Claim No: KB-2024-002210

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

B E T W E E N:

HEATHROW AIRPORT LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN WHO (IN CONNECTION WITH JUST STOP OIL OR OTHER ENVIRONMENTAL CAMPAIGN) ENTER, OCCUPY OR REMAIN (WITHOUT THE CLAIMANT'S CONSENT) UPON 'LONDON HEATHROW AIRPORT' AS IS SHOWN EDGED PURPLE ON THE ATTACHED PLAN A TO THE RE-AMENDED PARTICULARS OF CLAIM

(2) – (26) THE NAMED DEFENDANTS JOINED BY THE ORDER OF MR JUSTICE DEXTER DIAS DATED 11 DECEMBER 2024 AND BY THE ORDER OF MR JUSTICE RITCHIE DATED 14 FEBRUARY 2025, AND WHOSE NAMES ARE SET OUT IN SCHEDULE 2 TO THE RE-AMENDED PARTICULARS OF CLAIM

Defendants

SKELETON ARGUMENT OF THE CLAIMANT ("HEATHROW")

For the 23 July 2025 Review Hearing of the 9 July 2024 Injunction

---

Suggested Pre-Reading (t/e 1 hour):

Bundle references to the Hearing Bundle are in the form ***[Section/Tab/Page]****. A separate Authorities Bundle* ***[AB]*** *is also being supplied.*

(i) *Judgment of Julian Knowles J in Heathrow Airport Limited v Persons Unknown [2024] EWHC 2599 (KB):* ***[D/10/138]***

(ii) *Note of judgment of Bourne J in the 24 June 2025 review hearing re. 10 other airports: London City Airport Ltd v Persons Unknown [2025] 6 WLUK 499:* ***[AB]***

(iii) *First Witness Statement of Akhil Markanday dated 6 July 2024 (for original Injunction hearing):* ***[E/11/254ff]***

(iv) *First Witness Statement of Jonathan Coen dated 7 July 2024 (for original Injunction hearing):* ***[E/12/273ff]***

(v) *§§15-36 of the Second Witness Statement of Akhil Markanday dated 16 September 2024 (re. breaches of the Injunction)* ***[E/13/291ff]***

(vi) *First Witness Statement of Philip Spencer dated 7 July 2025 (for this Review Hearing):* ***[D/9/84]***

(vii) *First Witness Statement of Tonia Fielding dated 7 July 2025 (for this Review hearing):* ***[D/8/80ff]***

(viii) *Draft Order sought:* ***[A/1/4ff]***

Introduction

1. On 9 July 2024, Heathrow was granted an injunction by Mr Justice Julian Knowles ("the **Injunction**": **[A/4/47*ff*]**) restraining certain "persons unknown" (defined as the First Defendant) from entering or remaining on Heathrow Airport ("the **Airport**"), without Heathrow's consent, in connection with Just Stop Oil ("**JSO**") or other environmental campaign.

2. The Injunction was for a period of 5 years, but subject to annual review (at a 'review hearing' to be listed as close to the anniversary of the Injunction as convenient for the Court). This is that review hearing (notice of listing at **[C/7/79]**).

3. The Injunction was sought and obtained in the circumstances set out in Heathrow's evidence in support of its original application (Markanday 1 **[E/11/254*ff*]** & Coen 1 **[E/12/273*ff*]**), and for the reasons explained by Julian Knowles J in an approved judgment of 14 October 2024 (*Heathrow Airport Limited v Persons Unknown* [2024] EWHC 2599 (KB)). The Court is invited to read that judgment at this juncture.

4. The Injunction was granted in circumstances where persons (particularly) affiliated with JSO were embarked upon a campaign, motivated by environmental concerns, targeting UK airports with "direct action" in the summer of 2024. That campaign had materialised into acts of trespass and other disruptive actions at UK airports (including Heathrow Airport), and the concern was that more such acts were threatened.

5. All other major UK airports sought and successfully obtained similar injunctions at around the same time. There were some differences in the precise form of such injunctions, but each was styled as a "newcomer" injunction against persons unknown – and each was granted for a period of 5 years with annual review.

6. 10 of those airports (London City, Manchester, Stansted, East Midlands, Leeds Bradford, Luton, Newcastle, Birmingham, Bristol and Liverpool) are represented by a single firm of solicitors, Eversheds Sutherland LLP. Those 10 airports (successfully) applied for the review hearings for their respective injunctions to be heard jointly, and that review hearing took place before Mr Justice Bourne on 24 June 2025 ("the **10A Review Hearing**"). All of those injunctions were continued at the 10A Review Hearing, with

only a small amendment (in the case of London City Airport) to reflect a change in the layout of part of that airport site since the injunction had been granted.

