

Party: C
Name: J Pollock
Exhibit: JP
Date: 18 July 2024
Number: 1
Claim No: [...]

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

B E T W E E N:-

GATWICK AIRPORT LIMITED

Claimant

-and-

PERSONS UNKNOWN WHO, IN CONNECTION WITH THE JUST STOP OIL OR OTHER ENVIRONMENTAL CAMPAIGN, ENTER OCCUPY OR REMAIN (WITHOUT THE CLAIMANT'S CONSENT) UPON THAT AREA OF LAND KNOWN AS LONDON GATWICK AIRPORT (AS SHOWN FOR IDENTIFICATION OUTLINED IN YELLOW AND SHADED YELLOW AND BLUE ON THE PLAN 1 ATTACHED TO THE PARTICULARS OF CLAIM

Defendant

WITNESS STATEMENT OF JULIAN POLLOCK

I, **JULIAN POLLOCK**, of Herbert Smith Freehills LLP, Exchange House, Primrose Street, London EC2A 2EG **WILL SAY** as follows:

1. I am a partner in the firm of Herbert Smith Freehills LLP and I have conduct of this matter on behalf of the Claimant along with my partner Matthew Bonye.

2. I make this witness statement in support of the Claimant's application for an injunction to prevent protesters from trespassing and/or causing a public or private nuisance at London Gatwick Airport (as defined in the Particulars of Claim). I am authorised by the Claimant to give this witness statement on its behalf.
3. I have read the Particulars of Claim and the witness statement of Neil Harvey for the Claimant. I adopt the definitions in the Particulars of Claim.
4. Where the facts referred to in this witness statement are within my own knowledge, they are true. Where the facts are not within my own knowledge, I believe them to be true and I have provided the source of my information.
5. I refer to the exhibit marked **JP1** in this statement, which is 48 pages. They have been produced to me and I verify that the documents in those exhibits are true copies of the documents. References in this witness statement to the page numbers in **JP1** are marked "**JPx**".

Titles and Third Party Areas

6. There is now produced to me and shown to me at page **JP2** of the exhibit marked JP1 a plan which shows the extent of the Claimant's registered titles at HM Land Registry and the extent of the proposed injunction ("**Plan 1**"). The land shown shaded yellow and shaded blue on Plan 1 shows the extent of the footprint of London Gatwick Airport. HB-163
7. Part A of the Title Schedule to the Particulars of Claim comprises a table which lists the registered titles at HM Land Registry which are owned either freehold or leasehold by the Claimant. Plan 2 included in the exhibit marked **JP3** shows the freehold titles owned by the Claimant edged in red and the leasehold titles owned by the Claimant edged in blue. The outline of London Gatwick Airport on Plan 2 is identical to the outline of the yellow and blue shaded areas on Plan 1. HB-164
8. Some of the registered titles listed in Part A of the Title Schedule to the Particulars of Claim are subject to intragroup lease and lease back arrangements put in place by the Claimant in 2015 (the "**Leaseback Arrangements**"). The Claimant granted long leases of various parts of London Gatwick Airport to Ivy Bidco Limited (Co Regn. No. 06879093) for a term of 250 years. Ivy Bidco Limited is a group company of the Claimant. Ivy Bidco Limited leased back such areas to the Claimant for a term of 100 years. The registered titles held by Ivy Bidco Limited and the Claimant pursuant to the Leaseback Arrangements are set out in the table annexed to the Particulars of Claim. Subject to paragraph 11.4 below, the Claimant therefore has an immediate right to possession of these areas.

