN :

(1) LONDON CITY AIRPORT LIMITED
(2) DOCKLANDS AVIATION GROUP LIMITED

Claimants

and

PERSONS UNKNOWN
[more fully described in the Claim Form]

Defendants

AND BETWEEN:

(1) MANCHESTER AIRPORT PLC
[and others more fully described in the Claim Form]

Claimants

and

PERSONS UNKNOWN
[more fully described in the Claim Form]

Defendants

AND BETWEEN:

(1) LEEDS BRADFORD AIRPORT LIMITED
[and others more fully described in the Claim Form]

Claimants

and

PERSONS UNKNOWN
[more fully described in the Claim Form]

Defendants

AND BETWEEN:

(1) BIRMINGHAM AIRPORT LIMITED
[and others more fully described in the Claim Form]

Claimants

and

PERSONS UNKNOWN
[more fully described in the Claim Form]

Defendants

CLAIMANTS' SKELETON ARGUMENT

For hearing 24 June 2025: time estimate 1 day

References are in the form:

[LCY/PAGE] referring to the original hearing bundle for claim number KB-2024-001765

[MAG/PAGE] referring to the original hearing bundle for claim number KB-2024-002132

[LBA/PAGE] referring to the original hearing bundle for claim number KB-2024-002132

[BHX/PAGE] referring to the original hearing bundle for claim number KB-2024-002132

[SB/PAGE] referring to the supplemental hearing bundle for the hearing

[AB/PAGE] referring to the authorities bundle

Suggested Pre-Reading (Time Estimate: 2 hours of judicial time)

- The Claimants' chronology

- Order of Julian Knowles J dated 20 June 2024 ("**Knowles J Order**") [**SB/18-33**]

- The judgment of Julian Knowles J, with neutral citation [2024] EWHC 2557 (KB) ("**the Knowles J Judgment**") [**AB/19-29]**

- Orders of HHJ Coe KC dated 5 July 2024 ("**HHJ Coe Order**") [**SB/281-296]**

- The judgment of HHJ Coe KC, with neutral citation [2024] EWHC 2247 (KB) ("**the HHJ Coe Judgment**") [**AB/30-37**]

- Orders of Ritchie J dated 18 July 2024 ("**Ritchie J Order**") [**SB/391-400**]

- The judgment of Ritchie J dated 18 July 2024, with neutral citation [2024] EWHC 2274 (KB) ("**Ritchie J Judgment**") [**AB/38-51**]

- Orders of Jacobs J dated 6 August 2024 ("**Jacobs J Order**") [**SB/507-517**]

- The note of the hearing before Jacobs J [**SB/520-528**]

- The application notice dated 2 June 2024[1] **[SB/42**]

- The witness statement of Mr Wortley dated 6 June 2025[2] ("**Wortley 2**") in claim number KB-2024-001765 [**SB/48-60**]

- The witness statement of Mr Wortley date 16 June 2025 (**"Wortley 3**") [**SB/547-550**]

- The draft orders [**SB/5-17**]

[1] All four cases have application notices in materially the same form. The Court is referred to the application in claim number KB-2024-001765 by way of example.
[2] Again, the Court is referred to this statement by way of example given the evidence produced in the other three claims is almost identical.

Introduction

1. In the summer of 2024, airports in England and elsewhere became targets in campaigns of disruptive environmental protest, notably by the campaigning group "Just Stop Oil" ("**JSO**"). Individual airports and groups of airports awoke to the threat and responded to it by seeking injunctive relief against "Persons Unknown" invoking the "newcomer" jurisdiction as recently explained by the Supreme Court in *Wolverhampton CC and others v. London Gypsies and Travellers and others* [2023] UKSC 47; [2024] 1 AC 983 [**AUTHS/52**]. Their responses achieved a substantial measure of co-ordination: in the result, 7 different hearings took place last year, relating between them to 13 airports. Each led to the making of orders which are generically similar except that (i) they are, of course, bespoke for each airport and (ii) they reflect the accumulated experience / insight / input of the different judges who considered each successive case. That is to be expected and is what the Supreme Court expressly envisaged at this early stage of what is essentially a new assertion of the Court's equitable jurisdiction, where there is still a certain amount remaining to be worked out in light of experience: *Wolverhampton* at ¶¶152, 185 [**AUTHS/100, 109**]. A degree of flux and variation is inevitable and, indeed, desirable in order that the jurisdiction should continue to develop to a mature state.

2. Each order requires an annual review. This year, the 10 airports involved in 4 out of the 7 hearings held last year have managed to co-ordinate their efforts so as to reduce to one single hearing what would otherwise have required (at least) four separate hearings. The three other airports (Heathrow, Gatwick and Southend) are separately represented — but even so, and even assuming that each of them will seek a continuation of the relief granted last year, the burden on the Court's resources will (it is hoped) be reduced considerably by the better co-ordination which has been possible this year. Accordingly, this hearing has been listed as the annual review of the injunctions. There is also an application, in each claim, for the claims to either be consolidated or case managed together.

3. The downside of this improved co-ordination is that the material before the Court appears voluminous. After perusing this skeleton argument, the Court will have its own views about the depth with which it wishes to explore / revisit the details of individual cases as they were presented last year. The authorities indicate that there is no need to undertake a detailed review of the merits. But it would be an exaggeration to say that the authorities exclude doing so, if that is what the Court considers to be appropriate under any particular circumstances. Accordingly, the material available to the Court will enable the Court to investigate the merits with as much detail as was achieved last year, if that is the course which commends itself to the Court.

4. **OVERALL**: However, subject to the more detailed points made in what follows, our overall submission is that the fundamental question for the Court is not whether to grant the injunctions: that is the question which was considered on its merits last year and answered in favour of the airports. Rather, fundamentally, the question is whether in light

of any changed circumstances, the injunctions have outlasted the compelling need which justified making them in the first place. To that question the answer is "no".

5. At this hearing, Cs seek:

   (1) the continuation of the injunctions; and

   (2) an order that the review of the injunctions on each following anniversary shall be heard together.

The Airports

6. The 10 airports in the four cases now before the Court ("**the Airports**") are:

   (1) London City Airport (claim number KB-2024-001765): plan at [**LCY/24**].

   (2) Manchester Airport (claim number KB-2024-002312): plan at [**SB/260**].

   (3) Stansted Airport (claim number KB-2024-002312): plan at [**SB/261**].

   (4) East Midlands Airport (claim number KB-2024-002312): plan at [**SB/262**].

   (5) Leeds Bradford Airport (claim number KB-2024-002317): plan at [**SB/382**].

   (6) Luton Airport (claim number KB-2024-002317): plan at [**SB/383**].

   (7) Newcastle Airport (claim number KB-2024-002317): plan at [**SB/384**].

   (8) Birmingham Airport (claim number KB-2024-002473): plan at [**BHX/42**].

   (9) Liverpool Airport (claim number KB-2024-002473): plan at [**BHX/43**].

   (10) Bristol Airport (claim number KB-2024-002473): plan at [**BHX/44**].

7. Each Airport is used in large numbers by members of the public as well as for cargo transportation. Each Airport has the facilities typical of a commercial airport.

8. A summary of the details of Cs' title to the Airports is set out at Annex A to this skeleton argument. There, too, are the details explaining which Claimants relate to which Airports. In short, the land within the "red line" is private land to which Cs have freehold or leasehold title, save for certain exceptions, explained next:

9. **Third Party Areas**: First, there are certain areas within each airport over which third parties have interests which, in point of law, have the effect that Cs do not have an immediate right to possession or occupation in relation to those areas, (or none that they seek to assert in these proceedings). These are referred to as the "**Third Party Areas**". For the most part, the Third Party Areas are only accessible by members of the public if they first use areas to which Cs are entitled to possession, occupation and control by virtue of their unencumbered proprietary interests. To that, however, there are some

exceptions: see East Midlands Airport [**MAG/46 at ¶18**], Leeds Bradford Airport [**LBA/47 at ¶5**], Luton Airport [**LBA/49 at ¶12**], Newcastle Airport [**LBA/51 at ¶19]**, Birmingham Airport [**BHX/46 at ¶6**].

10. **Landing Lights**: Secondly, there are the various landing lights ("**the Landing Lights**") which are obviously integral to the safe operation of the airports which seem typically to be located on land which is unregistered land and/or owned by third parties. For Leeds Bradford Airport, Luton Airport and Newcastle Airport, the Landing Lights are located on land which is registered in the names of third parties, as is shown on Plans 1B, 2B and 3B at [**LBA/282; 502; 504**] — although in the cases of Leeds Bradford Airport and Newcastle Airport, the respective claimants might be able to assert a proprietary or contractual right to some or all of that land, in view of agreements granted to them to their predecessors in respect of some or all of those Landing Lights. Likewise, in the cases of Birmingham Airport, Liverpool Airport and Bristol Airport, some of the Landing Lights are located on land in the names of third parties or, in the case of Liverpool Airport, on unregistered land, as shown on Plan 1A [**BHX/61**], Plan 2A [**BHX/63**], and Plan 3A [**BHX/65**].

11. **Highways**: Thirdly, access to and from the Airports obviously includes the use of public roads. Both Cs and Ds have the right to use these, including in principle for protest, because they are public highways. Cs do not seek an injunction in respect of any public highways outside the airport "perimeters". The Airports which have injunctions that include highways are Manchester, Leeds Bradford, Luton, Newcastle, and Liverpool.

12. In relation to these areas, the Claimants cannot rely on the simplest tort (trespass) to sustain their claim for relief. Rather, they must rely on other causes of action / legal principles, as explained further in due course. Additionally, unlike the other airports, the LCY Claimants (whose claim was heard first in time last year) did not seek relief in relation to Third Party Areas (or public highways) and relied only on their simplest cause of action – trespass. At this year's review, the LCY Claimants seek only to continue the relief granted by the Knowles J Order, rather than (as they might justifiably have done) seeking to bring their relief in line with the more expansive relief granted by other judges in relation to other airports.

