

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 6 September 2024

**Before :**

**HHJ Emma Kelly sitting as a Judge of the High Court**

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**Between :**

**NORTH WARWICKSHIRE BOROUGH  
COUNCIL**

**Claimant**

**- and -**

**THE DEFENDANTS LISTED AT SCHEDULE A  
TO THIS JUDGMENT**

**Defendants**

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**Mr Jonathan Manning and Ms Charlotte Crocombe** (instructed by North Warwickshire Borough Council, Legal Services) for the Claimant.

**Ms Alison Lee** (8<sup>th</sup> Defendant), **Ms Joanna Hindley** (78<sup>th</sup> Defendant) and **Ms Chloe Naldrett** (115<sup>th</sup> Defendant) in person and who participated in the hearing.

**Mr Timothy Hewes** (4<sup>th</sup> Defendant), **Mr Stephen Pritchard** (9<sup>th</sup> Defendant), **Mr Paul Raithby** (11<sup>th</sup> Defendant), **Mr Marcus Bailie** (25<sup>th</sup> Defendant), **Mr David Robert Barkshire** (32<sup>nd</sup> Defendant), **Ms Molly Berry** (33<sup>rd</sup> Defendant), **Ms Kate Bramfitt** (37<sup>th</sup> Defendant), **Ms Zoe Cohen** (49<sup>th</sup> Defendant), **Ms Ruth Jarman** (84<sup>th</sup> Defendant), **Mr Charles Laurie** (91<sup>st</sup> Defendant), **Ms Victoria Lindsell** (93<sup>rd</sup> Defendant), **Mr Christian Murray-Leslie** (113<sup>th</sup> Defendant), **Ms Stephanie Pride** (125<sup>th</sup> Defendant), **Ms Vivienne Shah** (135<sup>th</sup> Defendant), **Ms Sarah Webb** (150<sup>th</sup> Defendant) in person but who observed the hearing only.

**Ms Caroline Cattermole** (46<sup>th</sup> Defendant), **Ms Diana Martin** (98<sup>th</sup> Defendant), **Mr Nicolas Onley** (121<sup>st</sup> Defendant) and **Mr Daniel Shaw** (137<sup>th</sup> Defendant) in person by remote link but who observed the hearing only.

Hearing dates: 11-12 June 2024.

Judgment handed down: 6 September 2024  
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**APPROVED JUDGMENT**

## **HHJ Emma Kelly:**

### Introduction

1. This is a claim for an injunction to restrict protests inside and in the locality of an inland oil terminal known as Kingsbury Oil Terminal (“the Terminal”) in Kingsbury, Warwickshire. The claim is brought by North Warwickshire Borough Council (“the Council”). The Terminal is situated within the geographical area for which the Council has responsibility.
2. The claim arises from protest activities undertaken at and around the Terminal by individuals associated with the action group known as Just Stop Oil. Just Stop Oil is a civil resistance group whose aims are to end all new licensing and consents for the exploration, development and production of fossil fuels in the United Kingdom. The named defendants are individuals said to have engaged in protest activities at the Terminal. The Council also pursues four categories of persons unknown defendants.

### **Background**

3. From around 31 March 2022 to 10 April 2022 there were a series of protests at the Terminal by individuals associated with Just Stop Oil. I shall address the details of those protests in due course but they included both trespass onto the Terminal site and protests on land adjacent to the Terminal, including on the public highway.
4. In response to the protests, on 13 April 2022 the Council issued an application for a without notice interim injunction and power of arrest against 18 named defendants who had been arrested at a protest at the Terminal and a further unnamed defendant defined as “Persons Unknown who are organising, participating in or encouraging others to participate in protests against the production and/or use of fossil fuels, in the locality of the site known as Kingsbury Oil Terminal, Tamworth, B78 2HA.”
5. By order dated 14 April 2022 Sweeting J granted a without notice interim injunction. In summary, the order prohibited any protest against the production or use of fossil fuels at the Terminal within an area demarcated on a plan attached to the injunction or within a ‘buffer zone’ of five metres of those boundaries. The order further prohibited certain types of conduct in connection with any such protest taking place anywhere within the wider ‘locality’ of the Terminal. The prohibited conduct was detailed in eleven sub-paragraphs and included activities such as obstructing the entrance of the Terminal, climbing onto or otherwise damaging or interfering with vehicles or objects, damaging pipes and equipment, and tunnelling under land. A power of arrest was attached to the order.
6. Following the grant of the interim order, there was further protest activity at the Terminal and the police exercised the power of arrest against various individuals said to fall within the definition of the persons unknown defendant. Again, I will revert to the detail of those ongoing protests in due course.

7. On 5 May 2022 Sweeting J heard the on notice return date of the interim injunction and an application by a Mr Jake Handling (73<sup>rd</sup> defendant and a protestor arrested for alleged breach of the interim order) and a Ms Jessica Branch (claiming to be an interested party) to discharge the interim injunction. The Council sought continuation of the interim injunction to trial but no longer required a five metre buffer zone around the perimeter of the Terminal. Sweeting J continued the interim injunction in an amended form and the power of arrest until the hearing of the claim. He gave reasons for his decision in a judgment handed down on 14 July 2023: [2023] EWHC 1719 (KB). The terms of the amended interim injunction are as follows:

“The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):

(a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the “Terminal”), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1.