9. Copies of the registered titles and title plans for London Gatwick Airport are included in a separate bundle that will be available at the hearing.
10. The edges of the yellow and blue shaded areas on Plan 1 generally follow the boundary features of London Gatwick Airport, which is generally surrounded by a perimeter fence/hedgerows/gates (with gaps for entrances and exits).
11. I am informed by Jonathan Kalman (a solicitor employed by Gatwick Airport Limited) that to the best of his knowledge:
 - 11.1 London Gatwick Airport comprises car parks, terminal buildings (with facilities for the processing of passenger and other freight traffic), retail areas, lounge / café / refreshment areas, border control facilities, security points, customs and excise facilities, runways, taxiways, fuel facilities, management / airline facilities, offices, cargo facilities, hangars and hotels. London Gatwick Airport also has a railway station (which is not on land owned or occupied by the Claimant).
 - 11.2 Some of those facilities (including for example the cargo area and retail areas in the main terminal buildings) are situated on land which is the subject of leases or other occupational arrangements including licences (the "**Third Party Areas**").
 - 11.3 Given the large number of Third Party Areas and their locations throughout London Gatwick Airport and the urgency of the application for injunction, it is not proportionate or practicable to show the Third Party Areas by reference to a plan or to list them.
 - 11.4 The Claimant does not have an immediate right to legal possession or control of the Third Party Areas.
12. A colleague at Herbert Smith Freehills LLP prepared Plan 3 using Orbital Witness. The Orbital Witness software allows publicly available information in respect of highways to be mapped on to plans. Plan 3 **[JP4]** shows areas of highway maintained at public expense within the boundaries of London Gatwick Airport. It was not possible in the time available and given the urgency of the application to apply for a full highways search, which can take several weeks to come back. The Claimant (via my firm) also carried out a local authority search in 2018, and there was nothing in that search result to suggest then that there were any areas of public highway within London Gatwick Airport, and in any event I have been informed by Jonathan Kalman that as far as he is aware the Claimant maintains and manages the roads within London Gatwick Airport, and they are not maintained (nor as far as he is aware, maintainable) at public expense. In any event, the roads within London Gatwick Airport are on the Claimant's private land.

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Environmental protests at oil terminals

13. Early in 2022, Just Stop Oil, Extinction Rebellion and Youth Climate Swarm announced a campaign to target oil and gas infrastructure.
14. Direct action occurred in March-April 2022 following the announcement. By way of example only:
 - 14.1.1 the Kingsbury Terminal in Staffordshire (operated by, amongst others, Valero Energy Limited) was the subject of particularly aggressive direct action by anti-fossil fuel protestors which prompted Valero Energy Limited (and 2 of its group companies) to seek an injunction to restrain acts of trespass and nuisance on their oil refinery and oil terminals;
 - 14.1.2 four of Esso's oil terminals were targeted including West London, Hythe, Purfleet and Birmingham; and
 - 14.1.3 the Buncefield oil terminal was the subject of direct action.
- 14.2 The evidence relied upon by the Claimant in the Valero case included a Witness Statement from Benjamin Smith (Assistant Chief Constable for Warwickshire Police) dated 10 April 2022.
- 14.3 Mr Smith's Witness Statement refers to serious incidents involving obstruction of access to and from the Kingsbury Terminal (using a variety of tactics including individuals climbing on to the top of oil tankers, gluing themselves to road surfaces and using "lock-on" devices). He also refers to more than 500 arrests having been made between 31 March and 10 April 2022:

Date	Arrests
31 March – 1 April	42
2 April – 3 April	68
5 April	88
7 April	127
9 – 10 April	180

- 14.4 Mr Smith's Witness Statement includes the following text below a heading "Police Operation":

The scale and duration of the policing operation has been one of the most significant that I have experienced in my career. Large numbers of officers, drawn from right across the force, have been deployed to Kingsbury day and night since the 1st April. This has meant that we have had to scale down some non-emergency policing services, including those that serve North Warwickshire. Although core policing services have been effectively maintained across the County during this period, the protests have undoubtedly impacted on the quality and level of the policing service that we are able to deliver. Officers who may have ordinarily been policing the communities of North Warwickshire have had to be redeployed to support the policing operation linked to Kingsbury. It has also meant that we have had to bring in additional officers from other regional forces, in addition to more specialist teams such as working at heights teams and protest removal teams. All of these will come at significant additional cost to the force and ultimately the public of Warwickshire.

- 14.5 Mr Smith's Witness Statement includes the following text below a heading "Community Impact":

The impact on the local community has been substantial. There have been almost daily road closures of the roads around the oil terminal which has created disruption and inconvenience. The M42 has also been disrupted on occasions as a result of the protest activity. There has been a significant policing presence since the 1st April which I am sure has created a level of fear and anxiety for the local community. The policing operation has also extended into unsociable hours with regular essential use of the police helicopter overnight disrupting sleep. The reckless actions of the protestor has also created increased risk of potential fire or explosion at the site which would likely have catastrophic implications for the local community including the risk of widespread pollution of both the ground, waterways and air. Finally, the actions of the protestors has impacted the supply of fuel to petrol forecourts in the region, leading to some shortages, impacting upon not only local residents but the broader West Midlands region.

- 14.6 A copy of Assistant Chief Constable Benjamin Smith's witness statement is now produced and shown to me marked **JP5**.