Byelaws

13. Civil aviation is heavily regulated at an EU and domestic level. Among other things, the Airports, being or including "aerodromes", have to comply with essential requirements set out in Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018. Cs must further comply with the requirements in Annex III and IV of the Commission Regulation (EU) No 139/2014 of 12 February 2014. Both of these regulations survived Brexit: sections 1A(6), 3(1) and (2) of the European Union (Withdrawal) Act 2018 c.16 and section 39(1) of the European Union (Withdrawal

Agreement) Act 2020 c.1.

14. These regulatory requirements are explained in ¶13-16 of the witness statement of Mr McBride dated 4 July 2024 [**MAG/68-72**], given in relation to Manchester, Stansted and East Midlands Airports' applications. In summary, they make the following three things clear: (1) running a safe airport is of paramount importance; (2) doing so in a manner which ensures that there is no or limited disruption to passengers or freight transportation or injury to persons or valuable assets is a complex undertaking; and (3) the responsibility rests with the airport and its operator to ensure the safe and smooth operation for all persons and activity at the airport.

15. The Airports are all "designated" airports for the purposes of section 63(1)(a) of the Airports Act, by article 2 and Schedule 1 to the Airports Byelaws (Designation) Order 1987 (SI 1987/380). As a result, their operators are empowered to make byelaws for regulating the use and operation of the airport and conduct of all persons while within the airport, which then have effect once they are confirmed by the Secretary of State[3]. Section 64(1) and (2) of the Airports Act provide that any person contravening any byelaws is liable on summary conviction to a fine not exceeding £2,500.

16. There are byelaws ("**the Byelaws**") in place for each of the Airports. Their extent is set out more fully in Annex B to this skeleton argument but, in summary, the plans for each injunction (save London City Airport) were all prepared by Cs' solicitors so as to replicate the area subject to the relevant Byelaws as best as practicable – although in some cases the landing lights do not fall within the scope of the plans to Byelaws and they have been included in the injunction plans.

17. One way in which the Byelaws are relevant is that they can to some extent simplify the consideration of highways as a separate topic. This is because the effect of the Byelaws is to exclude what might otherwise be the public's right of protest on the relevant stretch: or, at least, to exclude any protest that could be disruptive. Thus, unusually, the orders made last year do not affect European Convention on Human Rights ("**Convention**") rights of potential protesters **even** on the highways to which they relate, to any (or any materially) greater extent than the Byelaws which are already in place. This is relevant to Manchester, Leeds Bradford, Luton, Newcastle and Liverpool Airports.

The original threat

18. The background to these claims is explained in the Knowles J Judgment, the HHJ Coe Judgment and the Ritchie J Judgment. JSO appeared to have been planning a campaign of disruptive protest during the summer related to the environment and opposing fossil fuels at airports since at least 9 March 2024: ¶¶4 and 20 Ritchie J Judgment [**AB/39-40, 44**]; [¶¶13-15 Knowles J Judgment [**AB/21-24**]. On 2 June 2024, protestors affiliated

[3] Section 63(5) of the Airports Act [**AB/4**].

with Extinction Rebellion ("**XR**") carried out a protest at Farnborough airport: ¶5 Ritchie J Judgment [**AB/40**]; ¶19 Knowles J Judgment [**AB/25**]. By an email dated 6 June 2024, JSO emailed its members stating that the summer action at airports was coordinated internationally across Europe, taking the fight to airports: ¶5 Ritchie J Judgment [**AB/40**]; ¶16 Knowles J Judgment [**AB/24**]. On 20 June 2024, two protestors used an angle grinder to cut a hole in the perimeter fence at Stansted airport and spray pained 2 aircraft using a fire extinguisher: ¶4 Ritchie J Judgment [**AB/39-40**]; ¶12 HHJ Coe Judgment [**AB/33**]. This resulted in the activity on the runway being suspended and three aircraft departures were delayed. On 25 June 2024 protesters were apprehended at London Gatwick with bandages in their bags: ¶23 Ritchie J Judgment [**AB/45**]; ¶12 HHJ Coe Judgment [**AB/33**].

The orders

19. The orders made last year are within the list of suggested pre-reading and also indicated in the Chronology, along with details of the orders made in relation to the three airports not the subject of the present application.

Events since the grant of the injunctions

20. A description of the relevant events since the injunctions were granted is set out in Cs' chronology and in Wortley 2 at ¶¶17-26 [**SB/52-57**]. Those identified by us as being the most material (though some overlap with the period during which last year's injunctions were granted) are:

21. On 19 July 2024, one of the JSO founders, Roger Hallam, was found guilty (along with four other JSO activists) of conspiring to organise the protests to block the M25 motorway in November 2022. Mr Hallam was sentenced to a term of 5 years in prison. That sentence was subsequently reduced on appeal by the Court of Appeal to 4 years.

22. On 24 July 2024, ten JSO activists were arrested at Heathrow airport, seemingly equipped to be able to cut through fences and/or affix themselves to parts of the land or aircraft. Of those individuals, nine were later found guilty by a jury of conspiracy to cause a public nuisance. Five were sentenced to terms in prison of up to 15 months and four were given suspended sentences.

23. On 27 July 2024, a protest which was due to occur at London City Airport was relocated to the Department of Transport.

24. On 29 July 2024, eight JSO activists were arrested at Gatwick airport on suspicion of interfering with public infrastructure.

25. On 30 July 2024, two JSO activists were arrested at Heathrow airport after spraying orange paint around the Terminal 5 entrance hall and on destination boards in the departure lounge. Following a criminal trial, the jury was unable to return a verdict.

26. On 31 July 2024, a protest by JSO and Fossil Free London was held at the Docklands Light Railway station at London City Airport, being an area excluded from the red line of the injunction.

27. On 1 August 2024, six JSO activists were blocked access to the departure gates at Heathrow Terminal 5.

28. On 5 August 2024, five JSO activists were arrested on their way to Manchester Airport. On this occasion, the individuals had on them: bolt cutters, angle grinders, glue, sand and banners reading "oil kills". Four of these individuals were subsequently found guilty of conspiracy to commit a public nuisance and then sentenced to terms of imprisonment ranging between 18 and 30 months.

29. On 21 February 2025, XR held a demonstration at Inverness Airport against climate change.

30. Most critically, on 27 March 2025, JSO made an announcement indicating or seeming to indicate its withdrawal from disruptive protest: [**SB/319–320**].

31. However, on 18 May 2025, GB News reported that this seeming withdrawal was not the JSO's settled position, after all; and, indeed, that a "dramatic U-turn" was under consideration: [**SB/320–321**].

32. JSO did not deny the GB News story. Rather the reverse: a link to the report was circulated to its subscribers on 21 May 2025 with the comment: "GB News was right for once. We are "plotting a comeback"": [**SB/322**].

33. On 21 May 2025, London City Airport received intelligence information from the Metropolitan Police of a protest by environmental protest groups which had been planned at Heathrow Airport to be held at the Soffitel Hotel on 20 May 2025, where an annual general meeting for Shell was being held and which was within the red line boundary of the injunction obtained by that airport. That protest was relocated to the Shell head office "*in order to avoid the risk of associated penalties for breaching the injunction*" [**SB/58 at ¶33; SB/217**].

34. Tellingly, the police email said [**SB/216**]:

> "the injunction at [Heathrow Airport] had a real impact on the Shell protest yesterday […] To remove an injunction now would open up to further protest and whilst JSO have stepped down there appears to be a cycle of new groups emerging and this cannot be ruled out so maintaining it would be very much recommended."

35. Wortley 3 sets out that, over the weekend of 14 and 15 June 2025, JSO arranged an event described as "Seeds of Rebellion", which, seemingly, was part of a training programme – a "summer of resistance training" – where attendees will be taught, inter alia, how "to plan actions that cut through" and to "plant the seeds of the coming nonviolent revolution" [**SB/550 at ¶12; SB/552-556**].

36. Additionally, he has identified that JSO's fundraising page currently invites donations for "[a] new campaign [that] is in the works" [**SB/557**].

Potential Disruption

37. As explained by Ritchie J[**AB/47**]:

> "30. Airports are part of the national infrastructure which is acutely sensitive to terrorist threats and are highly regulated in relation to safety, maintenance and security. They are also complicated organisations, involving the [movement] of thousands of members of the public, close to highly combustible materials and within fast-moving and huge pieces of equipment. Such organisations are acutely sensitive to chaotic disruption caused by unlawful direct action.
>
> 31. 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. However, I do not have the financial aspects at the front of my mind because there is no pleaded economic torts claim."

38. HHJ Coe put it as follows [**AB/33**]:

> "13... the consequences of such protests (as far as airports are concerned) is of particular significance and importance. Airports are sensitive places where security is paramount, and we are all perfectly aware of that, and if there is this sort of disruption or protest, not only does it have a significant knock-on effect or ripple effect in terms of busy airports, so that delay or disruption to even one flight is likely to affect many others, and therefore many other passengers.

39. See also ¶23 – ¶25 of the Knowles J Judgment [**AB/25-26**].

40. To spell it out: protest at the Airports, or on a flight departing therefrom, has obvious potential for a cascade of detrimental effects. As Wortley 2 explains, the risks are particularly acute during the summer months because it is the busiest time for holiday travel — and that was the very period, in 2024, which corresponded with the majority of actual or attempted direct action by environmental protesters at airports [**SB/59 at ¶37**].

The law: injunctions against "persons unknown"

41. Ds are "newcomers" of the sort discussed in *Wolverhampton CC v London Gypsies & Travellers* [2024] AC 983: persons who are not identifiable at the date that proceedings are commenced, but who are intended to be bound by the terms of the injunction sought. **The proceedings are typically a form of enforcement of undisputed rights rather than a form of dispute resolution: ¶143(iv) [AB/97**]. They involve a "wholly new type of injunction with no very closely related ancestor from which it might be described as evolutionary offspring": ¶144 [**AB/98]**. They are likely only to be justified as a novel exercise of an equitable discretionary power if the conditions in ¶167 are met: ¶¶167, 235 [**AB/104-105, 119**].