(b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:

(i) entering or attempting to enter the Terminal

(ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal

(iii) obstructing any entrance to the Terminal

(iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)

(v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land

(vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)

(vii) erecting any structure

(viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal

(ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;

(x) abseiling from bridges or from any other building, structure or tree on land

or

(xi) instructing, assisting, or encouraging any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.”

8. Protest activity continued. Between April 2022 and September 2022 the police exercised the power of arrest attached to the interim order on a large number of occasions. In that period findings of contempt were made against some 72 individuals, including some who were found to have breached the injunction on two, three or four occasions.
9. By order dated 31 March 2023 Sweeting J granted the Council’s application to add a further 139 named defendants to the claim, being individuals who had been arrested at or in the locality of the Terminal in relation to protest activity after the interim injunction was granted and whose identities were now known. Case management directions were given to trial. The trial of the claim was due to take place in July 2023 but was adjourned on several occasions to await the decision of the Supreme Court in *Wolverhampton City Council v London Gypsies and Travellers* [2023] UKSC 47 (“*Wolverhampton*”).
10. By order dated 6 December 2023 Soole J extended the time for any defendant, or person who wished to be heard at the final hearing, to file and serve an acknowledgment of service to 4pm on 27 December 2023. His order provided that any defendant or person failing to comply with the same would not be permitted to defend or take any further role in these proceedings without further order of the court. No defendant or any other person filed an acknowledgment of service whether by 27 December 2023 or otherwise.
11. As the claim has progressed, a number of the defendants offered undertakings that were acceptable to the Council. At a hearing before Mould J on 22 May 2024, the Court accepted those undertakings and the interim injunction and power of arrest were discharged against those defendants. A further defendant, Mr Alex White (152<sup>nd</sup> defendant) was not able to attend the hearing on 22 May to proffer his undertaking but did so on 11 June 2024 and the interim relief against him was similarly discharged. A number of other defendants offered undertakings but the Council declined to accept them, largely on the basis that such individuals had been arrested at the Terminal after the interim injunction was granted on 14 April 2022 and the lack of ability to attach a power of arrest to an undertaking troubled the Council. As a result of the various undertakings, the number of defendants against whom the claim proceeds has reduced. Schedule A to this judgment sets out the defendants against whom there remains a live claim.
12. On the first day of the trial on 11 June 2024, a number of unrepresented defendants attended the hearing. Of those attending, the majority simply wanted to observe the proceedings. However three defendants, Ms Alison Lee (8<sup>th</sup> defendant), Ms Joanna Hindley (78<sup>th</sup> defendant) and Ms Chloe Naldrett (115<sup>th</sup>

defendant) wished to address the court. I explained the effect of the order of Soole J and indicated that any defendant wishing to apply to participate in the hearing would be required to file an application for relief from sanctions. Each of the three defendants filed written applications for relief from sanctions, which I heard on the afternoon of the first day of trial. The three defendants did not seek to cross-examine the Council's witnesses or call any evidence of their own. They simply wanted a short opportunity to address the court by way of closing submissions. I granted each of their applications for relief from sanctions limited to permitting each to address the court in closing for 10 minutes on condition of serving a short document setting out the bullet point issues they wished to cover. Each defendant complied with those directions.

13. At the start of the trial, the Council applied to amend the definition of the persons unknown defendant to address concerns expressed by Sweeting J in his judgment on the interim order that the current definition did not provide sufficient particularity as to the conduct alleged to be unlawful. The Council's primary position was that, following the decision of the Supreme Court in *Wolverhampton*, there was no longer a need to amend the definition. If however the Court disagreed, the Council sought to amend the definition to include particulars of conduct in four new categories of persons unknown. For the reasons given in an ex tempore judgment on 11 June 2024, I concluded that the definition remained inadequate but granted permission for the Council to amend the claim to include what have become defendants 19A, 19B, 19C and 19D. The detail of those descriptions appears in Schedule A to this judgment.

### **The evidence**

14. The factual evidence relied on by the Council was unchallenged. The only witness to give oral evidence was Mr Steven Maxey, the Council's Chief Executive. Mr Maxey adopted the contents of five witness statements he had made during the course of the proceedings and dated 13 April 2022, 3 May 2022, 18 January 2024, 20 February 2024 and 5 June 2024.
15. In addition, the Council relied on written evidence from the following individuals who were not called to give oral evidence:
  - i) Mr David Smith, Temporary Assistant Chief Constable for Warwickshire Police, dated 10 April 2022.
  - ii) Mr Jeff Morris, Delivery Lead for Warwickshire County Council County Highway Services, dated 12 April 2022.
  - iii) Mr Stephen Brown, Distribution Operations Manager for Shell International Petroleum Company Limited, dated 13 April 2022.
16. The Council concluded it was not proportionate to call the aforementioned three witnesses in circumstances where no defendant had elected to acknowledge service and defend the claim. Mr Smith's witness statement has been prepared in a form that complies with s.9 of the Criminal Justice Act 1967 rather than containing a statement of truth in the wording required by Civil Procedure Rule Practice Direction 22 para. 2.2. Mr Smith exhibits to his statement a number of

statements from various police officers involved in policing protests at the Terminal in April 2022. Those statements are also in s.9 form and have signed declarations as to the truth of the contents of the statements. The lack of statements of truth in a CPR PD 22 compliant form does not, in my judgment, detract from the cogency of the written evidence in light of the otherwise formal manner in which the statements have been prepared with signed declarations of truth.