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- 14.7 Although Valero was the first major oil company to seek an injunction (as Kingsbury Terminal was the first to be targeted by JSO), most of the other major oil companies followed their example:

Valero Energy Ltd Valero Logistics UK Ltd Valero Pembrokeshire Oil Terminal Ltd	QB-2022-000904
Esso Petroleum Company Ltd ExxonMobil Chemical Ltd	QB-2022-001098
Essar Oil (UK) Ltd Stanlow Terminals Ltd Infranorth Ltd	PT-2022-000326
Navigator Terminals Thames BV Ltd Navigator Terminals Seal Sands Ltd Navigator Terminals North Tees Ltd Navigator Terminals Windmill Ltd	QB-2022-01139
Exolum Pipeline Systems Ltd	QB-2022-001142
Shell International Petroleum Company Ltd	QB-2022-001259
Shell U.K. Ltd	QB-2022-001241
Shell U.K. Oil Products Ltd	QB-2022-001420

14.8 The general consensus has been that the injunctions have proved to be an effective deterrent against unlawful acts of trespass and nuisance. This appears to have been confirmed by Just Stop Oil itself. In response to a comment from a member of the public on Twitter (now formally known as “X”) suggesting that protests ought to be carried out at oil refineries, JSO tweeted on 9 June 2023:

Do you know what happens if you protest outside oil refineries now? Oil companies have brought injunctions to ban people from taking action at refineries, distribution hubs, even petrol stations. Punishments for breaking injunctions range from unlimited fines to imprisonments.

14.9 Most of the injunctions referred to in the table above have been extended and remain in force (typically for 5 years but on terms which provide for an annual review by the High Court) and they continue to be an effective deterrent. I am not aware of any applications to commit individuals for breach of them.

14.10 North Warwickshire Borough Council also obtained an injunction to restrain protestors from obstructing highways in the vicinity of Kingsbury Terminal (QB-2022-001236). This injunction also remains in place, although a trial was heard in June 2024 with judgment reserved.


14.11 Thurrock Council and Essex County Council obtained an injunction to restrain protestors from obstructing roads in the vicinity of Navigator Terminals in West Thurrock, the Esso Fuel Terminal in Purfleet and the Exolum Fuel Terminal at Grays (QB-2022-001317). Again this injunction remains in place with a trial listed on 9 October 2024.


14.12 In November 2022, National Highways Ltd sought an injunction to restrain trespass on gantries and other structures over, under or adjacent to the M25 motorway (QB-2022-

00433). Although this injunction has lapsed, I understand from the Order of Mrs Justice Collins-Rice dated 26 April 2024, that the conduct which was restrained by that particular injunction is covered by a wider injunction (extending to the M25, M25 feeder roads and Kent roads) which National Highways Ltd obtained in separate proceedings (QB-2021-003737) in 2021 (as a response to protests conducted by Insulate Britain).

14.13 On 13 September 2023, JSO posted on X in the following terms:

Disruption is frustrating, but we have no other choice. Fossil fuel companies have taken out private injunctions that make protests impossible at oil refineries, oil depots and even petrol stations.

 *Our government issued 100 new oil and gas licences, confirming their disregard of human life. This is a last ditch attempt to stop our corrupt government taking more lives.*

 *They know new oil and gas is genocide – take action now at <http://juststopoil.org>*

14.14 The post on X featured a video in which JSO protestors were seen protesting along a highway. The URL for the post on X is:

https://x.com/JustStop_Oil/status/1701903086057386177.

Other Airport Injunctions

15. I refer to the witness statement of Neil Harvey, the Head of Operations at London Gatwick Airport, which I have seen as a final draft and which sets out (among other things) the details of the threats made to airports by protest groups such as Just Stop Oil and recent incidents of actual and attempted disruption and trespass by protesters in Munich, at London Stansted Airport and London Gatwick Airport.

16. I am aware of three other injunctions which have been granted to prevent protestors accessing land operated as airports:

16.1 On 20 June 2024, Mr Justice Julian Knowles granted a “without notice” injunction in favour of London City Airport based on the threat from JSO (QB-2024-001765). A copy of that Order and a Note of the Hearing is attached to this witness statement marked **JP10**.

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16.2 On 5 July, Her Honour Judge Coe K.C. granted a “without notice” injunction in favour of Manchester Airport, Stansted Airport and East Midlands Airport based on the threat from

JSO and Extinction Rebellion (KB-2024-002132). A copy of that Order and a Note of the Hearing is attached to this witness statement marked JP35.