7. There is a brief Westlaw report of Bourne J's *ex tempore* judgment at the 10A Review Hearing, with citation *London City Airport Ltd v Persons Unknown* [2025] 6 WLUK 499 **[D/10/138]**. That decision contains some helpful guidance on the appropriate approach to review hearings of this nature, which are explained below. The same approach was also adopted, and there was a slightly fuller analysis of the relevant principles, by Mr Justice Sweeting in the very recent (9 July 2025) review hearing in *ESSO Petroleum Company Limited v Persons Unknown* [2025] EWHC 1768 (KB).

Nature of a Review Hearing

8. A review hearing of the present type is not a re-hearing of the original injunction application. As summarised by Bourne J at the 10A Review Hearing (by application of principles articulated in *High Speed Two (HS2) Ltd v Persons Unknown* [2024] EWHC 1277 (KB), [2024] 5 WLUK 403):

> *"Newcomer injunctions had to be reviewed periodically and should come to an end after no more than a year unless an application had been made for their renewal. That was to give all parties an opportunity to make full disclosure to the court, supported by appropriate evidence, as to how effective the order had been; whether there were any grounds for discharge; whether there was any proper justification for its continuance; and whether a further order should be made, Wolverhampton followed. At the review hearing, the court was not starting de novo. However, it was vital to understand why the original injunctions had been made. The court had to determine whether anything material had changed. If the risk still existed as before, the extension could be granted. However, if material matters had changed, the court was required to analyse the changes, and determine whether the injunction should be altered...."*

(See also *ESSO Petroleum* at [5]-[8])

9. Further, and whilst "newcomer injunctions" are a relatively new form of injunction (recognised in *Wolverhampton City Council v London Gypsies and Travellers [2023] UKSC 47*) – the best practice and procedure for which is still in a state of development, Bourne J accepted a submission that it was undesirable for the Court on a review hearing to interfere with the original language of the injunction:

9.1. As summarised in the report of Bourne J's judgment: *"The court would not depart from the original wording of the injunctions. Any potential defendants might already be aware of original wording, which militated against change."*

9.2. In other words, there is a trade-off between finessing the form of an injunction to reflect changes in the Court's approach to such injunctions over time / potential improvements that might become apparent with the benefit of hindsight (on the one hand) and the desirability of consistency over time, including (perhaps most importantly) to assist the understanding of those potentially affected by the injunction of what it says and prohibits.

Background to the Injunction

10. At this review hearing, therefore, it is necessary for the Court to have sufficient understanding of why the Injunction was originally made so as to be able to assess (against that understanding) whether anything material has changed as would undermine that original justification and therefore the continuation of the Injunction.

11. It is submitted that the most efficient way for the Court to glean that understanding is (as already suggested) for the Court to read the approved judgment of 14 October 2024 of Julian Knowles J. Additional detail of the factual background (as it then stood) can be found in Markanday 1 **[E/11/254*ff*]** & Coen 1 **[E/12/273*ff*]**, which statements the Court is also invited to read.

Overview of Subsequent Developments

12. It follows from the above explanation of the nature of a review hearing that its focus will be on developments that have occurred since the Injunction was granted and, therefore, on the question of whether anything material has changed as would militate against the continuation of the Injunction.

13. There are three broad heads of considerations, or events, since the Injunction was granted which are material. Heathrow's evidence about those matters for the purposes of this review hearing is set out in the witness statements of Mr Philip Spencer (of Heathrow's solicitors, BCLP) **[C/9/108*ff*]** and Ms Tonia Fielding **[C/8/80]** (both dated 7 July 2025). The Court in invited to read those statements at this juncture.

14. Those broad heads (addressed in more detail under the relevant headings below) are:

14.1. The fact that the Injunction was breached by 26 individuals, over the course of four incidents, between 24 July 2024 and 1 August 2024 (and therefore shortly after it was granted on 9 July 2024). Those breaches may bring into consideration the following issues:

(i) The extent of the threat facing Heathrow.

(ii) The efficacy of the Injunction.

(iii) The case management implications, including the fact that Heathrow has now joined 25 of those 26 individuals as named defendants to these proceedings.

(iv) Committal.

14.2. The current risk of direct action at the Airport, taking into account:

(i) JSO's press release (on 27 March 2025) to the effect that it was ceasing its campaign of direct action;

(ii) but set against subsequent statements to the effect that it was reversing course on that statement; and

(iii) the emergence of other "direct action" groups, and a potential trend towards more violent or damaging forms of action.