17. The Council's evidence provides a detailed picture of the Terminal and protest activity that has occurred both within and in the locality of the Terminal. The salient points of the evidence are set out below.

### **The Terminal**

18. The Terminal is a series of inland oil terminals with 50 storage tanks and storage capacity for around 405 million litres of flammable liquids. It comprises four separate but neighbouring oil terminal sites which are located on the edge of the village of Kingsbury. The sites comprising the Terminal are operated by Shell UK Ltd, United Kingdom Oil Pipelines Ltd, Warwickshire Oil Storage Ltd and Valero Energy Ltd. Those companies have formed the Kingsbury Common User Group which enables the management of specific shared assets such as fire-fighting systems and allows operators to discuss common issues.
19. The Terminal is an 'Upper Tier' site for the purposes of the Control of Major Accident Hazards Regulations 2015 ("COMAHR") by virtue of the large quantities of dangerous substances that are present on site. It is said to be one of the largest oil terminals in the country.
20. The Terminal is a multi-fuel site, storing and distributing petrol and diesel (both standard and V-power), heating oils and aviation fuel. Most of the fuel, save for additives or biofuels which are imported by road, is fed into the Terminal by pipeline from the United Kingdom Oil Pipeline system. The products are then distributed from the Terminal using road tankers. Hundreds of vehicles enter and exit the Terminal each day. The Terminal is described as a critically important supply point for the Midlands. In addition to distributing fuel to petrol station forecourts, it supplies major airports in the region including Birmingham International and East Midlands airports.
21. There are various security measures at the Terminal. For example, the part of the Terminal operated by Shell UK Ltd is surrounded by six foot high palisade fencing or six foot high chain link fencing. Pedestrian access is via turn-style gates and vehicular access via locked gates. Only visitors or employees with a designated pass can gain access. All vehicles entering the site have to be registered on Shell UK Ltd's internal system and have vehicle and driver accreditations. There is a 24 hour, 7 day a week security presence with high-definition CCTV and security guards working day and night. Operational plans for the Terminal include a requirement that "all controlled items (mobile phones, cigarettes, lighters, paging units, matches etc) should be handed over at the Terminal Control Room...due to potential presence of explosive atmospheres."

### **The surrounding area**

22. The Terminal lies to the east of the village of Kingsbury and to the south-west of the smaller village of Piccadilly. The villages of Kingsbury and Piccadilly have approximately 8000 residents with some of the residential areas being no more than a few hundred metres from the Terminal. A railway line abuts parts of the Terminal on the Kingsbury side of the site and other nearby land is used by the Ministry of Defence as rifle ranges. The area is well connected to the motorway network with a junction of the M42 being nearby.
23. Kingsbury lies on the River Tame which has a catchment area spanning Birmingham, Solihull, Sandwell, Walsall, Tamworth, Nuneaton and Hinckley. Locally there are 8 sites of special scientific interest, 7 local nature reserves and 27 non-statutory sites of local importance.

### **The protest activity**

24. On 31 March 2022 to 1 April 2022 around 40 protestors attended the Terminal in possession of glue and devices to lock themselves onto objects. Some of the protestors stopped and then climbed onto oil tankers which were trying to access or egress the Terminal. Other protestors glued themselves to the road and sat in the roadway to the main entrance to the Terminal. The police stopped a Ford Transit van which contained a large quantity of timber, climbing ropes, food stuffs and devices for locking on. The occupants of the van freely admitted that the contents of the van were for building a tree house and encampment. Distribution operations at the Terminal were suspended and the police made 42 arrests.
25. At around 1930 hrs on 2 April 2022 approximately 40 protestors attended the Terminal and blocked the main entrance to the Terminal. Some glued themselves to the carriageway and others appeared to be using a long tube to chain themselves together. Others climbed on top of oil tankers. The activity continued throughout the night and into 3 April. Operations at the Terminal were suspended. It partially reopened at 1730hrs with protesters remaining on site until midnight. The police made various arrests throughout the day and, taken with the arrests of the previous day, the total number of arrests increased to 68.
26. At around 0730 hrs on 5 April 2022 around 20 protesters attended the Terminal and again blocked the main entrance, locking onto each other and gluing themselves to the carriageway. Two others climbed on top of an oil tanker holding a 'save the oil' sign. Their presence prevented the tanker from moving. Operations at the Terminal were again suspended, only resuming at around 1100hrs. However, at around 1130 hrs a second group of protesters targeted motorway junctions 9 and 10 of the M42, climbing onto oil tankers servicing the Terminal as those vehicles moved slowly off the slip roads. Operations at the Terminal were again suspended and traffic built up onto the motorway. The protesters were removed and the roads reopened at 1430hrs.
27. At around 0030 hrs on 7 April 2022 protesters approached the main entrance to the Terminal and attempted to glue themselves to the carriageway. As the police

were attending to those individuals, another group of around 40 protesters approached the rear of the Terminal across fields. They sawed through an exterior gate and scaled a fence to gain access to the Terminal. Once within the perimeter fencing, the protesters dispersed to a number of different locations. Some climbed on top of three large fuel storage tanks containing unleaded petrol, diesel and fuel additives. Two others entered insecure cabs of fuel tankers and secured themselves inside using a lock on device. Others climbed on top of two fuel tankers, onto the floating roof of a large fuel storage tank and into a half-constructed fuel storage tank. The protestors used a variety of lock on devices to secure themselves to those structures. A complex police operation was initiated, utilising a variety of specialist teams, who worked alongside staff from the Terminal and fire service. The Terminal was not cleared of protesters until approximately 1700 hrs.