42. The Supreme Court emphasised that its discussion had focused on injunctions against gypsies and travellers (in that context) and that "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": ¶235 [**AB/119**]. At ¶236 [**AB/120**], it gave the following guidance with respect to 'newcomer' injunctions against protesters:

> "Counsel for the Secretary of State for Transport has submitted and we accept that each of these cases has called for a full and careful assessment of the justification for the order sought, the rights which are or may be interfered with by the grant of the order, and the proportionality of that interference. Again, in so far as the applicant seeks an injunction against newcomers, the judge must be satisfied there is a compelling need for the order. Often the circumstances of these cases vary significantly one from another in terms of the range and number of people who may be affected by the making or refusal of the injunction sought; the legal right to be protected; the illegality to be prevented; and the rights of the respondents to the application. The duration and geographical scope of the injunction necessary to protect the applicant's rights in any particular case are ultimately matters for the judge having regard to the general principles we have explained."

43. *Wolverhampton* shows that:

(1) This is an emerging jurisdiction, equitable and discretionary, still in its early stages, with a dynamic role for the Courts to play in working out the 'rules' or practices which should apply as experience of such cases accumulates (¶185 [**AB/109**]). For that reason, it would be wrong to treat authorities articulating, or purporting to articulate, a series of principles or 'tests' as decisive or prescriptive at this point in time.

(2) There is no difference in point of substance between interim and final orders, largely because whether expressed as an interim order or as a final order, they are always *ex parte* in relation to newcomers, with the result that it is never too late (before breach) for a newcomer to apply to vary or set aside the injunction in reliance on "any reasons which could have been advanced in opposition to the grant of the injunction when it was first made"; this principle, combined with express provision for anyone to apply to vary/ set aside the injunction, fully meets the requirements of procedural fairness: eg ¶¶ 139, 143, 144, 177, 178, 232 [**AB/95, 97, 98, 107, 119**]. See also more recently in the protest context, *Drax Power Ltd v. Persons Unknown* [2024] EWHC 2224 (KB) ¶18 (Ritchie J) [**AB/130**]. The matter was further clarified by Ellenbogen J in an *ex tempore* judgment, of which sadly no transcript has materialised, confirming (as it happens, at an annual review) that there is (for example) no rule requiring a "final" order to "dispose" of the proceedings obtained (for example) by way of summary judgment, because the proceedings remain alive subject to the Court's

supervision until the order outlasts the need which stimulated it: *Multiplex Construction v. PU* (28/2/2025) [2025] 2 WLUK 578 [**AB/137** for a Westlaw digest].

(3) The overarching questions are those identified in Wolverhampton at ¶167 [**AB/104**], specifically: (i) is there a compelling need sufficiently demonstrated by the evidence that justifies the exercise of the court's jurisdiction to give effective protection to the claimant's rights; (ii) have adequate procedural safeguards been provided to protect the affected newcomers; and (iii), overall, is it just and convenient for an injunction to be granted on the facts of the case.

44. Subject to that, the principles outlined by the Supreme Court in *Wolverhampton* were helpfully drawn together and synthesised with then-established practice, by Ritchie J in *Valero Energy Ltd v Person Unknown* [2024] EWHC 134 (KB) at ¶¶57–58 [**AB/168-171**], posing quite a long list of questions. Essentially the same requirements might be expressed in different and perhaps more succinct ways (eg, in *Jockey Club Racecourses Ltd v PU* [2024] EWHC 1786 (Ch) at ¶¶14–20 [**AB/183-184**]; in *Shell Oil UK Ltd v. PU* [2024] EWHC 3130 (KB) at ¶59 [**AB/207**]) — but provided it is viewed (as intended) as a helpful checklist, rather than as a straitjacket, Ritchie J's approach has stood the test of time to date, so far as we are aware.

45. The orders granted last year were all predicated on that approach. Naturally we will revisit it, to the extent that the Court considers helpful or appropriate: but, as developed below, our primary submission is that this is not the usual purpose of a "review" hearing in this context.

The appropriate test for the review

46. The primary purpose of a review, is to ensure that the injunction once granted does not outlast its need: as explained in *Wolverhampton* [**AB/117**], the review:

> "225. …will give all parties an opportunity to make full and complete disclosure to the court, supported by appropriate evidence, as to how effective the order has been; whether any reasons or grounds for its discharge have emerged; whether there is any proper justification for its continuance; and whether and on what basis a further order ought to be made."

47. In practice, this means that the primary focus for the Court on review is not to revisit the merits of the case as if *de novo* but, rather, to assimilate each matter sufficiently to form a view as to whether the injunction has outlasted the compelling need which led to its being made in the first place, in view of any changed circumstances. For a convenient summary, see *per* Hill J in *Valero v PU (2025 review)* [2025] EWHC 207 (KB) at ¶¶20–30 [**AB/543-544**].

Developments in the law

48. It is appropriate to draw attention to a number of recent decisions considering and

applying the Supreme Court judgment in *Wolverhampton*.

49. What had appeared to have become more-or-less settled practice in relation to the manner of describing the intended defendants by reference to the enjoined conduct, was called into question by Nicklin J's decision in *MBR Acres Limited v. Curtin and Persons Unknown* [2025] EWHC 331 (KB) [**AB/260**]. This was a protest case, in which the Claimants sought final orders against named defendants and persons unknown. At ¶¶9 – 10, 339 – 362 and 390 [**AB/264, 345-353, 358**], Nicklin J considered the description of those who are to be restrained by a 'newcomer' injunction following *Wolverhampton* and held that the effect of *Wolverhampton* is as follows:

(1) On the basis that these were truly *contra mundum* orders, it was "no longer necessary, nor appropriate" to restrain particular categories of defendants and Persons Unknown did not need to be, and ought not to be, defined in any way: ¶¶ 340, 356, 360 and 361 [**AB/345, 351, 352**].

(2) Before granting a *contra mundum* injunction, the Court must consider what other (and potentially better) solutions may be available, particularly in the context of protests. In the context of protest cases, the Court is entitled to and must have regard to (a) the extensive powers the police have to deal with protest activities, including, from 28 June 2022, the new statutory offence of public nuisance in section 78 Police, Crime, Sentencing and Courts Act 2022; and (in relation to potential exclusion zones) (b) the powers of local authorities to impose public space protection orders under the Anti-social Behaviour, Crime and Policing Act 2014: ¶¶347 – 348 [**AB/348**].

(3) In litigation brought solely *contra mundum* there can be no expectation or requirement to serve the claim form on the putative defendant because there is, in reality, no defendant and, if the Court is satisfied that it is appropriate to proceed without a defendant, the Court can dispense with service of the claim form: ¶¶355 and 359 [**AB/351, 352**]. They are sufficiently protected by the ability to apply to set aside or vary the order.

(4) All *contra mundum* injunctions, particularly those in protest cases, should include a requirement that the Court's permission be obtained before a contempt application can be instituted: ¶390 [**AB/358**].

50. As regards the Supreme Court's comments in *Wolverhampton* regarding the definition of the respondents to an injunction application, at ¶221 [**AB/116-117**] the Court held:

> "221. The actual or intended respondents to the application must be defined as precisely as possible. In so far as it is possible actually to identify persons to whom the order is directed (and who will be enjoined by its terms) by name or in some other way, as Lord Sumption explained in *Cameron* [2019] 1 WLR 1471, the local authority ought to do so. The fact that a precautionary injunction is also sought against newcomers or other persons unknown is not of itself a justification for failing properly to identify these persons when it is possible to

do so, and serving them with the proceedings and order, if necessary, by seeking an order for substituted service. It is only permissible to seek or maintain an order directed to newcomers or other persons unknown where it is impossible to name or identify them in some other and more precise way. Even where the persons sought to be subjected to the injunction are newcomers, the possibility of identifying them as a class by reference to conduct prior to what would be a breach (and, if necessary, by reference to intention) should be explored and adopted if possible."

51. Fordham J followed that guidance at the first hearing of an interim injunction application in *The Chancellor, Masters and Scholars of the University of Cambridge v. Persons Unknown* [2025] EWHC 454 (KB) at ¶27 [**AB/377**]. However, on the return date, tellingly, it was not followed by Soole J [2025] EWHC 724 (KB) at ¶7 [**AB/386**]. Soole J adopted the established approach of making the order against persons unknown identified by reference to defined conduct — but, in keeping with Nicklin J's suggestion, he added a requirement that the Claimants should obtain the Court's consent before commencing any committal application, describing this as a "valuable safeguard": ¶101.

52. For reasons already given, it would be an exaggeration to suggest that the law is completely settled. Nevertheless, however, it is respectfully submitted that Soole J's approach in relation to retaining a description of the intended Defendants was preferable; but, also, with respect, that it is inappropriate and unprincipled to impose a blanket requirement on claimants to seek permission before commencing committal proceedings. There is possibly a danger of over-thinking this jurisdiction and, in particular, of introducing needless complexity (especially because the decision in *Wolverhampton* had an essentially, salutary, simplifying effect). The essential points are as already submitted: this is a new, equitable jurisdiction in which the controlling question is whether the claimant has shown by sufficient evidence that there is a compelling need for the relief claimed — bearing in mind that:

(1) *ex hypothesi*, the relief sought is a kind of enforcement of rights which are not seriously disputed: ie, to which there is no apparent defence, or only at best an exiguous line of defence based on Convention rights which themselves cannot be fully considered in the abstract and would, rather, call for an individual to come forward to assert them;

(2) an order drawn compliantly with the *Wolverhampton* principles will itself contain fulsome protection against the risk of being oppressive, because

(a) anyone (genuinely) without notice of the order will not be bound by it anyway. That is so, no matter what steps the Court has required should be taken to bring the order to people's attention: that part of the order is not a declaration, in advance of the event, that sufficient notice has been given for all purposes and in all situations. Thus, the risk of giving inadequate notice always rests with the Claimants, never with the Defendants;

(b) anyone with notice of the order who is minded to do something which would

be a breach of the order, has only to approach the Court in advance of doing so, to seek clarification / modification: in some versions of "newcomer" orders it became conventional to impose a requirement for persons applying to Court to become parties to the claim: but this practice has been deprecated: whether or not anyone applying to Court should become a party will depend on the circumstances; and

(c) nobody making any such application is bound in any way by any finding of fact or the like: the Court will be free to revisit the whole question *de novo* if that is what the justice of any given situation requires.