14.3. Events surrounding Shell Plc holding its AGM at a hotel at the Airport on 20 May 2025.

15. Heathrow recognises that it remains under a duty of full and frank disclosure (particularly as regard the first "persons unknown" defendant). As noted above, review hearings require "full disclosure". Consistent with that, it is recognised that each of the three broad heads above raises issues which might be argued to tend *against* (as well as *for*) the continuation of the Injunction. Heathrow's position is that the circumstances point strongly to continuation being appropriate, but it identifies in the following analysis the arguments that might be raised to the contrary.

16. By way of final introductory point, raised here because it is a consideration which applies throughout the following analysis:

16.1. The Court here is concerned with threatened acts of direct action at an airport: indeed, the UK's busiest and most significant airport. A flavour of the extent of the size and complexity of Heathrow's operations is given in Ms Fielding's statement at §9 **[C/8/81]**, e.g.: *"an aircraft will be arriving or departing the Airport approximately every 45 seconds"*.

16.2. An airport, by its nature, raises particular considerations that do not necessarily apply (or to anything like the same extent) when one is considering potential acts of disruptive protest in other environments.

16.3. Those (interrelating) considerations are: (i) security; (ii) safety; and (iii) the complexity of the operations that are conducted.

16.4. The point is that acts of disruption, which might be tolerable – even trivial – in a democratic society in other environments (e.g. in a public space in Central London), are to be treated rather differently in an environment like the Airport.

16.5. First, sensitivity to security threats is obviously and necessarily high at an airport. Those tasked with assessing and responding to such threats are not reasonably to be expected to be able to distinguish immediately between what is sometimes described as 'peaceful' direct action (even if disruptive and causative of damage to property) and threats of a more serious nature. Any incursion onto a runway (for example) is likely to be treated as a threat of the utmost seriousness, from both a security and safety perspective, and will likely lead to an armed response (Ms Fielding's statement at §11 **[C/8/82]**. This is also a point that Mr Spencer emphasises at §16.1 of his statement **[C/9/88]**.)

16.6. Secondly, the complex and interconnected nature of Heathrow's operations means that (on the face of it) small incidents can have significant knock-on consequences: Ms Fielding's statement at §8 **[C/8/81]**. Those consequences may include significant disruption to the travel plans of members of the public (83m per year; i.e. c.227k per day: §9), and the economic harm as well as stress and inconvenience that entails.

Breaches of the Injunction: relevance to threat and efficacy of the Injunction

17. Regrettably, the Injunction was breached quite shortly after it was granted on four separate occasions, by some 26 different people. Details of those incidents are set out at §§15-36 in the second witness statement of Mr Akhil Markanday (of BCLP) dated 16 September 2024 **[E/13/291*ff*]**. The Court is invited to read those paragraphs at this juncture.

18. In the broadest outline, the events were:

    18.1. <u>24 July 2024</u>: 7 individuals (Ds 2-8) were arrested at the perimeter fence to the runways (but within the "purple line" defining the geographical extent of the Airport for the purposes of the Injunction) equipped with equipment to breach the perimeter fence. JSO publications indicate that the individuals were affiliated with JSO. This was potentially a very serious incident, which was fortunately averted by the police intervention.

    18.2. <u>27 July 2024</u>: Monday Rosenfeld (now D9) conducted a demonstration which involved holding an "Oil Kills" sign in the Terminal 5 departures area. She was escorted away by police (but not arrested). This was, therefore, not a serious incident.

    18.3. <u>30 July 2024</u>: Two individuals (now Ds 10-11), whilst wearing JSO t-shirts, sprayed orange paint around the Terminal 5 departures area (including electronic departure boards, damaging them) from JSO-branded fire extinguishers. They were arrested by police.

    18.4. <u>1 August 2024</u>: The remaining named defendants (in three groups) were arrested at the Terminal 5 London Underground station or in the area of the electronic departure gates in the Terminal 5 departures area wearing (or possessing) JSO t-shirts and banners. Six of them had sat down in front of the departure gates blocking access to the security area beyond them. In the event, this was not an incident which caused significant disruption – but that appears to have been the result of a prompt police intervention.

19. The significance of these events may be treated in one of two ways:

19.1. First, it may be argued that it tends against the continuation of the Injunction because: (i) the Injunction has not been effective; and/or (ii) such activities have not been repeated since 1 August 2024 such that there is no continuing risk. Those are arguments raised as part of the duty of full and frank disclosure.

19.2. The second viewpoint, which Heathrow submits is to be preferred, is:

(i) As a matter of principle, Courts do not refrain from granting injunctive relief because they apprehend that the injunction may not be obeyed: *South Buckinghamshire DC v Porter* [2003] 2 AC 558 at [32]. By parity of reasoning, it should not count against the continuation of an injunction that it has been disobeyed in the past.