28. On 9 April 2022 further protest activity took place. At around 1050 hrs four protesters arrived at the main entrance to the Terminal and attempted to glue themselves to the carriageway. A short time later another protester was arrested trying to abseil from a road bridge over Trinity Road to the north of the Terminal. At around 1530 hrs a caravan was deposited at the side of the road on Piccadilly Way to the south of the Terminal. Some 20 protesters glued themselves to the sides and top of the caravan. It was later discovered that occupants within the caravan were attempting to dig, via a false caravan floor, a tunnel under the road. The police entered the caravan at around 0200 hrs on 10 April 2022 and the six occupants were arrested. Activity continued into 10 April with protestors scaling oil tankers and gluing themselves to the carriageway.
29. Between the 31 March and 10 April 2022 the police made approximately 180 arrests at or in the locality of the Terminal in relation to protest related activity. A common feature of many of the arrests is that the detainees were passively resistant, going limp and thus requiring the police officers to carry the individual into custody. Much of the protest activity was publicised on Just Stop Oil's website, which included videos and photographs of the protest activity. A video clip featuring an individual identified as John 'aka' Sean Jordan shows Mr Jordan on top of the caravan stating "...I am here with Just Stop Oil, we are currently on the tenth day of our campaign having started on 1<sup>st</sup> April..." The protests commonly featured orange Just Stop Oil livery on placards or banners and protestors wearing orange high-viz vests. On 12 April 2022 Just Stop Oil published a press release on their website stating: "We find ourselves, as others have done through history, having to do what is unpopular, to break the law to prevent a much greater harm taking place ... While Just Stop Oil supporters have their liberty the disruption will continue."
30. Following the granting of the without notice interim injunction on 14 April 2022 the protest activity at the Terminal reduced but did not cease. Between the 14 April and 14 September 2022 there were a further 14 protests resulting in over 120 arrests. The Council brought successful contempt applications against 72 protestors for 109 separate breaches of the interim injunction. In the various contempt proceedings, none of those arrested sought to challenge the claimant's



factual case that the protests were in relation to the production and/or use of fossil fuels.

31. At just before 0800 hrs on 26 April 2022 16 individuals gathered on a grass verge outside the main entrance to the Terminal. A peaceful protest, with various signs and banners, lasted for approximately two hours. By around 1000 hrs a number of the protesters spread out across the carriageway and sat down obstructing access to and egress from the Terminal. The protesters were arrested for breaching the interim injunction.
32. At just after 1600 hrs on 27 April 2022 a group of 10 individuals gathered on a grass verge to the side of the main entrance to the Terminal to protest against the production and use of fossil fuels. The protest was peaceful but inside the five metre buffer zone imposed by the original without notice injunction. The protesters were arrested and successful contempt proceedings followed.
33. At around 1135 hrs on 28 April 2022 a group of eight protesters, including some of those arrested on 27 April, engaged in a further peaceful protest adjacent to the external fencing to the terminal within the five metre buffer zone. The protesters were arrested
34. At approximately 1400 hrs on 4 May 2022 a group of 11 protestors attended the Terminal. They stood on a grass verge to the side of the entrance to the Terminal with placards and banners before moving to walking across the road outside the Terminal. The protest was peaceful but again inside the buffer zone. Some of those attending the protest on 4 May 2022 did so in defiance of a court order requiring them to attend court that day to face contempt proceedings in respect of events on 27 April. The protesters on 4 May 2022 were arrested and successful contempt proceedings followed.
35. At around 1400 hrs on 12 May 2022 a group of eight protestors attended the Terminal. A number of group sat down in the middle of the access road to the Terminal entrance blocking access.
36. On 24 August 2022 three protesters occupied a tunnel that had been dug alongside and under Piccadilly Way, some 400 metres from the Terminal. The incident was publicised by Just Stop Oil on its social media platforms, which posted details of the protestors' support of Just Stop Oil's aims together with video footage and video stills taken inside the tunnel. Contempt proceedings against two of the protesters failed for want of service of the interim injunction and the proceedings against the third succeeded only in respect of his occupation of the tunnel for a limited period of time following service of the order after entry into the tunnel. The existence of the tunnel and its occupation in conjunction with a protest in the locality of the Terminal nonetheless occurred.
37. At approximately 1130 hrs on 14 September 2022, 51 protesters were arrested in connection with a protest on the private access road to the entrance to the Terminal. The protest was peaceful but its location blocked access and egress to the Terminal with many of the protestors sitting across the carriageway. Some held Just Stop Oil banners and others wore orange high viz vests featuring the Just Stop Oil logo.

38. There have been no protests at the Terminal since September 2022. Mr Maxey's evidence is however that the Council has since been targeted by protestors associated with Just Stop Oil.
- i) In August and September 2023 various councillors received emails from named defendants including Sarah Webb, Catherine Rennie-Nash, Bill White, Karen Wildin and Clare Walters. Each defendant was critical of the Council's action in pursuing this claim.
  - ii) On 21 September 2023 protestors attended the Council's offices with banners and positioned themselves near to one of the entrances.
  - iii) On 27 September 2023 protestors interrupted a Council meeting, refused the Mayor's request for order and refused to leave the Council chamber causing the meeting to be suspended. The matter was only resolved following intervention by the police.
  - iv) Mr Maxey subsequently met with some of the protestors to hear their complaints. He states that the protestors informed him that they took the view that the Council should not have obtained the interim injunction as it was preventing their protests from causing the disruption which they thought was necessary given their concerns about climate change.