53. Specifically in relation to a requirement of obtaining permission to commence committal proceedings:

(1) Nicklin J's approach was strongly influenced by the unexplained heavy-handedness of the committal applications in the case before him: eg ¶48 [**AB/273**]. It is understandable that he should have imposed a requirement in that particular case: the claimant's conduct appeared to be vindictive and/or vexatious.

(2) But no party in that case appears to have argued that the Court should generalise from the experience of that particular case, to a universal requirement for the like condition to be imposed in all other "newcomer" cases. Accordingly, Nicklin J's view to that effect is not in the nature of a binding part of the *ratio*, as it appears not to have been argued.

(3) That might not matter if Nicklin J's approach otherwise commended itself to the Court, but the judge's attention appears not to have been drawn (i) to the authorities on this subject, or (ii) to the considerable downsides.

(4) In fact, it is clear law that a claimant who chooses to commence committal proceedings for trivial breaches does so at his or her own peril, including as to costs: see *Plating Co v. Farquharson* (1881) 17 ChD 49, *per* Cotton LJ and Jessel MR at 56 [**AB/554**]; *Att-Gen v. Times Newspapers Ltd* [1974] AC 273 at 312, *per* Lord Diplock [**AB/595**]; *PJSC Vseukrainskyi Aktsionernyi Bank v. Maksimov* [2014] EWHC 4370 (Comm) *per* Hamblen J at ¶¶21-22 [].

(5) We respectfully suggest that without some specific reason for suspecting that a claimant might "weaponise" an injunction, the principles explained by Lord Diplock provide ample protection against abuse. Indeed, if they do not, then it is hard to see why a requirement for permission to commence committal proceedings should not be a universal requirement in the case of **every** injunction — yet that has never been considered sensible, let alone necessary.

(6) Additionally, we suggest, much might turn on the foreseeable circumstances. In

the present case, there can be no real prospect of any airport seeking to commit a person who is present on an airport for the purpose of "protest" consisting only of passing through as a passenger wearing a JSO T shirt or the like: the Court's reaction to any such application can easily be imagined. But if groups of such people, who were not passengers passing through, were to gather on Day 1, gather intelligence and test limits, then on Day 2 it is foreseeable they might gather in greater numbers, gather intelligence, and perhaps push the limits somewhat further; and on Day 3 some smaller group might materialise, peaceful at first, but then burst into active and disruptive protest. A blanket requirement of permission to commence committal proceedings would massively complicate — and may negate — the possibility of a swift intervention, should the need arise.

(7) Further — quite apart from the needless duplication of costs — it would be a wholly disproportionate use of the Court's resources to require a claimant to mount what would be two potentially substantial applications instead of just one: potentially hours to explain to the Court what had happened and who was involved and justify making the application — and then further hours and potentially days pursuing the committal if permission be granted. All of this would have to be accommodated on short notice, because naturally the Court seeks to prioritise committal applications and expects claimants to act promptly (absent some sufficient reason for any delay).

(8) We note that Fordham J and Soole J both also imposed a requirement for permission to be obtained for a committal application in *University of Cambridge v. PU* [**AB/378** at ¶30; **AB/398** at ¶101]. Counsel for the University made the submission that this was an unusual provision to include but otherwise there appears to have been limited argument on the point. Fordham J seems to have been influenced by (a) Nicklin J's approach in *MBR Acres v. Curtin*; and (b) particular factors in that case, in specific concerns about insufficient notification of the hearing to the PU. That approach was then seemingly followed by Soole J – again, ostensibly without argument on the point.

(9) Although consistency in approach is desirable, particularly in this developing jurisdiction, in short, it is simply impractical as a universal requirement and it creates a strain on the Court's resources which is unfair for other litigants, in a way that is out of proportion to the understandable concerns expressed by Nicklin J.

Submissions: introduction

54. Cs have already sought to identify the current circumstances in a way that will enable the Court to judge whether anything material has changed. It is of course true that time has not stood still in the world of environmental protest. Overall, however, it is submitted that

the circumstances which justified making the orders last year, have not changed in a way that casts doubt on whether there continues to be a compelling need for them, bearing in mind the prospect of a review after a further period of 12 months. That, it is submitted, should really be the focus of the Court's inquiry on review.

55. However, for completeness, the remainder of this skeleton argument contains a framework which (it is hoped) will assist the Court if the Court prefers to approach the matter through the prism of the "checklist" that applies when considering matters *de novo.* To make this in some sense manageable, we have taken London City Airport and then Leeds Bradford Airport (Plan 1 [**SB/382**] and Plan 1A at [**LBA/282**]) as the exemplars for the remaining Airports. The structure is as follows:

    (1) The compelling need for relief in respect of London City Airport [**SB/24**] and the land outlined in red on Plan 1 for Leeds Bradford Airport [**SB/382**] excluding the Third Party Areas, the Landing Lights and the highways: these are the areas where the Claimants can rely directly on the simplest cause of action: trespass;

    (2) The compelling need for relief in respect of the Third Party Areas and Landing Lights: this needs to be addressed separately because relief in relation to these areas must be supported otherwise than by reliance on trespass;

    (3) The compelling need for relief in respect of the highways: this needs to be addressed separately for the foregoing reason and also because, in principle, the public has a right of access to the highway, including for protest;

    (4) The procedural requirements;

    (5) The draft Orders.

56. As to sub-paragraphs (1) to (3) above and the remaining Airports:

    (1) The submissions made pursuant to (1) apply to all of the other Airports;

    (2) The submissions made pursuant to (2) also apply to all of them – save that there is no issue in relation to Manchester Airport, Stansted Airport and East Midlands Airport in respect of Landing Lights. For reasons set out below, that is not a material distinction;

    (3) The submissions made pursuant to (3) apply to Manchester Airport, Newcastle Airport, Luton Airport, Liverpool Airport (where highways are in play) but do not apply to Stansted Airport, East Midlands Airport, Birmingham Airport and Bristol Airport. For those last four airports, the Convention is not meaningfully engaged.

(1) Compelling need: London City Airport and the land outlined in red on Plan 1 excluding Third Party Areas, the Landing Lights and the highways

Cause of action

57. The injunctions restrain trespass occurring on land owned by the respective Cs. Clearly damages cannot be an adequate final remedy in the present case. Further, a person whose proprietary interests in land are being unlawfully interfered with is *prima facie* entitled to an injunction to restrain that continuing interference.

58. As addressed in the statement of Vincent Hodder dated 15 July 2024, in the case of Leeds Bradford Airport [**LBA/79 at ¶45**], Leeds Bradford Airport Limited has, in the past, permitted protestors the use of a specified area for the conduct of pre-arranged protest activity.

59. But the direct action of the kind seen at Stansted Airport last summer and attempted at other airports presents a different level of risk, particularly because such protest relies on the element of surprise in order to achieve its disruptive effect.

60. Cs have not given consent for protest of that kind (or at all).

61. The previous judges were satisfied that there was a civil cause of action which was sufficiently proved on the evidence: see Knowles J Judgment at ¶¶34, 35 and 37 [**AB/27**]; HHJ Coe Judgment at ¶ 9 [**AB/32**]; Ritchie J Judgment at ¶26 [**AB/46**].

62. A point to note about London City Airport: the boundaries of the site in respect of which relief is sought are reduced. As Wortley 2 explains, there has been the grant of third party rights since the making of the Knowles J Order and, given that its claim is based solely in trespass, the area over which those rights were granted should be removed from the scope of the injunction [**SB/51 at ¶15**]. Permission to amend the claim form is, therefore, sought to substitute the plan at [**SB/563**] for the plan annexed to the claim form.

Defences

63. There is no conceivable defence that Ds might arguably raise in relation to this cause of action — save for the exiguous matters set out below in paragraphs 76 to 78 (and see Ritchie J Judgment at ¶27 [**AB/46**]).

Sufficient evidence of (1) real harm and (2) real and imminent risk

64. The public announcement by JSO that it was ceasing its activities might be said to have removed the ongoing risk of unlawful activity at the Airports but:

    (1) It is too early to tell what the effect of the disappearance of JSO from the scene will be. Four other activist groups remain active and continue to protest fossil fuels by the use of direct action [**SB/57-58 at ¶¶27-30**]. The Metropolitan Police's

advice to London City is that "*to remove an injunction now would open up to further protest and whilst JSO have stepped down there tends to be a cycle of new groups emerging*" [**SB/216**]. The XR demonstration at Inverness Airport [**SB/53**] and Youth Demand's recent plans for civil resistance in relation to issues including climate change [**SB/54**] indicate that other organisations are still committed to both the aims and means which have caused the Airports concern.

(2) The evidence indicates that the outward (and public facing) announcement of a cessation of activities does not match the 'closed' communications between JSO and its members and that there continues to be, at least, a faction of JSO who continue to support direct action. The picture presented by the private facing communications is that the organisation is re-grouping in preparation for a new campaign using disruptive methods.

(3) In any event, no single protest organisation speaks for all other such organisations, or for the individuals who coalesce around the values which the different groups seek to promote. Even a complete repudiation of disruptive protest by all organisations, would not exclude the risk of action by splinter groups or lone campaigners — all of which remain material risks now that there is wide understanding about the chaos that be unleashed by even relatively minor disruptions at airports.