(ii) These events show, principally and most significantly, that the risk of unlawful direct action activity which originally justified the Injunction was not exaggerated. The risk unfortunately materialised.

(iii) The fact that the Injunction has not been breached since is consistent with it being a successful deterrent.

(iv) Consistent with that view, and by way of explanation of the initial breaches as aberrations rather than a general willingness of potential activists to ignore a Court order, it might reasonably be speculated that the earlier breaches can be explained by their close proximity in time to the grant of the Injunction. This is necessarily speculative in the absence of evidence from those involved as to their state of mind, but it is at least possible that those involved had not (or not all) yet come to appreciate the existence or significance of the Injunction or potential breaches of it, or were sufficiently 'caught up' in the campaign against UK airports that summer that they did not adequately pause to reflect on the significance and potential consequence of their actions.

(v) The approach of Bourne J at the 10A Review Hearing, which Heathrow commends to the Court on this occasion, was to conclude that *"the much-reduced direct action at the airports showed that the injunctions had worked"*.

Case management implications

<u>The Joinder Applications</u>

20. A result of the police involvement in those incidents is that Heathrow came, via the police, to know the names of the 26 individuals involved. Heathrow considered itself obliged (and that it was in any case appropriate) to seek to join those identified defendants as named defendants to these proceedings, by bringing an application for their joinder dated 16 September 2024 ("the **Joinder Application**").

21. The progression of that Joinder Application is outlined in Mr Spencer's witness statement at §§17-31 **[D/9/88*ff*]**. The detail is probably immaterial for present purposes. In outline:

    21.1. The first hearing of the Joinder Application ("the **First Joinder Hearing**") occurred before Mr Justice Dexter Dias on 11 December 2024:

        (i) 24 named defendants were joined on that occasion, with it being made express that the Injunction would apply to them too ("the **First Joinder Order**": **[C/5/59*ff*]**).

        (ii) A further proposed named defendant (Mr Joe Magowan) attended and explained (via a solicitor) that he was present at the incident on 1 August 2024 only as a photographer, and offered undertakings to the same effect as the Injunction in lieu of being joined as a defendant. He was therefore not joined.

        (iii) The Joinder Application against Mr Adam Beard (now D3) was adjourned, in circumstances where Mr Beard had written to the Court from prison (where he was being held on remand following his arrest for his involvement in the events on 24 July 2024) explaining difficulties with accessing the relevant documents from prison.

    21.2. The adjourned hearing of the Joinder Application against Mr Beard was then heard on 13 February 2025 before Mr Justice Richie ("the **Second Joinder Hearing**"), who joined Mr Beard on that occasion ("the **Second Joinder Order**" **[C/6/70]**).

22. The effect of the Joinder Application, and the orders made by Dexter Dias J and Richie J, is that there are now 25 named defendants to these proceedings ("the **Named**

Defendants”). That is a point of distinction between the present Injunction and the 10 airports considered at the 10A Review Hearing, though (save, perhaps, as set out at §25 below) it is not a distinction that Heathrow suggests is of any particular consequence.

23. The Joinder Orders contain detailed provisions for service of the proceedings on those defendants (see §9 of the First Joinder Order & §6 of the Second Joinder Order). Those steps were carried out (with the detailed explanation of the steps taken contained in the third and fourth witness statements of Mr Robert Hodgson (of BCLP): **[E/17/318*ff*]** & **[E/18/523*ff*]**).

24. The Joinder Orders further provided that any Named Defendant who wished to oppose their joinder or defend the claim was to file an acknowledgment of service and a Defence or witness statement within 21 days and 56 days (respectively) of service of the proceedings upon them. None has done so. As with any other person affected by the Injunction, the Named Defendants also have liberty to apply at any time to vary or discharge it. Again, none has done so.

25. It is submitted that the Court is entitled to take into account, as part of the relevant circumstances on this review hearing, the facts that:

    25.1. Heathrow has acted appropriately in discharging its duty to bring known defendants into the injunction as named defendants (e.g. which duty is referred to at [6] of Dexter Dias' judgment of 13 February 2025 on the Second Joinder Order: [2025] EWHC 833 (KB)).

    25.2. None of the Named Defendants, now joined, has (so far) sought to suggest that there has been any material change of circumstance as would warrant the non-continuation of the Injunction against any of them, or more widely.