- 16.3 On 9 July 2024, Mr Justice Julian Knowles granted a “without notice” injunction in favour of Heathrow Airport based on the threat from JSO (KB-2024-002210). A copy of that order and a Note of the Hearing is attached to this witness statement marked JP40.
17. The size and prominence of London Gatwick Airport makes it a likely target of similar real and present threats of disruptive environmental protests this year and that injunctions of this nature will assist in protecting these airports. I believe the fact that London Gatwick Airport is now one of the few large airports in the UK without a similar injunction is likely to heighten the risk of protesters with an agenda to disrupt airports this summer to target London Gatwick Airport.

Proceeding against Persons Unknown

18. The Claimant does not know the identities of the individuals who have already attempted to protest at London Gatwick Airport. In any event, as Neil Harvey explains in his witness statement, those people (along with any others whose names the Claimant knows because they have already carried out a protest on an airport site) have already been arrested and charged.
19. The Claimant does not know which particular protest groups (or persons within those groups) are likely to attempt to enter London Gatwick Airport on any specific day, nor would it be appropriate for it to name only individuals who happened to have engaged in similar protests in the past.
20. The Claimant has therefore brought these proceedings against persons unknown who intend to trespass and/or cause a public or private nuisance at London Gatwick Airport (“**Persons Unknown**”). It does so now, conscious that groups such as Just Stop Oil have threatened and have disrupted airports in 2024, increasing the likelihood that such activity will occur at London Gatwick Airport.

Advertisement

21. The Claimant has decided to make this application for an injunction without beforehand notifying Persons Unknown (by the methods proposed in the section below). It is appreciated that this is an exceptional step but the Claimant believes there are compelling reasons for doing so:

- 21.1 the Claimant is concerned that if Persons Unknown are notified in the usual way, London Gatwick Airport will be deliberately targeted and direct action will take place before an injunction is in place. This would defeat the very purpose of the injunction; and
- 21.2 the potential for direct action is of serious concern to the Claimant for the reasons set out in the Witness Statement of Neil Harvey. In particular, London Gatwick Airport is worried about the security, health and safety risks posed by direct action that may take place on runways and airplanes, the risk of disruption to its customers and cargo transportation and the risk of financial loss. If notice of this claim and application were to accelerate the carrying out of direct action at London Gatwick Airport, it would give rise to the exact risks the Claimant was intending to prevent.

Alternative Service/Notification

22. The Claimant proposes to take the following steps to bring the claim form, application notice, witness evidence and any order made by the Court to the attention of Persons Unknown by:
- 22.1 Uploading the documents to Gatwick Airport Limited's website, url www.gatwickairport.com/injunction.html.
- 22.2 Affixing warning notices in each of the locations at regular intervals around the perimeter fence and at suitable entrances/exits:
- 22.2.1 the proceedings;
- 22.2.2 the fact that an injunction is now in place covering London Gatwick Airport;
- 22.2.3 the fact that the court documents:-
- (A) may be viewed on the relevant website (and providing the relevant URL);
- (B) the fact that copies of the court documents may be obtained from the Claimant's solicitors and providing the relevant contact details;
23. Sending an email message providing the same information as that contained in the warning notices to Just Stop Oil's general and press enquiries inboxes (info@juststopoil.org and juststopoilpress@protonmail.com) and to Extinction Rebellion's email address (enquiries@extinctionrebellion.uk);
24. A draft of the warning notice will be available at the hearing for the Court.
25. By taking these steps, the Claimant believes the proceedings, the application notice and the Order will come to the attention of Persons Unknown. These are the steps which the Court

ordered be taken to bring the documents to the attention of Persons Unknown in the other airports injunctions I refer to above.

Full and frank

26. As this is a without notice injunction, I am aware that the Claimant has to give full and frank disclosure and I confirm that the Claimant has given full and frank disclosure of all facts, matters and arguments which, after reasonable research, they are aware or could with reasonable diligence ascertain and which might affect the decision of the Court on whether to grant the order or the terms of the order it is prepared to make.
27. It might be said that the conduct the Claimant is concerned about and which they seek to prohibit by the injunction sought is a criminal offence under the byelaws for London Gatwick Airport, set out in the witness statement of Neil Harvey, and section 64 of the Airports Act 1986 and/or could be prosecuted under the Public Order Act 2023.
28. Despite that being the case, the Claimant seeks an interim injunction for the following reasons:
29. It appears, from other cases, that interim injunctions have proved to be a more effective deterrent against direct action than the possibility of protestors being charged with criminal offences:
- 29.1 As set out above, police arrested over 500 people in connection with the protests at the Kingsbury Terminal between 31 March 2022 and 10 April 2022. The dates on which those arrests occurred, as shown in paragraph 14.3 above, indicates that protestors were not

deterred by arrests having happened on earlier dates; in fact, the table suggests that instead as time went on the protests started to increase in size.