#### **The impact of the protest activity**

39. The protests caused significant disruption to the operation of the Terminal, at times causing operations to be suspended. The disruption impacted on the companies operating from the Terminal, individual staff members working at the Terminal and others, such as tanker drivers, who were required to visit the Terminal as part of their work.
40. There is also evidence of the protests causing more widespread harm and risk of harm. Mr Smith, Temporary Assistant Chief Constable for Warwickshire Police, provides evidence as to the impact of the protests on police resources. He describes the policing operation as being one of the most significant he has experienced in his career. Large numbers of officers were deployed from across the force to the Terminal day and night. This caused non-emergency policing services to be reduced and, although core policing services were maintained, the protests impacted on the quality and level of policing available during that period. Officers who would otherwise have been policing communities, roads or supporting victims of crime were taken away from those duties to police the protests. The scale and sophistication of the protests meant that Warwickshire Police had to bring in additional police officers from other regional forces, in addition to specialist policing teams such as the working at heights teams and protest removal teams. Mr Smith reports this coming at significant additional financial cost to the police force.
41. The protests had an impact on the local community and beyond. A number of public highways around the Terminal had to be closed causing inconvenience to members of the public. The protest activity extended to disruption on the M42 motorway. Mr Smith considers that the significant police presence during the

protests created a level of fear and anxiety in the local community. He acknowledged the community had been disturbed by the large policing operation which had extended into unsociable hours and occasioned regular essential overnight use of the noisy police helicopter. The impact of the protests extended beyond the immediate community and across the wider West Midlands region, with fuel shortages occurring at some petrol station forecourts.

42. The protests also impacted Warwickshire County Council. Mr Morris, of County Highways Service, explains that the digging of the tunnel under the road on 9 and 10 April 2022 resulted in County Highways Engineers attending out of hours, a manual operative attending from Balfour Beatty, the emergency closing of the road and remedial works being required. He understands the cost to the taxpayer of his department's involvement to be in the region of £3189.95.
43. A number of the Council's witnesses comment on their concerns for public safety should protest activity at the Terminal cause a fire or explosion. Mr Smith considers the same would likely have catastrophic implications for the local community including the risk of widespread pollution to the ground, waterways and air. He notes that the protesters had no regard to the extremely hazardous nature of the site or for the safety of either themselves or others when using mobile phones at the Terminal, scaling and locking themselves onto very volatile fuel storage tanks, tunnelling in close proximity to high-pressure fuel pipelines and causing the forced stopping and scaling of fuel tankers on the public highway. Mr Smith states that such actions not only cause unacceptable levels of risk to the protestors themselves but also to the public and members of the emergency services attending any incidents.

### **The parties' positions**

44. The Council seeks a final injunction in broadly the same terms as the interim order as amended at the hearing on 5 May 2022. The Council has set out the detail of its position in its skeleton argument of 5 June 2024 and in closing submissions. I shall return to the detail of those submissions in due course.
45. No defendant has filed an acknowledgment of service, defence or any witness evidence in response to the claim. Three of the defendants only have made closing submissions, each opposing the granting of an injunction notwithstanding that none of them have filed an acknowledgment of service or defence. Each of the three defendants stated that they had no intention of breaking any injunction in respect the Terminal in the future.
46. Ms Lee (8<sup>th</sup> defendant) submitted that no injunction is required in circumstances where, the since the making of the interim injunction, wider powers now exist under the criminal law providing a deterrent to protestors, as well as making it easier for the police to act in the event of a protest. She referred to the increased maximum sentence for the offence of wilful obstruction of the highway, increased in May 2022 to a 6-month term of imprisonment by virtue of the Police, Crime, Sentencing and Courts Act 2022. She also relied on a variety of new offences under the Public Order Act 2023, which introduced offences relating to protest activity of 'locking on', tunnelling, obstructing major transport works and interfering with major infrastructure. Ms Lee submitted that

the threat to the Terminal no longer exists as Just Stop Oil's tactics have changed and they have since turned their attention to more 'media friendly' protests. She argued that the proposed injunction is not a deterrent and amounts to an unlawful restriction of the rights of environmental defenders to protest.

47. Ms Hindley (78<sup>th</sup> defendant) told the court of her stress and worry since being named as a defendant following her arrest on three occasions in connection with the protests at the Terminal in 2022. She does not believe an injunction is proportionate and expressed concern that the Council is passing on the cost of the litigation to local residents. Ms Hindley submitted that the court should take into account what she described as malice and racism that she said prioritised local interests over the environmental devastation of the livelihoods of vulnerable brown and black people across the world.
48. Ms Naldrett (115<sup>th</sup> defendant) told the court that she was dismayed to discover that the conclusion of the contempt proceedings did not absolve those involved from remaining as named defendants to the claim for an injunction. She told the court she had no intention of returning to the Terminal and risking triggering her suspended sentence. She submitted that the claim for an injunction was not a good use of the court's time and that no injunction was required in light of the increased criminal powers under the Public Order Act 2023. She asked the court to prioritise the rights of ordinary people over those of oil companies.