65. Likewise, the imprisonment of JSO activists, including Mr Hallam, might also be said to have removed or reduced the risk (especially given the focus of JSO is now said to be on "*resistance in the courts and prisons*") by having a deterrent effect on those who would wish to protest by direct action. But this, too, faces the same answers *mutatis mutandis*.

66. Indeed, the long prison sentences which those activists have recently received might explain the discrepancy between the public announcement and evidence of covert organisation of future direct action i.e., the increased risks for activists have made operating in a clandestine manner increasingly attractive.

67. Although there has been no direct action at the Airports since they were granted, that is consistent with the injunctions having proved an effective deterrent, rather than undermining their need, in particular given the two occasions on which protests have relocated from London City Airport or taken place outside of the area protected by the injunction [**SB/52-53**]. The recent experience at Heathrow Airport also indicates that the injunctions <u>are</u> effective at deterring environmental protesters [**SB/216**].

68. Against the backdrop of JSO apparently planning a comeback in which they "*cause chaos*" by "*spicy and naughty stuff*", the removal of the injunctions would risk making the Airports even greater targets — particularly as their vulnerabilities have been laid bare by the evidence in these cases. As Linden J put it in *Esso Petroleum Company Ltd v. Persons Unknown* [2023] EWHC 1837 (KB) at [67] [**AB/516**]:

> "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***. (emphasis added)"

69. Indeed, Mr Wortley makes the point that the potential that JSO's March 2025 announcement could, itself, have been a tactical ploy to make renewal of the injunctions harder – and thereby reduce the risks of disruptive protests – cannot be discounted [**SB/59 at ¶37**]. Naturally, that is speculative, but there is no basis in the evidence to suppose that protesters are naïve or un-sophisticated or otherwise than highly-motivated. Thus, despite being speculative, it is a risk which the Court should not discount.

70. Given potential disruption summarised at paragraphs 37 and 40 above by Ritchie J, HHJ Coe KC and Knowles J, there is sufficient evidence of tortious conduct that would cause real harm.

Alternative remedies

71. *Wolverhampton* envisages that the Court will consider the byelaws and the criminal law specifically, with a view to examining whether they are an adequate alternative remedy ¶¶172, 216 [**AB/105, 115**].

72. This was addressed at ¶42 [**AB/51**] of the Ritchie J Judgment in which he stated:

> "42...I should make plain that I have considered enforcement of the byelaws by criminal prosecution and the enforcement of the Public Orders Act 1994 and 2023: sections 1, 2 and 7. Whilst those have changed the landscape somewhat in the application for this injunction, I do not consider they undermine the need for a proactive approach in avoiding what could be catastrophic, tortious damage for the Claimants and their customers."

73. Likewise, the point was made in the HHJ Coe Judgment at ¶¶18-19 [**AB/34**] that:

> "18…The disadvantage from the claimants' point of view of the byelaws and the criminal law generally, is that they are only enforceable after the action has taken place. In other words, they do not prevent the threat or the action in the way that an injunction would, and that is in my view a significant and particularly [important] difference in this situation.
>
> 19. There is a world of difference between waiting for somebody to breach the criminal law, or the byelaws and then prosecuting them, [and] preventing this sort of action in the first place. The scope that there is for prosecution and sentence is not a remedy which would prevent the threat which is what this injunction application is all about."

74. Finally, Knowles J explained at ¶49 [**AB/28-29**] that:

> "49. I was and am satisfied that the existence of byelaws is not a sufficient means of control and that an injunction is necessary. They were not sufficient to stop the Extinction Rebellion protests at the Airport in 2019, described earlier…"

75. Notably, the Metropolitan Police consider that the injunctions provide something additional beyond the criminal law [**SB/216**].

Balance of rights & proportionality

76. The Court must consider, "in the round" whether appropriate weight has been given to Ds' qualified rights under Article 10 (freedom of expression) and Article 11 (freedom of assembly) of the Convention. In protest cases, Articles 10 and 11 are linked. The right to freedom of assembly is recognised as a core tenet of a democracy. There exist *Strasbourg* decisions where protest which disrupted the activity of another party has been held to fall within Articles 10 and 11.

77. But "deliberately obstructing traffic or seriously disrupting the activities of others is not at the core of these Convention Rights": *DPP v. Cuciurean* [2022] EWHC 736 per Lord Burnet of Maldon, CJ at ¶36 [**AB/417**].

78. Further, Articles 10 and 11 do not bestow any *"freedom of forum",* and do not include any ancillary right to trespass on private property: *Ineos Upstream v Persons Unknown* [2019] EWCA Civ 515; [2019] 4 WLR 100 per Longmore LJ at ¶36 [**AB/436**]. It is possible to imagine at least in theory a scenario in which barring access to particular property had the effect of preventing <u>any</u> effective exercise of an individual's freedoms of expression or assembly. In such a case, barring entry to that property could be said to have the effect of *"destroying the essence of those [Article 10 and 11] rights"*. If that were the case, then the State might well be obliged (in the form of the Court) to regulate (i.e., interfere with/ sanction interference with) another party's property rights, in order to vindicate effective exercise of the rights under Articles 10 and 11: see *Cuciurean* at ¶45 [**AB/419**]. But that would be an extreme situation. And this is plainly not such a case. As Lord Burnett held in *Cuciurean* at ¶46 [**AB/419**]:

> "[i]t would be fallacious to suggest that, unless a person is free to enter upon private land to stop or impede the carrying on of a lawful activity on that land by the landowner or occupier, the essence of the freedoms of expression and assembly would be destroyed. Legitimate protest can take many other forms."

79. Put simply, would-be protesters have plenty of space away from the airports, where they can carry out their protests (as illustrated by paragraph 23).

Full and frank disclosure

80. It is appropriate to draw the following points to the Court's attention, being points occurring to Cs which might be raised by Ds against the grant of the application:

81. First, those taking part in the protests perceive there to be serious environmental and economic disadvantages to the usage of (and demand for) fossil fuels in the UK and are committed to ameliorating climate change and changing government policy. The sincerity of the protesters' views, and the fact that many agree with their aims (if not necessary their means) were recognised in both *Zeigler* and *City of London Corpn v. Samede* [2012]

PTSR 1624[4] as a potentially relevant factors in the assessment of the proportionality of the interference with their Article 10 and 11 rights. But this does not arise as a weighty factor in the case of trespass now being considered.

82. Secondly, an email from Sussex police dated 21 May 2025 indicates some police consider that the "overall situation with environmental protest regarding anti-aviation / airport expansion is that within the UK the position has returned to dormant". This is attributed to the convictions of activists for protests which occurred last year and the consequent custodial sentences being an effective deterrent against future protests at airports [**SB/217**] and, in consequence of the "demise" of JSO, those protest groups which remain active "predominantly engaging only in lawful protest activity". As regards those views:

    (1) No information is cited in support of the conclusion that convictions have had a deterrent effect save for comments by European environmental protest groups as having been deterred from protest within the UK. Insofar as what is being relied upon is a lack of recent incident, that does not mean that (a) the injunctions are not a deterrent (especially in view of the comments regarding Heathrow Airport and the evidence of the location of protests at London City Airport); and (b) there are no plans (possibly covert ones) for future direct action.

    (2) A material factor in the assessment is that the "demise" of JSO which led the sender to the conclusion that the UK has been left "without a leading environmental direct action protest group at this time". That conclusion appears unsound now given what is set out above about JSO's "comeback".

    (3) The sender identifies the protest which occurred at Shell's head office, rather than at Heathrow Airport, as evidence that those protestors who continue to protest the use of fossil fuels engage predominantly in lawful activity. But, in fact, what it shows is that the injunctions <u>do</u> effectively deter unlawful activity at the Airports because the protests were relocated "in order to avoid the risk of associated penalties for breaching the injunction" i.e., the injunctions remain valuable in preventing the risk Cs are concerned about.

83. Thirdly, it might be said that Cs have delayed in informing the Court about JSO's announcement. The applications for the review hearings to be listed were made on 2 June 2025, just over 2 months after the announcement. This was not an inappropriate delay: unlike *High Speed Two (HS2) Limited v. Persons Unknown* [2024] EWHC 1277 (KB) at ¶42 per Ritchie J [**AB/495**], the announcement was not made by government but by an unpredictable organisation which does not speak for all activists protesting fossil fuels. The effect of the announcement at the time was (and remains) uncertain and the landscape is developing – as is evidenced by JSO's more recent *volte-face* and their advertisement

[4] This case is not within Cs' bundle of authorities. Cs rely on the summary and explanation of it by Lavender J in *National Highways v. PU* [2021] EWHC 3081 [**AB/469-471**].

of, and fundraising for, "a new campaign".

84. Fourthly, Cs are aware that Friends of the Earth have sought to challenge newcomer injunctions made in relation to protests in the European Court of Human Rights. There has been no decision made in relation to this so there is nothing which alters Cs' summary of the law set out above.

Damages

85. The adequacy of damages is not discussed in *Wolverhampton*. But one way of analysing its continued relevance to the *sui generis* injunctions against newcomers is by reference to whether there is a compelling need for the relief.

86. The previous judges have been satisfied that damages are not an adequate remedy: see Ritchie J Judgment at ¶34 [**AB/48**] and Knowles J Judgment at ¶41 [**AB/28**].

Just and convenient

87. In the round, therefore, it is a case where the relief has not outlasted the risk. It would be just and convenient to continue the injunction in respect of London City and this element of the application as regards the remainder of the Airports.

(2) Compelling need: necessary restriction on otherwise lawful activity and/or nuisance: Third Party Areas and the Landing Lights

88. The same submissions apply in relation to the Third Party Areas, except that Cs do not rely directly on trespass in relation to these areas as their cause of action.