Committal Issues

26. The issues raised under this head are raised primarily in discharge of the duty of full and frank disclosure.

27. First, Heathrow was cognisant at the time of the Joinder Application of observations made by Richie J in *Tendring District Council v Persons Unknown* [2024] EWHC 2237 (KB) concerning the repeated failure by the applicant council in that case to enforce

breaches of a 'person unknown' injunction. The issue was raised in the following way at §22 of Heathrow's skeleton before Dexter Dias J at the First Joinder Hearing:

> *"c. Permission to commence such [committal] application is not required (under CPR r.81.3), but Nicklin J held in MBR Acres Ltd v McGivern [2022] EWHC 2071 (QB) that the Court has power to impose such a requirement (see White Book Commentary at [81.3.11]). The Court is not being asked to impose such requirement, but equally Heathrow will of course respect any views of guidance that the Court saw fit to give on this proposed course.*
>
> *d. The Court should also, in this context, be aware of the comments made by Richie J on 31 July 2024 in his ex tempore judgment in Tendring District Council v Persons Unknown [2024] EWHC 2237 (KB). That was a case where two councils apparently sought (for the seventh year in a row) an injunction preventing parking or camping around the site of an airshow. The learned Judge expressed concern that "these councils have never sought to enforce the injunctions they have been granted before" [22]. At [23] a "warning" was given:*
>
>> *"…next year, if a further injunction is applied for and the evidence that is put before this Court, on full and frank disclosure, shows that (say) 10 caravans turned up and trespassed and no contempt proceedings were brought, it is likely that I at least would not grant a further injunction. These civil PU injunctions, the nuclear weapons of civil law, are not handed out willy nilly to be ignored; they are to be obtained seriously and enforced properly. If they are granted and then not enforced, whether because the council does not consider a breach is serious enough to enforce or because of costs constraints, then they should not be granted in the first place and criminal law protection is the right protection."*
>
> *e. The pursuit, or otherwise, of contempt proceedings may therefore have a bearing on the question of whether the Injunction is renewed when it is reviewed (on the one-year anniversary)."*

28. The guidance given by Dexter Dias J at that First Joinder Hearing (at which present counsel appeared for Heathrow) was that it was entirely a matter for Heathrow whether or not it wished to pursue committal proceedings in respect of previous breaches of the Injunction. The Court was not imposing a permission requirement (consistent with the decision in the 10A Review Hearing and [28] of the *Esso Petroleum* decision), but nor was it requiring or encouraging committal proceedings to be pursued.

29. Second, and relatedly, it is therefore right to record that Heathrow was at the time of the Joinder Application minded to pursue committal proceedings against at least some of the Named Defendants in respect of the previous breaches of the Injunction:

29.1. It had not, at that point, reached any concluded view on that question (or which Named Defendants it would be minded to pursue).

29.2. This decision making process occurred at a time when several of the Named Defendants were subject to criminal investigation and prosecution for their involvement, as explained in Mr Markanday's second witness statement at §§14, 20, 30 & 38 **[E/13/290*ff*]**.

29.3. Upon further consideration, Heathrow has now decided that it does not wish to pursue committal proceedings against any of the Named Defendants in respect of previous breaches of the Injunction. Its reasons for having formed that conclusion are outlined in Ms Fielding's statement at §15 **[D/8/82]**.

29.4. In fairness to the Named Defendants, they have been informed of that decision (by letters of 26 June 2025): see Mr Spencer's statement at §33 **[D/9/91]**.

29.5. It is submitted that Heathrow's decision on this issue is a reasonable and proportionate one for it to have taken, and that the circumstances are far removed from those considered by Richie J in the *Tendring DC* case. This should not therefore be a factor which tends against the continuation of the Injunction.

29.6. The Court will recognise that Heathrow is likely to take a different view in respect of any future material breach.

30. The third and final point that is it appropriate to raise under this head is this:

30.1. As already noted, at the First Joinder Hearing Heathrow raised with the Court the prospect of committal proceedings.

30.2. In connection with that, one of the points raised was the means of service of any such committal proceedings (as well as the means of service of court documents more widely), particularly in circumstances where several of the defendants were in prison.

30.3. Heathrow sought on that occasion, and was granted, a particular direction that service of committal proceedings could be served by (non-personal) means (in

accordance with CPR r.81.5(1)): see §13 of the First Joinder Order **[C/5/66]**, referring back to §9.

30.4. At the same time, the First Joinder Order, by way of protection of the Named Defendants' interests, also expressly provided at §14 that the adequacy of any such steps would in any case fall to be reconsidered at any future hearing.

30.5. At the Second Joinder Hearing, Richie J raised concerns about the appropriateness of §13 of the First Joinder Order and directed that it be brought to the Court's attention at this review hearing, as has now been done. (Those concerns are also touched upon at [9] of Richie J's judgment: [2025] EWHC 833 (KB).)