### **The issues**

49. It is useful at this juncture to summarise the key issues that require determination:
  - (1) Does the Council have the standing to bring these proceedings and, if so, can it establish the causes of action relied upon?
  - (2) Do the facts of this case justify restriction of the Article 10 and 11 rights of the protesters and, if so, to what extent?
  - (3) If it is appropriate to grant relief to restrict protest activity, is it appropriate to grant injunctive relief against (a) the named defendants and/or (b) 'newcomer' persons unknown taking into account the requirements outlined in *Wolverhampton*?
  - (4) If an injunction is to be granted, what are the appropriate terms thereof, and should a power of arrest be attached?

### **The Legal Framework**

#### **Standing of a local authority to bring proceedings and the underlying causes of action**

50. The Council seeks to rely on a number of statutory provisions as bases for bringing the claim for injunctive relief. The principal power relied on is s.222(1) of the Local Government Act 1972 which states:

“(1) Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area—

(a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name ...”

51. Whether it is ‘expedient’ for the purposes of s.222 to bring legal proceedings is for the local authority to decide subject to such decision being compatible with usual principles of judicial review. In *Stoke on Trent Council v B & Q Ltd* [1984] 1 Ch 1 Lawton LJ at 23A held as follows:

“...[The local authority] must safeguard their resources and avoid the waste of their ratepayers money. It is in everyone’s interest, and particular so in urban areas, that a local authority should do what it can within its powers to establish and maintain an ambiance of a law abiding community; and what should be done for this purpose is for the local authority to decide.”

52. The Council puts its case on the basis that that the granting of an injunction “is appropriate and expedient for the promotion or protection of the interests of the inhabitants of their area, and in the exercise of the Court’s discretion, that the defendants be restrained, by way of injunction, from committing tortious and criminal acts and, in particular acts amounting to a public nuisance and to breaches of the criminal law that the criminal law is unable to prevent.” [Para. 56 of the Council’s skeleton argument dated 5 June 2024.]

53. Subject to meeting the ‘expediency’ requirement, s.222 empowers local authorities to bring actions for injunctive relief to restrain public nuisance and criminal offending. In *Nottingham City Council v Zain* [2001] EWCA Civ 1248 the local authority sought to restrain a defendant alleged to have been involved in drug dealing on the grounds that his actions constituted a public nuisance. Schiemann LJ, at para. 8-13, held:

“8. ... The following passage from the judgement of Romer L.J. in *Attorney-General v PYA Quarries Ltd.*[1957] Q.B. 169 at 184 has generally been accepted as authoritative.

“I do not propose to attempt a more precise definition of a public nuisance than those which emerge from the textbooks and authorities to which I have referred. It is, however, clear, in my opinion, that any nuisance is “public” which materially affects the reasonable comfort and convenience of life of a class of Her Majesty’s subjects. The sphere of the nuisance may be described generally as “the neighbourhood”; but the question whether the local community within that sphere comprises a sufficient number of persons to constitute a class of the public is a question of fact in every case. It is not necessary, in my judgment, to prove that every member of the class has been injuriously affected; it is

sufficient to show that a representative cross-section of the class has been so affected for an injunction to issue.”

9. Not everyone however is entitled to sue in respect of a public nuisance. Private individuals can only do so if they have been caused special damage. Traditionally the action has been brought by the Attorney General, either of his own motion, or, as was the situation in the *PYA* case, on the relation of someone else such as a local authority. In *Solihull Council v Maxfern Ltd* [1977] 127, Oliver J. considered the history of the legislative predecessors of s.222 and concluded that the effect of section 222 is to enable a local authority, if it thinks it expedient for the promotion or protection of the interests of the inhabitants of their area, to do that which previously it could not do, namely, to sue in its own name without invoking the assistance of the Attorney General, to prevent a public nuisance. I recognise that in that case the Local Authority was not suing in nuisance but rather was enforcing the criminal law in an area for which it had been given express responsibility, namely the enforcement of the Sunday trading provisions of the Shops Act 1950. Nonetheless I respectfully agree with Oliver J.'s conclusion in relation to suing in nuisance...

13. ...In my judgement it is within the proper sphere of a local authority's activities to try and put an end to all public nuisances in its area provided always that it considers that it is expedient for the promotion or protection of the interests of the inhabitants of its area to do so in a particular case. Certainly my experience over the last 40 years tells me that authorities regularly do this and so far as I know this has never attracted adverse judicial comment. I consider that an authority would not be acting beyond its powers if it spent time and money in trying to persuade those who were creating a public nuisance to desist. Thus in my judgement the County Council in *PYA* was not acting beyond its powers in seeking the Attorney General's fiat in trying to put a stop to the nuisance by dust in that case and thus exposing itself to potential liability in costs. It follows that, provided that an authority considers it expedient for the promotion and protection of the interests of the inhabitants of its area, it can institute proceedings in its own name with a view to putting a stop to public nuisance.”

54. Keene LJ, agreeing with the judgment of Schiemann LJ, added the following observations at para. 27:

“... Where a local authority seeks an injunction in its own name to restrain a use or activity which is a breach of the criminal law but not a public nuisance, it may have to demonstrate that it has some particular responsibility for enforcement of that branch of the law. But where it seeks by injunction to restrain a public nuisance, it may do so in its own name so long as it “considers it expedient for the promotion or protection of the interests of the inhabitants” of its area (section 222(1)). That is so even though it is seeking to prevent a

breach of the criminal law, public nuisance being a criminal offence...”