89. What Cs say, nevertheless, is that in order for relief over their retained land (i.e., the land over which they can maintain an action in trespass) to be fully effective, it is necessary and proportionate to injunct entry by protesters onto the Third Party Areas, too — <u>even if</u> this would otherwise be lawful as between Cs and Ds (*Wolverhampton* ¶222 [**AB/117**] and *Cuadrilla Bowland Ltd v. Persons Unknown* [2020] 4 WLR 29 at ¶50 [**AB/448**]):

    (1) A person who has obtained access to any of the Third Party Areas could easily move between that area and an area over which Cs <u>do</u> have an immediate right of possession or control. So, protest in a Third Party Area could easily 'spill over' into their land.

    (2) Additionally, although there are some exceptions (being those set out above at paragraph 9), for the most part, the relevant Cs control the perimeter of the Airports and the access routes to the Third Party Areas.

90. Further or alternatively, any protest occurring on the Third Party Areas (or any part of them) threatens to constitute private nuisance, being activity which would interfere substantially with the Claimant's ordinary use and enjoyment of their land: *Shell v. PU* at ¶61 [**AB/208**].

91. The question of who is entitled to possession or control of the land on which the Landing Lights are situate is not something the Court needs to grapple with, because either they are on land to which the Claimant can maintain a claim in trespass or they constitute a specific example of Third Party Areas.

92. To expand on that further in respect of Leeds Bradford Airport, one of these analyses is right, and either is sufficient:

(1) The Landing Lights are situate on land in respect of which Leeds Bradford Airport Limited has an interest by virtue of the agreement dated 10 December 1982[5]. It might also be that that agreement gave rise to a licence such that Leeds Bradford Airport Limited ("**LBAL**") is not entitled to any rights thereunder; but then query whether its occupation of that land is pursuant to an implied licence or gives it title to the land by adverse possession thereof. The precise nature of LBAL's interest is immaterial, however, because it is sufficient for its claim in trespass on the basis that it has a better right than Ds, who would be mere trespassers: *Manchester Airport plc v. Dutton* [2000] Q.B. 133 at 150 [**AB/536**]; or

(2) The Landing Lights are situate on land in respect of which LBAL has no interest or right (e.g., if the agreement granted a personal contractual right to a predecessor in title such that it has no rights thereunder). In those circumstances, the points above in paragraphs 89 and 90, in relation to the Third Party Areas, apply equally. The Landing Lights are adjacent to the main operational area at the airport and/or integral to the operation of the flight schedule, such that there is a compelling need for an injunction in respect of the Landing Lights for LBAL's relief to be fully effective and/or to vindicate its cause of action in private nuisance.

93. As Ritchie J explained in his judgment at ¶39 [**AB/50**]:

> "39…[The Landing Lights] are equipment owned by the Claimant organisations and if protestors seek to disrupt night flights, they could disrupt the effective operation of those landing lights. That could be extremely chaotic and dangerous. The particular legal niceties of who owns the land, it seems to me, do not affect the necessity for those to be covered by the injunction. I rely in relation to that on paragraph 50 of the judgment of Leggatt LJ, in his judgment in *Cuadrilla*".

94. A further consideration is the goal of achieving an order which is clear: an order which draws relatively complex shapes or patterns to reflect relatively nice underlying legal distinctions, creates risks of misunderstanding that are less present than in the case of an order where the shapes or patterns are simple.

[5] This point applies equally to Newcastle Airport. There is no agreement granting any right or interests in respect of the land on which the Landing Lights are located at Luton Airport, Birmingham Airport or Bristol Airport. For Liverpool Airport, there is also no agreement but the land is unregistered such that it claims to be the person with an immediate right to possession or occupation of that land [**BHX/48 at ¶18**].

95. Again, in relation to this element of the claim, the relief has not outlasted the risk.

(3) Compelling need: nuisance: highways

Cause of action

96. In relation to the highways, the threatened conduct would likely constitute:

(1) public nuisance, in the form of obstruction of the highways at Leeds Bradford Airport occasioning particular damage to LBAL: *Shell v. PU* at ¶61 [**AB/208**];

(2) private nuisance, in the form of unlawful interference with the right of access to LBAL's land (by them or the licensees) via the highways: *Cuadrilla* at ¶13 [**AB/442-443**];

(3) private nuisance by activity on the tunnelled highway which would substantially inference with LBAL's ordinary use and enjoyment of its land[6].

97. In those circumstances, there is a strong probability of the tortious conduct which would cause harm. Again, the previous judges were satisfied as to this element: see Ritchie J Judgment at ¶26 [**AB/46**].

98. In respect of these causes of action, there is no realistic defence, save for as set out in paragraphs 99 to 101.

Balance of rights & proportionality

99. Cs accept that not all protest on the public highway is unlawful, or constitutes either a trespass (actionable by the highway owner) or a nuisance, even if it results in some disruption. However, in the present case, such conduct would in fact be unlawful, in view of the LBA Byelaws, byelaws 3.24, 3.26, 3.30 and 3.31[7].

100. In those circumstances, it is not necessary for the Court to consider the questions in *DPP v. Ziegler*[8]: unusually, despite the fact that the public has rights over the highway, the right of disruptive protest has already been removed. Consequently, to the degree to which the injunctions sought might, in any other case, interfere at all with any individual's Article 10 & 11 rights, any such interference does not arise in the instant case, and does not require the Court to modify its approach to the threatened interference with C1's rights.

---

[6] This only applies vis-à-vis Leeds Bradford Airport and Manchester Airport. At all the other airports, there are no tunnelled highways.

[7] For the other Airports:

(a) Manchester Airport Byelaws, byelaws 3.36, 3.10 and 3.
(b) Luton Airport Byelaws, byelaws 2.13, 2.16, 2.21.
(c) Newcastle Airport Byelaws, byelaws 4.12, 4.18, 4.20, 4.26.
(d) Liverpool Airport Byelaws, byelaws 3(18), 3(20), 3(24), 3(25).

[8] This case is not within C's bundle of authorities. C relies upon the summary and explanation of it by Lavender J in *National Highways v. PU* [2021] EWHC 3081 [**AB/467-469**] insofar as the Court requires it to be addressed on the question of the Convention and the balance of rights.

101. However, in case that is wrong, applying the *Ziegler* guidance, it is clear where the balance would fall to be struck, even apart from the Byelaws having already made disruptive protest unlawful on the highways. As explained in the HHJ Coe Judgment at ¶23 [**AB/35**]:

> "23…There is a right to go onto a highway, and there is a right to protest on a highway, but that is a right to peaceful protest. The rights which are to be protected do not include the sort of deliberate and potentially unlawful, criminal behaviour which the real basis of the threat here. In the circumstances, it seems to me that having considered that as far as Manchester is concerned, the need is compelling and any question of any interference with those rights does not outweigh the need for the injunction."

(4) Procedure

Identification of Ds

102. There are distinctions between the four cases in relation to the description of Ds.

103. In relation to London City Airport, Ds are defined by as "persons unknown, who in connection with the Just Stop Oil or other environmental campaign, enter occupy or remain (without the Claimants' consent)" on London City Airport.

104. In relation to Manchester Airport, Stansted Airport and East Midlands Airport, Ds are defined by reference to their purpose being or including protest on those Airports any flight therefrom (whether in connection with the JSO or XR campaign or otherwise).

105. Likewise, in relation to Leeds Bradford Airport, Newcastle Airport, Luton Airport, Birmingham Airport, Liverpool Airport and Bristol Airport, Ds are again defined by reference to their purpose. The distinction is that Ds are persons unknown whose purpose is or includes protest about fossil fuels or the environment who enter or remain on those airports. As explained by Ritchie J at ¶¶35 – 36 [**AB/48-49**]:

> "35…Many people protest to many aircraft carriers and airports about a huge range of things, including delayed luggage, dirty floors, poor announcements and other matters. There may be protests individually or by families or groups, that would otherwise be caught by the definition that would otherwise be caught by the current, too broad, definition.
>
> 36. Having carefully listened to Mr Morshead's submissions about an injunction extending to the aircraft owned by other organisations who are not the Claimants, I am afraid I do not consider that there is compelling justification for the injunction covering the flights going in and out of the airports…I consider that the injunctions should be restricted to the areas within the red boundary or go to the terminal. Any who get through security will most likely have their banners and/or their orange paint or lock-on devices, and they would have to go through the security gates, unless they cut their way through the perimeter fencing. If they get out to walk across the tarmac, they will be caught by the injunction. If they wish only to protest by getting on the flight, then I consider that whilst that protest is equally dangerous and would cause chaos, that is insufficiently immediate for this to be covered by an injunction…"

106. What might be said against Cs is that the identification of Ds should be uniform across the piece and that the correct approach is that taken in relation to London City i.e., by conduct on the airport, rather than purpose of presence.

107. If one were starting afresh, there would no reason not to make the description of Ds uniform across the cases. But, that does not mean the different approaches are unjustified. What is critical is that Ds are precisely identified in each case and the judges in each case considered the appropriateness of the description of Ds (see the Knowles J Judgment at ¶42 [**AB/28**]; Ritchie J Judgment at ¶¶ 35 – 36 [**AB/48-49**]; HHJ Coe Judgment at ¶ 25 [**AB/36**]; note of hearing before Jacobs J at [**SB/527**]). There is nothing in the circumstances which have changed since the grant of the injunctions which ought to alter the approaches taken by the previous judges.

108. If the Court is minded to standardise the description of Ds across the cases, Cs suggest that the approach taken by Ritchie J and Jacobs J should be followed for the following reasons:

109. First, it finds support in the Byelaws:

(1) The Manchester Airport Byelaws, by byelaw 3.36 [**MAG/99**], the Newcastle Airport Byelaws, by byelaw 4.12 [**LBA/238**], the Birmingham Airport Byelaws, by byelaw 3.27 [**BHX/104**], and the Bristol Airport Byelaws, by byelaw 4.14[9] [**BHX/174**] all prohibit entry to the airport save for *a bona fide purpose* and prohibit persons from remaining once that purpose has been discharged. Accordingly, the civil injunction mirrors the criminal law.