30.6. It is understood that the learned Judge's concern was that it might be more appropriate for an order for dispensation with personal service of a committal application to be dealt with retrospectively on a case-by-case basis, rather than prospectively (as in §13 of the First Joinder Order).

30.7. Heathrow would have been content to rest upon the wisdom of the Court on this issue at this hearing, but notes that (in the events that have happened) there are no committal applications to which this issue would relate. It is therefore now an academic issue, but nevertheless one that it has been appropriate to draw the Court's attention to.

30.8. For the avoidance of any doubt, Heathrow would certainly not be intending to seek to rely upon §13 of the First Joinder Order in respect of any committal proceedings brought in relation to any future breaches of the Injunction.

Ongoing threat

31. A central issue for the Court at this review hearing, as already noted, is whether there has been any material change of circumstances as would tend against the continuation of the Injunction. In practice, that requires a consideration of whether there has been any material diminishment in the threat of unlawful direct action activity targeted against the Airport since the Injunction was granted.

32. As already noted, Bourne J has (at the 10A Review Hearing) concluded that there has not been any such change in circumstances in relation to those 10 Airports. Whilst the Court

must, of course, consider the evidence in this claim afresh, the reality is that the risk of direct action targeted at the UK aviation industry cannot assessed solely on an airport-by-airport basis and it would be anomalous if the threat was treated as justifying the continuation of injunctions against 10 major UK airports, but not the main UK airport.

33. Taking matters chronologically:

33.1. The principal matters demonstrating a risk of direct action targeting UK airports, including Heathrow, as at the date of the Injunction, were:

(i) JSO publicising (from March 2025) a campaign of direct action of disruptive activities at UK airports (14 October 2024 judgment of Julian Knowles J at [16]-[18]).

(ii) The following incidents (quoting from [19] of the October 2024 judgment):

> *"19. UK and foreign airports, including Heathrow, have previously been the subject of unlawful trespass or other disruptive actions by environmental activists, including:*
>
> *a. Two JSO supporters breaching the perimeter fence at Stansted Airport on 20 June 2024, and spraying paint over private jets (Markanday, [25]);*
>
> *b. Extinction Rebellion activists blocking access to Farnborough Airport on 2 June 2024 (Markanday, [26]);*
>
> *c. A group affiliated with JSO, called Last Generation, causing disruption at Munich airport on 18 May 2024, including people gluing themselves to the runway (Markanday, [27]);*
>
> *d. On 27 September 2021, climate change protestors defied a court order and blocked part of the M25 at Heathrow (Coen, [28(a)]);*
>
> *e. In September 2019, the climate change group, Heathrow Pause, attempted to disrupt flights into and out of the Airport by flying drones in the Airport's exclusion zone (Coen, [27(a)]); and*
>
> *f. On 13 July 2015, 13 members of the climate change protest group 'Plane Stupid' broke through the perimeter fence and onto the northern runway at the Airport. They chained themselves together in protest, disrupting hundreds of flights (Coen [27(c)])."*

33.2. In the weeks following the Injunction on 9 July 2024, and as already mentioned, there were four further incidents of direct action targeted at Heathrow in particular. The threat explained on 9 July 2024 was not therefore overstated.

33.3. In addition to the incidents quoted from the October 2024 judgment above, the following activities directed at UK airports in and after the summer of 2024 are summarised in Mr Spencer's witness statement at §43:

> "***25 June 2024****: Four JSO activists were arrested at Gatwick Airport.*
>
> ***27 July 2024:*** *a JSO action which was planned for London City Airport was relocated to the Department of Transport on Horseferry Lane.*
>
> ***July 2024:*** *Eight JSO activists were arrested at Gatwick Airport on suspicion of interfering with public infrastructure.*
>
> ***31 July 2024:*** *JSO and Free Fossil London ("**FFL**") took action at the Docklands Light Railway station at City Airport.*
>
> ***5 August 2024:*** *Five JSO activists were arrested on their way to Manchester Airport equipped with bolt cutters, angle grinders, glue, sand and banners carrying slogans including "oil kills".*
>
> ***2 February 2025:*** *Extinction Rebellion held a demonstration at Farnborough Airport following a consultation period in relation to Farnborough Airport's expansion plans which ended in October 2024.*
>
> ***27 February 2025:*** *Extinction Rebellion held a demonstration at Inverness Airport waving banners with "Ban Private Jets" and "We're in a climate emergency, we need to step up and take action".*
>
> ***27 June 2025:*** *Four people in connection with a pro-Palestine group broke into an RAF base at Brize Norton and vandalised military aircraft."*

33.4. The events of February 2025, in particular, serve to demonstrate that the risk of direct action to UK airports was not limited to the summer of 2024.