55. As Sweeting J observed when considering the application for an interim injunction in this case ([2023] EWHC 1719 (KB) at para. 78), the terms of an injunction can extend to prohibiting lawful as well as unlawful conduct.

“78. The purpose of the injunction was to prohibit conduct which if unchecked would amount to, or lead to, a public nuisance. It was the threat of significant harm, constituting a public nuisance, which led the Council to act and to seek restrictions which it regarded as necessary to afford effective protection to the public. Whilst the terms of an injunction should in so far as possible prohibit unlawful behaviour it is not the law that an injunction may only prohibit a tortious act; even lawful conduct may be prohibited if there is no other proportionate means of protecting rights. In the context of a threatened public nuisance of this nature and the form that protest had taken is not at all clear how injunctive relief could otherwise be framed effectively.”

56. Sweeting J, at para. 81 of his judgment, noted that the previous common law criminal offence of public nuisance has been abolished and replaced by a statutory offence of public nuisance under s.78 of the Police, Crime, Sentencing and Courts Act 2022 in the following terms:

“78 Intentionally or recklessly causing public nuisance

(1) A person commits an offence if—

(a) the person—

(i) does an act, or

(ii) omits to do an act that they are required to do by any enactment or rule of law,

(b) the person's act or omission—

(i) creates a risk of, or causes, serious harm to the public or a section of the public, or

(ii) obstructs the public or a section of the public in the exercise or enjoyment of a right that may be exercised or enjoyed by the public at large, and

(c) the person intends that their act or omission will have a consequence mentioned in paragraph (b) or is reckless as to whether it will have such a consequence.

(2) In subsection (1)(b)(i) "serious harm" means—

(a) death, personal injury or disease,

(b) loss of, or damage to, property, or

(c) serious distress, serious annoyance, serious inconvenience or serious loss of amenity.

(3) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the act or omission mentioned in paragraph (a) of that subsection.

(4) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding [the general limit in a magistrates' court] , to a fine or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both.

(5) In relation to an offence committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (increase in magistrates' court power to impose imprisonment) the reference in subsection (4)(a) to [the general limit in a magistrates' court]<sup>1</sup> is to be read as a reference to 6 months.

(6) The common law offence of public nuisance is abolished.

...

(8) This section does not affect—

(a) the liability of any person for an offence other than the common law offence of public nuisance,

(b) the civil liability of any person for the tort of public nuisance, or

(c) the ability to take any action under any enactment against a person for any act or omission within subsection (1).”

57. In addition to s.222, the Council also relies on powers under the Localism Act 2011 and under the Highways Act 1980.

i) Section 1(1) of the Localism Act 2011 confers on a local authority the “power to do anything that individuals [of full capacity] may generally do.” By section 1(5): “the generality of the power conferred by subsection (1) (“the general power”) is not limited by the existence of any other power the authority which (to any extent) overlaps the general power.”

ii) By section 130(2) of the Highways Act 1980 “any Council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority,



including any roadside waste which forms part of it.” By section 130(5), “Without prejudice to their powers under section 222 of the Local Government Act 1972, a council may, in the performance of their functions under the foregoing provisions of this section, institute legal proceedings in their own name, defend any legal proceedings and generally take such steps as they deem expedient.”

58. The court has the ability to attach a power of arrest to an injunction in the circumstances provided by section 27 of the Police and Justice Act 2006:

“(1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972...

(2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.

(3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either–

(a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or

(b) there is a significant risk of harm to the person mentioned in that subsection.”

### **The applicability of the Human Rights Act 1998**

59. The Council accepts that this claim engages s.12 of the Human Rights Act 1998 and Articles 10 and 11 of the European Convention on Human Rights.

60. Article 10, freedom of expression, provides:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

61. Article 11, freedom of assembly and association, provides:

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others...”

62. The engagement of Article 10 requires consideration of s.12 of the Human Rights Act 1998. The relevant parts of that Act are as follows:

“12.— Freedom of expression.

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

(2) If the person against whom the application for relief is made (“the respondent”) is neither present nor represented, no such relief is to be granted unless the court is satisfied—

(a) that the applicant has taken all practicable steps to notify the respondent; or

(b) that there are compelling reasons why the respondent should not be notified.

...

(4) The court must have particular regard to the importance of the Convention right to freedom of expression ...”

63. Articles 10 and 11 are qualified rights and thus can be restricted in the circumstances set out in paragraph 2 of each article. The approach to determining a whether a restriction of those rights is lawful was considered by Warby J (as he then was) in *Birmingham City Council v Afsar and others* [2019] EWHC 3217 (QB) in the context of a claim for injunctive relief by a local education authority to prevent protest activity within an exclusion zone around a school. At para. 102 Warby J held as follows:

“102. The jurisprudence shows that Article 10 protects speech which causes irritation or annoyance, and information or ideas that "offend, shock or disturb" can fall within its scope: see, eg, *Sánchez v Spain* (2012) 54 EHRR 24 [53], *Couderc v France* [2016] EMLR 19 [88]. ... Article 11 "protects a demonstration that may annoy or cause offence to persons opposed to the ideas or claims that it is seeking to promote": *Lashmankin* [145]. But the rights engaged in this case have outer limits. ... Article 11(1) does not protect violent or disorderly protest; the primary right is one of "peaceful" assembly. Further,

whilst the right to education is unqualified, the rights guaranteed by Articles 8, 9, 10 and 11 are all qualified. Paragraph (2) of each Article makes clear that interference with the primary right may be legitimate if (but only if) two conditions are satisfied. It must be not only in accordance with or prescribed by law (a matter I have dealt with above) but also "necessary in a democratic society" in pursuit of one or more legitimate aims. Paragraph (2) of each Article identifies "the interests of ... public safety .....or the protection of the rights and freedoms of others." Another legitimate aim identified in each Article is "the prevention of public disorder" or, in the case of Article 9(2), "the protection of public order", which would appear to be synonymous."