(2) While that provision is not found in the London City Airport Byelaws; Stansted Airport Byelaws, the LBA Byelaws, the Luton Airport Byelaws, or the Liverpool Airport Byelaws, there are requirements in those byelaws that persons to state (among other things) *the purpose* for which they are on the airport, if requested to do so by a constable or an airport official: London City Airport Byelaws, byelaw 9(1) [**LCY/70**]; Stansted Airport Byelaws, byelaw 9(1) [**MAG/122**]; LBA Byelaws, byelaw 9.1 [**LBA/108**]; Luton Airport Byelaws, byelaw 1.3 [**LBA/194**]; Liverpool Airport Byelaws, byelaw 8(1) [**BHX/148**].

(3) Although there is no equivalent provision in the EMA Byelaws, there is a restriction controlling access save for as a bona fide passenger where there has been a prohibition from that person's entry by a constable or an airport official [**MAG/127**].

110. Secondly, as explained in the evidence [e.g., in relation to Leeds Braford Airport at **LBA/71 ¶22**], the public enjoys permission to enter the Airports for the purpose of travel or related purposes. Cs wish to describe those people who come to the Airports otherwise than for those purposes, rather than the public at large (for example, the innocent person who seeks to travel wearing a JSO tee shirt, whose "purpose" at the airport would not be,

[9] This byelaw is a slightly different formulation as it omits the prohibition on remaining once that purpose has been discharged

or include, "protest").

111. Thirdly, Cs are also concerned not to draw the lines too narrowly. Cs' concerns about applying the approach taken in London City to the remaining Airports is that it might be susceptible to exploitation by persons seeking loopholes e.g., by the lone protestor or group of protestors who disavow a "campaign". The latter point is particularly pertinent in view of the uncertainty about JSO's operations.

112. Fourthly, the language is straightforward and not (foreseeably) open to misinterpretation. The Supreme Court's guidance in *Wolverhampton* at ¶221 [**AB/116-117**] was that the defendants should be identified by reference to conduct prior to what would be a breach but, if necessary, could be identified by reference to intention. Indeed, it might be said that "in connection with" formula also involves an inquiry into subjective "intentions".

113. Fifthly, it might be said that none of those points would require consideration if the approach taken by Nicklin J in *MBR Acres v. Curtin* were adopted — in which case Ds should merely be identified as "Persons Unknown".

114. However, these are not cases where Ds cannot be identified. They can be – either by reference to conduct or by intention and that is what has been done. The existing descriptions (or a modified form in line with the Ritchie J Orders and Jacobs J Orders) are appropriate.

115. Addressing the remaining requirements:

(1) Given the nature of the threat, Cs are currently unable to name any individual: ¶11.1 of Wortley 2 **[SB/549**].

(2) It is possible to give effective notice to the category of persons unknown (this is addressed further below).

Prohibited Acts

116. In relation to the prohibited acts:

(1) In relation to Cs' land on which Ds would be trespassing, such an order does not prohibit any conduct that might conceivably be lawful (because Cs alone have the right to control the terms of any licence on the part of the public to enter their land).

(2) In relation to protest on the Third Party Areas and the highways, the order would only capture entry onto that land by a person which was done for the purposes of protesting on the land (or, in the case of the HHJ Coe Orders, an aeroplane). There is a theoretical level of lawful protest which would not amount to nuisance and would not breach the Byelaws: but since this would be almost entirely passive and ineffectual, it is hardly likely to materialise; and, above all, there is no way

of predicting when a "peaceful" protest might morph into a disruptive one.

(3) The wording suggested by Cs respects the *Wolverhampton* guidance at ¶222 [**AB/117**] about prohibiting otherwise lawful conduct no further than proportionate to vindicate Cs' rights, in that any prohibition of "innocent" conduct is minimal, incidental and no more than strictly necessary.

117. The prohibited acts are drawn differently in the Knowles J Order, the HHJ Coe Orders and the Ritchie J Orders. The Jacobs J Orders are the same as the Ritchie J Orders.

118. All three approaches are justified. If the Court is minded to continue the orders, it could take one of two approaches, either of which is justified:

(1) It could make no order as to the continuing effect of the injunctions (given that they would then all continue). This is embodied in the first version of the draft order Cs have produced at [**SB/6**]; or

(2) It could homogenise the drafting of the terms of the injunctions across the piece and substitute that drafting for the earlier orders. This is embodied in the alternative draft order Cs have produced at [**SB/8-10**]. This drafting is based upon the Ritchie J Orders and the Jacob J Orders.

Geographical limits

119. The LCY Claimants seek the continuation of the injunction only in respect of land to which they are entitled to possession and control.

120. The remaining Cs accept that they are not legally entitled to possession and control of the whole of the land outlined in red on the plans to the HHJ Coe Orders, the Ritchie Orders and the Jacobs J Orders, because of the Third Party Areas / highways. But, for the reasons set out above they seek relief in respect of the entirety of the land outlined in red on those plans.

121. These additional considerations also support avoiding making any distinction between different areas of land within each airport:

122. First: any injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do:

(1) In large part, the red line boundary on the plans follows the physical boundary features of the operational limits of the Airports. There are, some, limited exceptions, being: (i) where there are roadways which form the boundaries; and (ii) 'island' sites. But, on the whole, the identification of the land to which the injunctions relate is clearly identifiable by features on the ground.

(2) It may be actively misleading to anyone reading an order if there were areas

carved out within the Airports as it might create the impression that, were they to get to any of the Third Party Areas, they would have positive permission / sanction to carry out their protests on those parts, when, in fact, to do so would constitute a trespass.

(3) Thus, Cs' suggested approach ensures there can be no realistic doubt in the mind of any person whether or not they are in an area which is subject to the injunctions.

123. Secondly: in view of the way in which Ds have been identified, there is the potential that protesters might use any "carved out areas" to circumvent the orders, i.e., by stating that their purpose is to protest only in the Third Party Areas, therefore complicating the question of whether they fall within the class of "newcomers".

124. Thirdly: the airport operators for the Airports are all Cs and they are the persons with responsibility for the administration and management of the airport as a whole — hence their byelaw making powers.

125. This was addressed by Ritchie J at ¶38 [**AB/49-50**] of the Ritchie J Judgment:

> "38…It seems to me at this stage, in view of the fact that what happened at Stansted, which was direct action on private jets, that it is necessary for the good operation of these airports, that the injunction covers those private operations which are within at least the freehold ownership of the airports, even if they are let to the private organisations."

126. The definitions of the subject to the injunction within the orders have been drafted so as to enable anyone reading the orders to identify (by means of a red line on the plan) the general location of the boundaries of the protected site.

Temporal limits

127. Cs seek continuation of the orders on the basis of a further review in 12 months' time. That is what is reasonably necessary to protect Cs' rights given the uncertainty about JSO's continued commitment to environmental protest and/or direct action and the role of other organisations in relation to direct action against airports.

Service & s. 12 Human Rights Act 1998

128. Since Ds' Convention right to freedom of expression is engaged, and since Ds are (by definition) neither present nor represented, by virtue of s.12 of the HRA 1998 before making the order the Court must be satisfied either that (i) Cs have taken all practicable steps to notify the respondents, or that (ii) there are compelling reasons why the respondents should not be notified.

129. Mr Wortley explains at ¶38 of Wortley 2 [**SB/59-60**] and ¶¶3-7 of Wortley 3 [**SB/548**] the steps taken to give notice being:

(1) Uploading the application notice, draft order and evidence to the relevant Airport

website;

(2) Sending copies of the documents to the JSO email addresses in the orders, together with two email addresses identified for XR and Youth Demand; and

(3) Affixing a notice at the locations marked on the warning notices referring to the time and date of the hearing and identifying where copies of the documents can be found.

130. Those steps are those which were directed by the previous judges for notification of further applications and documents by the Orders [**SB/21; SB/284-285; SB/393-394; SB/509-510**], together with the additional step of emailing XR and Youth Demand.

131. As to that:

(1) Cs have proceeded on the basis that s12 applies and what they have done by way of service or notification is – they submit – all that is "practicable." Cs note that "practicable" is a less stringent test than "possible".

(2) Cs struggle to think of additional steps beyond those proposed, which are realistically likely to draw these proceedings to a materially larger pool of interested respondents.

(3) Moreover, unless and until someone is named as a defendant, or knowingly breaches the order, there is strictly no defendant to the proceedings and, by parity of reasoning, no available respondent to Cs' application.

(4) In the circumstances, Cs submit that both (i) and (ii) are satisfied.

132. Clearly the issue of how alternative service / notification might be effected is one upon which there can be different approaches. If present or represented, Ds could have made submissions to the effect that further and additional measures could have been taken. It might be said on behalf of Ds (for example) that the existence of the injunction could be advertised in local or national press. Whilst it is right to draw these potential arguments to the attention of the Court in the absence of any representation for Ds, Cs submit that there is no good reason to consider that the steps already proposed are in any way inadequate, or that addition of any further measure would have any significant prospect of drawing the existence of the Order to the attention of someone who would not have been made aware of its existence by the measures actually undertaken. As already submitted, the purpose of requiring Cs to give notice of the Order is not to pre-judge the question of whether, in any particular case (typically, on a committal application) a defendant has received sufficient notice of the Order to be bound by it. Thus, the risk of inadequate notice always rests with Cs.

133. Cs' major tenants are on notice of the proceedings already [**SB/293-296; SB/316 at ¶¶11-**

12; LBA/257 at ¶¶29-32; BHX/195-197 at ¶¶33-37] – save in respect of London City Airport where this is not relevant. Cs will also take steps to inform tenants and licensees of the Third Party Areas of the review hearing [**SB/549 at ¶11.2**]. The Court will be updated at the hearing of any relevant responses received by those tenants and licensees.

134. The Court may wish to take the approach taken by HHJ Coe and require Cs to give notice of the continuation of the injunction to them [**SB/293-296**] – although such an order is not strictly necessary given that *any* person has a right to apply to vary or set aside the orders and the methods of notification used for the third parties were materially identical to those proposed for alternative service of Ds, such that appropriate steps to draw any orders made to the attention of the third parties will be taken.