29.2 I am aware from the summary judgment decision of Ritchie J in *Valero Energy Ltd v Persons Unknown* [2024] EWHC 134 (KB) that:

29.2.1 The first injunction was granted to Valero in late March 2022, restricting access to 8 sites including the Kingsbury site.

29.2.2 Despite that, between 1 April and 7 April 2022 and 9 and 15 April 2022, protestors attended the Kingsbury Terminal.

29.2.3 The protestors also targeted other owners' sites.

29.2.4 On 11 April 2022, the interim injunction was replaced by an order of Bennathan J.

29.2.5 The evidence in support of the final injunction included evidence that the interim injunctions in combination with those obtained by Warwickshire Borough Council had significantly reduced protest at the Kingsbury site (see [39]) and that, since June 2023, JSO had carried out their protests on different sites (see [40]), although I do note there were 9 dates on which protests had occurred at sites covered by the injunction in April 2022, May 2022, August 2022 and September 2022 (see [29]).

29.2.6 The significant reduction in protest activity at a site following an interim injunction being obtained appears to have also occurred in other cases. For example, as was set out in Hill J's decision in *Shell UK Ltd v Persons Unknown* [2023] EWHC 1229 (KB) at [31], there was evidence that the injunction of Bennathan J in respect of Shell Centre Tower had had a strong deterrent effect as there were no incidences of unlawful activity following it. However, corporate buildings had been the target of unlawful activity since the injunction was made. That is also supported by JSO's own comments on X on 13 September 2023.

29.2.7 From the cases where interim injunctions have been granted and then later reviewed, there seems to be a pattern of behaviour where the interim injunctions against protestors result in protests ceasing entirely or reducing significantly at the location subject to the injunction and the protestors moving to other sites.

29.2.8 On the other hand, any offence committed under section 63 of the Airports Act 1986 by a breach of the byelaws would be punishable only by a fine with the

maximum fine being £2,500 by virtue of section 64(2) of the Airports Act 1986 and section 122(1) of the Sentencing Act 2020.

- 29.3 In addition, any enforcement of the byelaws by way of criminal proceedings (1) could occur only after the protests had occurred; and (2) would likely take some time to come to a final decision; and (3) would be punishable only by a fine with the maximum fine being £2,500 by virtue of section 64(2) of the Airports Act 1986 and section 122(1) of the Sentencing Act 2020. For the reasons set out in Mr Harvey's witness statement, any protests at the airports have the potential to produce significant adverse consequences, security risks and could be potentially dangerous. Delayed prosecutions after the protests have occurred will not prevent the harm, that the Claimant is concerned about, from occurring.
- 29.4 The same is true for the offence under section 68 of the Criminal Justice and Public Order Act 1994 and any Public Order Act 2023 offences, although the offences under section 68 of the 1994 Act and of locking on under section 1 of the 2003 Act carry the potential of a custodial sentence for up to six months or a fine, and the offence of interfering with national infrastructure under section 7 of the 2003 Act carries a maximum of a 12 month sentence (if tried in the Crown Court). Mr Harvey's witness statement has set out that the Stansted airport protestors have been charged with offences under section 68 of the Criminal Justice and Public Order Act 1994 and under section 7 of the Public Order Act 2023 (as well as criminal damage). The risk of that did not seem to deter them from the direct action on 20 June 2024 and their arrests and charges do not appear, from the comments made to the press after direct action and the meeting on 27 June 2024, to have deterred Just Stop Oil generally.
30. In addition, an article dated 6 October 2023, which was published originally on the Daily Mail online, stated that Just Stop Oil protestors compete to see who can get arrested on the most occasions "in a bid to win prizes". A copy of this story is attached to this witness statement marked "JP31".

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Undertaking in Damages

31. I cannot think of a situation where someone affected by the injunction could suffer loss or damage as a result of it. I am nonetheless authorised on behalf of the Claimant to provide the necessary cross-undertaking to pay any sum that the Court considers appropriate to compensate the Defendants for any loss if it is subsequently determined that the Claimant is not entitled to the order which they seek.
32. The Claimant's company accounts filed on 13 April 2024 show a profit for the financial year ending 31 December 2023 of £186.3 million (following a profit of 2022 of £93.1 million), net assets of £213.7 million and net current assets of £-180.8 million.

STATEMENT OF TRUTH

I believe the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

SIGNED: *J. Pollock*

JULIAN H POLLOCK

Date: 18 July 2024.....