33.5. The well-publicised events at RAF Brize Norton on 27 June 2025, it is recognised, were in connection with events in the Middle East, not an environmental campaign. Their potential relevance, however, is: (i) demonstrating that committed direct action demonstrators are prepared to break in to secure airport areas in pursuit of their aims; and (ii) suggesting a trend in direct action protests towards deliberate sabotage to property (returned to below).

33.6. On 27 March 2025, JSO made a press release (quoted in full in Mr Spencer's statement at §45 **[D/9/95]**) to the effect that it was ceasing direct action protests, following a final "action" in Parliament Square on 26 April 2025. That press release, if taken at face value, might suggest material diminishment in the risk facing the Airport.

33.7. However, shortly thereafter (on 18 May 2025), there were press-reports to the effect that JSO was planning a "comeback" (see Mr Spencer's statement at §§47-49). JSO has since confirmed the accuracy of these reports, confirming (to London City Airport's solicitors) that it is *"plotting a very big comeback"*.

33.8. It therefore seems that the risk posed by JSO has not diminished and may, in fact, have increased – subject to precisely the form of "*comeback*" that is envisaged.

34. As Bourne J noted at the 10A Review Hearing, there is also evidence of other groups emerging alongside JSO (or, perhaps, to take its place if JSO has really ceased direct action or its "comeback" does not materialise):

34.1. The evidence of those groups and their recent activities and social media and other online statements is set out in Mr Spencer's statement at §§52-64 and not repeated herein.

34.2. One trend that may be detected from those activities and statements is a greater tendency towards damage to property and other forms of sabotage of operations to which the groups object, rather than 'mere' disruption by their presence. For example:

(i) 'Youth Demand' advertise *"plastering a picture from the Gaza genocide on a Picasso painting and shutting down five UK cities in November"*: §53.

(ii) 'Fossil Free London' (or 'FFL') advertise that they are *"dedicated to disrupting the fossil fuel industry here in our city"*: §56.

(iii) Perhaps most concerningly, a new group called 'Shut the System', which *"pledge[s] to target property and machinery of the destructive industries owned by the wealthiest and most responsible for the greatest crises humanity has ever faced. Our strategy is to disable the physical infrastructure of significant carbon emitters; whether emissions occur directly, or though their support for upstream business operation"*: §63. Such threats have already been followed through in the cutting of fibre-optic cables in the City of London in January 2025: §64.

35. Heathrow also points to, as supporting the view that it is particularly vulnerable to being targeted by direct action, the fact of its well-publicised expansion plans: Ms Fielding's statement at §§16-18 **[D/8/83]**.

36. Consistent with the view of Bourne J at the 10A Review Hearing, it is therefore submitted that there has been no material change in the threat of unlawful direct action at the Airport as would warrant the Injunction not being continued. At [25] of the *ESSO Petroleum* decision, the same view was taken by Mr Justice Sweeting of the nature of the continuing risk posed by JSO, and it was held (at [28]) that the language *"or other environmental campaign"* (present already in this Injunction) was appropriate to address the risks posed by evolving nature of such campaign groups.

The Shell AGM

37. On 20 May 2025, Shell Plc ("**Shell**") held its AGM at the Sofitel London Heathrow Hotel – Terminal 5. The hotel is within the geographic scope of the Injunction.

38. It is to be emphasised at the outset that: (i) Heathrow was not involved in the arrangements for this AGM; and (ii) Shell has publicly stated that it did not choose the location for the AGM because of the existence of the Injunction: see Mr Spencer's statement at §§65& 67 **[D/9/99]**.

39. It is recognised, and therefore raised in accordance with the duty of full and frank disclosure, that it might be contended that: (i) the Injunction was not intended to protect non-parties such as Shell; and/or (ii) to the extent that it did, it was too widely drawn.

40. As to the first of those propositions: given Shell's public pronouncements, there is no reason to suppose that Shell was in any sense seeking to take any inappropriate collateral advantage of the Injunction.

41. The second of those propositions is also not correct – and the events that unfolded in connection with the Shell AGM demonstrate that the Injunction is working adequately and in a manner that can appropriately be continued:

    41.1. Shell gave notice of its AGM on 16 April 2025 **[D/10/218]**. It is relevant to record that the AGM was a 'hybrid' meeting, which shareholders could attend remotely.

41.2. On 10 May 2025, BCLP (for Heathrow) was contacted by a Mr Rawstron, a shareholder of Shell, raising concerns that the Injunction may prevent him from attending the AGM to raise concerns about Shell's environmental record **[D/10/231]**.

41.3. Heathrow (promptly), on 12 May 2025, gave Mr Rawstron the assurance that it *"has no issue with any Shell shareholder lawfully attending the Shell AGM on 20 May 2025, nor do we consider that the terms of [the] injunction prohibit such lawful attendance"* **[D/10/233]**.