Cross-undertaking

135. The Knowles J Order contains a cross-undertaking, whereas the HHJ Coe Orders, Ritchie J Orders and Jacobs J Orders do not.

136. As to that: it is difficult to envisage how the making of the injunction could cause any injury to any person at all. Even theoretically, any interference with Convention rights is necessarily predicated on Ds committing acts which would be unlawful. Therefore, it is hard to see how any respondent could suffer an injury which is incapable of being compensated adequately by Cs' cross-undertaking to pay compensation.

137. Notwithstanding that, Cs are prepared to offer cross-undertakings to the Court.

(5) The draft orders

138. Experience suggests that the Court will wish to go through the draft orders for each Airport at the hearing.

139. As set out above, the Court might be satisfied that no further order is necessary and that the injunctions should continue as granted by the previous judges. To that end, Cs have produced a draft form of order which makes no order as to the continuing effect of the previous orders [e.g., **SB/5-6**].

140. The only additional provision contained in that draft form of order is to modify the terms of the review so that all four cases are, once again, listed together for a day's hearing. That case management suggestion was made in light of the application for consolidation or for the Court to case manage the claims together, which also needs determination. Cs are agnostic about which of those two options should be adopted, but continued collective case management is the most proportionate use of the Court's resources.

141. The alternative draft form of order is at [**SB/7-17**] and has been produced should the Court think it appropriate to substitute a form of order in place of the earlier orders. That form of order:

(1) Provides the ability and procedure for Ds, or any other person affected, to apply to the Court to vary or discharge the order, and to be joined to the proceedings on "generous terms".

(2) Also provides Cs with permission to apply to extend or vary the order. Cs will of course keep the orders and the claim under review for its duration.

(3) Makes it clear that no acknowledgement of service, admission or defence is required by any party in advance of the return date hearing. Costs are reserved.

(4) Provides for periodic review. Again, this provision envisages that the review will be listed so that all four cases are heard together.

TIMOTHY MORSHEAD K.C.
Tmorshead@landmarkchambers.co.uk

EVIE BARDEN
ebarden@landmarkchambers.co.uk

LANDMARK CHAMBERS

19 June 2025

ANNEX A

1. London City Airport: The relevant claimants are (a) London City Airport Limited; and (b) Docklands Aviation Group Limited ("**the LCY Claimants**") being the owners of the airport:

    a. Title plan (Plan A) at [**LCY/24**].

    b. Third Party Areas at [**LCY/25-32; SB/62**].

2. Manchester Airport:

    a. Title schedule at [**MAG/55-56**].

    b. Title plan at [**MAG/40**].

    c. Third Party Areas at [**MAG/602-625**].

    d. Public highway marked pink on Plan 1A at [**MAG/58**].

3. Stansted Airport:

    a. Title schedule at [**MAG/56-57**].

    b. Title plan at [**MAG/41**].

    c. Third Party Areas at [**MAG/626-637**].

4. East Midlands Airport:

    a. Title schedule at [**MAG/57**].

    b. Title plan at [**MAG/42**].

    c. Third Party Areas at [**MAG/638-642**].

5. Leeds Bradford:

    a. Title schedule at [**LBA/60**].

    b. Title plan at [**SB/382; LBA/280**].

    c. Third Party Areas at [**LBA/282**].

    d. The Landing Lights shown on Plan 1B [**LBA/280**].

    e. Public highway marked pink and purple on Plan 1A at [**LBA/282**].

6. Luton Airport:

    a. Title schedule at [**LBA/60**].

b. Title plan at [**SB/383; LBA/423**].

c. Third Party Areas at [**LBA/502; LBA/505-512**].

d. The Landing Lights shown on Plan 2B [**LBA/423**]

e. Public highway marked pink on Plan 2A at [**LBA/502**].

7. Newcastle Airport:

a. Title schedule at [**LBA/60-61**].

b. Title plan at [**SB/384; LBA/459**].

c. Third Party Areas at [**SB/428; LBA/513-515**].

d. The Landing Lights shown on Plan 3B [**LBA/459**]

e. Public highway marked pink on Plan 3A at [**SB/428**].

8. Birmingham Airport:

a. Title schedule at [**BHX/59**].

b. Unregistered land at [**BHX/190 at ¶13**].

c. Title plan at [**BHX/42; BHX/61**].

d. Third Party Areas at [**BHX/62**].

e. The Landing Lights shown on Plan 1A [**BHX/61**]

f. Public highway marked pink on Plan 1B at [**BHX/62**].

9. Liverpool Airport:

a. Title schedule at [**BHX/59-60**].

b. Title plan at [**BHX/43; BHX/63**].

c. Third Party Areas at [**BHX/64**].

d. The Landing Lights shown on Plan 2A [**BHX/63**]

e. Public highway marked pink on Plan 2B at [**BHX/64**].

10. Bristol Airport:

a. Title schedule at [**BHX/60**].

b. Title plan at [**BHX/44; BHX/65**].

c. Third Party Areas at [**BHX/66-73**].

d. The Landing Lights shown on Plan 3A [**BHX/65**]

ANNEX B

(1) The London City Byelaws 1998 ("**the London City Airport Byelaws**") apply in relation to "London City Airport". These Byelaws contain no plan, leaving it open to be decided as a question of fact what falls within the "airport"[10].

(2) The Manchester Airport Byelaws 2024 ("**the Manchester Airport Byelaws**") apply to land outlined in blue to the plan at Schedule 1 to the byelaws. That plan is of poor quality and lacking in detail, so Cs' solicitors prepared a plan of the site which replicates its extent as best as practicable. This is Plan 1 annexed to the Particulars of Claim (using a red outline where the byelaws used a blue one). There are some operational areas, such as the landing lights, which are not within the land outlined in red on Plan 1.

(3) The Stansted Airport Byelaws 1996 ("**the Stansted Airport Byelaws**") and the East Midlands Airport Byelaws 2001 ("**the EMA Byelaws**") apply to "Stansted Airport" and "East Midlands Airport" respectively. As with the London City Byelaws, there is no plan to either set of byelaws so it is a question of fact what falls within the "airport". The operational boundaries of Stansted Airport and East Midlands are shown outlined in red on Plan 2 at [**MAG/41**] and Plan 3 at [**MAG/42**]. The perimeters are physically demarcated on the ground by fences / gates / hedgerows, except where penetrated by private roadway. Overall, therefore, on the evidence, the areas described by Plans 2 and 3 fall within the description of "Stansted Airport" and "East Midlands Airport" in their respective byelaws, even if they do not fully exhaust that description.

(4) The Leeds Bradford Airport Byelaws 2022 ("**the LBA Byelaws**") apply to the land outlined in red to the plan at Schedule 1 to the byelaws. Cs' solicitors have prepared a plan of the site which replicates its extent as best as practicable. This is Plan 1 annexed to the Particulars of Claim at [**SB/382**]. Plan 1 covers a smaller area than the byelaws, because the byelaws include land (shown shaded yellow on Plan 1A [**SB/385**]) which in fact falls outside the operational limits of the Airport. However, Plan 1 also includes for protection the landing lights, even though (curiously) the eastern landing lights are not within the land outlined in red on the plan to Schedule 1 of the byelaws.

---

[10] Section 82(1) of the Airports Act defines "*airport*" as the aggregate of the land, buildings and works comprised in the aerodrome within the meaning of the Civil Aviation Act 1982 c.16. "*Aerodrome*", in turn, is defined by section 105 of the Civil Aviation Act 1982 as meaning "*any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically*".

(5) The London Luton Airport Byelaws 2005 ("**the Luton Airport Byelaws**") apply to the outlined in red on the map attached to the byelaws. Cs' solicitors prepared a plan of the site which replicates its extent. This is Plan 2 annexed to the Particulars of Claim at [**SB/383**]. As with LBA, the landing lights are not within the land outlined in red on the map to the byelaws, but they are within the land shown on Plan 2.

(6) The Newcastle International Airport Byelaws 2021 ("**the Newcastle Airport Byelaws**") apply to Newcastle International Airport which is shown outlined in red on the plan attached to the byelaws. Cs' solicitors prepared a plan of the site which replicates its extent. This is Plan 3 annexed to the Particulars of Claim [**SB/384**]. As before, the landing lights are not within the land outlined in red on the plan to byelaws, but are within Plan 3.

(7) The Birmingham Airport Byelaws 2021 ("**the Birmingham Airport Byelaws**") apply to Birmingham Airport which is shown outlined in red on the plan attached to the byelaws. Cs' solicitors prepared a plan of the site which replicates its extent. This is Plan 1 annexed to the Particulars of Claim [**BHX/42**]. As before, the landing lights are not within the land outlined in red on the plan to byelaws, but are within Plan 1.

(8) The Liverpool Airport Byelaws 2022 ("**the Liverpool Airport Byelaws**"), apply to Liverpool John Lennon Airport shown outlined in red on the plan attached to the byelaws. Again, this has been replicated by Cs' solicitors in Plan 2 to the Particulars of Claim [**BHX/43**] – albeit with the same caveat that that plan includes the landing lights which are not within the scope of the plan to the byelaws.

(9) The Bristol Airport Byelaws 2012 ("**the Bristol Airport Byelaws**"), apply to Bristol Airport which is said, in the byelaws, to be shown outlined in red on the plan attached to the byelaws. During the preparation of proceedings, the only version of the byelaws which could be identified was a copy unsigned on behalf of the airport and annexing and only a black and white copy of the plan has been located. The boundary line on that plan has been replicated by Cs' solicitors in Plan 3 to the Particulars of Claim [**BHX/44**] and additionally the byelaws have now been signed (on 29 July 2024) with a colour copy of the plan inserted. Again, Plan 3 includes the landing lights which are not within the scope of the plan to the byelaws.