41.4. A similar exchange occurred with a further shareholder, Mr Naker, on 13 and 14 May 2025: **[D/10/240-244]**.

41.5. On 16 May 2025, Heathrow posted a message on the injunction page of its website (heathrow.com/injunction), which read:

> ***"Shell PLC Annual General Meeting on 20 May 2025 (Shell AGM):***
> *Heathrow Airport Limited has become aware that some shareholders were concerned they may not be able to attend the Shell AGM given the terms of the Injunction. For the avoidance of doubt Heathrow Airport Limited does not consider that the terms of the Injunction have the effect of prohibiting or restricting the lawful attendance of any shareholder at the Shell AGM."*

41.6. It is submitted that this was a reasonable, constructive, proportionate and responsible stance for Heathrow to have adopted. It was clear, in response to those who raised a concern – and proactively as regards anyone else who may have shared the concern – that the Injunction should not prohibit Shell shareholders from attending the AGM to exercise their rights as such.

41.7. Moreover, each of Mr Rawstron and Mr Naker threatened to apply to Court to vary the Injunction absent what they considered to be satisfactory responses from Heathrow (see exchange of correspondence at **[D/10/234-239]**). Those applications did not materialise. That demonstrates both: (i) the satisfactory nature of Heathrow's response; and (ii) the fact that the ability of persons potentially affected by the Injunction to apply to Court to vary it is well understood.

41.8. Finally, the Court should be aware that (it seems) non-shareholders of Shell who wished to demonstrate against Shell's activities on the day of the AGM did so

outside Shell's headquarters in Central London on the same day: §81 & **[D/10/245]**. There was therefore no stifling of freedom of expression.

42. It is not realistically possible to anticipate every potential permutation of events which may occur in the course of this Injunction and which might reasonably cast some doubt on its precise scope, intended effect or appropriateness of its application to those particular events. Any attempt to draft an injunction which catered for all such potential eventualities would be too complicated to be of utility. There is sometimes a necessary trade-off between comprehensibility and comprehensiveness. It is submitted that the balance in the current form of Injunction is drawn in the right place, and that adequate mechanisms exist to finesse that balance in the event that unanticipated events require such consideration. Because of Heathrow's reasonable approach to the Shell AGM, no such consideration was required by the Court on that occasion.

Notice of this review hearing

43. Whilst a point that might logically fall to be considered at an early stage of this review hearing, it is convenient to raise it at the end of these written submissions so that the context can be better understood:

    43.1. The Injunction contains provision (at §11, by reference to §§10.2-10.2) for the notification of "persons unknown" of further documents in these proceedings, including therefore notice of this review hearing and the evidence relied upon by the Claimants and filed in accordance with §3 of that order: **[C/4/48*ff*].**

    43.2. There are then bespoke mechanisms for service of the same documents upon the Named Defendants, in accordance with §9 of the First Joinder Order **[C/5/65]** and §6 of the Second Joinder Order **[C/6/74]**.

    43.3. Mr Spencer confirms that notice of this hearing has duly been given in accordance with those mechanisms (§84 **[D/9/103]**), and that each of the defendants has been informed (by the same mechanism, on 26 June 2025) that the evidence filed in support (together with the hearing bundle) was to be made available electronically unless hard copies were required. Only one person (Ms Pauline Hazel Smith, D23) has requested such hard copies – which are being provided: §88.

43.4. The full hearing bundle was made available electronically on the injunction section of the Heathrow airport on 8 July 2025. A further update of the steps taken to serve and notify the defendants of this hearing and the documents filed in relation to it will be provided in a further witness statement from BCLP ahead of the hearing.

44. None of the Named Defendants has (yet) indicated any intention to attend the hearing or oppose the continuation of the Injunction. It may be relevant for the Court to know that there were no attendances by any respondent at the 10A Review Hearing.

Form of Order Sought

45. Consistent with the approach taken at the 10A Review Hearing, Heathrow respectfully suggests that it is desirable for the original Injunction to remain (so far as practicable) in the same form as is currently in force.

46. On the other hand, it is also convenient that the joinder of the Named Defendants now be reflected in the form of that order.

47. The draft Order in the hearing bundle, that the Court is asked to make, therefore reflects that approach: i.e. it simply continues the original injunction, as varied in the form of the schedule to the order (with the changes from the form of the original Injunction being shown in redline, and simply designed to incorporate the addition of the Named Defendants).

TOM ROSCOE

Wilberforce Chambers

17 July 2025

troscoe@wilberforce.co.uk
020 7306 0102