64. The application of Articles 10 and 11 in relation to criminal proceedings brought for wilful obstruction of the highway arising from protest activity was considered by the Supreme Court in *DPP v Ziegler* [2021] UKSC 23. At para. 16 the Supreme Court adopted the explanation given by the Divisional Court in the same case as to the enquiry that needs to be undertaken under the Human Rights Act 1998.

“63...It requires consideration of the following questions:

- (1) Is what the defendant did in exercise of one of the rights in articles 10 or 11 ?
- (2) If so, is there an interference by a public authority with that right?
- (3) If there is an interference, is it 'prescribed by law'?
- (4) If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of article 10 or article 11, for example the protection of the rights of others?
- (5) If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?

64. That last question will in turn require consideration of the well-known set of sub-questions which arise in order to assess whether an interference is proportionate:

- (1) Is the aim sufficiently important to justify interference with a fundamental right?
- (2) Is there a rational connection between the means chosen and the aim in view?
- (3) Are there less restrictive alternative means available to achieve that aim?
- (4) Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?

65. The Council accepts that when determining whether a restriction on any Article 10 or 11 right is justified, “it is not enough to assert that the decision was taken was a reasonable one” and “a close and penetrating examination of the factual justification for the restriction is needed.” [*R (Gaunt) v Office of Communications (Liberty Intervening)*] [2011] EWCA Civ 692 at para. 33.]

### **Injunctions against persons unknown**

66. During the period in which the final hearing in this matter was adjourned, the Supreme Court handed down judgment in *Wolverhampton*. That case concerned applications for injunctions to prevent travellers from establishing unauthorised encampments in local authority areas. The Supreme Court reviewed the development of the law in relation to injunctions against ‘newcomer’ persons unknown, namely persons who, at the time of the grant of the injunction, are not identifiable and who cannot be shown to have committed any conduct which is sought to be prohibited or indeed to have any intention to do so in the future. At para. 167 the Supreme Court held:

“167. These considerations lead us to the conclusion that, although the attempts thus far to justify them are in many respects unsatisfactory, there is no immovable obstacle in the way of granting injunctions against newcomer Travellers, on an essentially without notice basis, regardless of whether in form interim or final, either in terms of jurisdiction or principle. But this by no means leads straight to the conclusion that they ought to be granted, either generally or on the facts of any particular case. They are only likely to be justified as a novel exercise of an equitable discretionary power if:

(i) There is a compelling need, sufficiently demonstrated by the evidence, for the protection of civil rights (or, as the case may be, the enforcement of planning control, the prevention of anti-social behaviour, or such other statutory objective as may be relied upon) in the locality which is not adequately met by any other measures available to the applicant local authorities (including the making of byelaws). This is a condition which would need to be met on the particular facts about unlawful Traveller activity within the applicant local authority's boundaries.

(ii) There is procedural protection for the rights (including Convention rights) of the affected newcomers, sufficient to overcome the strong prima facie objection of subjecting them to a without notice injunction otherwise than as an emergency measure to hold the ring. This will need to include an obligation to take all reasonable steps to draw the application and any order made to the attention of all those likely to be affected by it (see paras 226-231 below); and the most generous provision for liberty (ie permission) to apply to have the injunction varied or set aside, and on terms that the grant of the injunction in the meantime does not foreclose any objection of law, practice, justice or convenience which the newcomer so applying might wish to raise.

(iii) Applicant local authorities can be seen and trusted to comply with the most stringent form of disclosure duty on making an application, so as both to research for and then present to the court everything that might have been said by the targeted newcomers against the grant of injunctive relief.

(iv) The injunctions are constrained by both territorial and temporal limitations so as to ensure, as far as practicable, that they neither outflank nor outlast the compelling circumstances relied upon.

(v) It is, on the particular facts, just and convenient that such an injunction be granted. It might well not for example be just to grant an injunction restraining Travellers from using some sites as short-term transit camps if the applicant local authority has failed to exercise its power or, as the case may be, discharge its duty to provide authorised sites for that purpose within its boundaries.”

67. The Supreme Court recognised, at para 171, that “the availability of non-judicial remedies, such as the making of byelaws and the exercise of other statutory powers, may bear on questions (i) and (v) in para. 167 above...” When considering question (i), namely whether there is a compelling need for the remedy, the Supreme Court considered the availability of alternative powers available to the local authority by means such as public spaces protection orders, criminal offences and byelaws. [Paras. 204-216 of the judgment.]

68. At para. 235 of the judgment, the Supreme Court recognised the relevance of newcomer injunctions to protestor cases and noted:

“235. The emphasis in this discussion has been on newcomer injunctions in Gypsy and Traveller cases and 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. Any of these persons who have notice of the order will be bound by it, just as effectively as the injunction in the proceedings the subject of this appeal has bound newcomer Gypsies and Travellers.”

**Discussion**

**Does the Council have standing to bring proceedings for injunctive relief and, if so, can it establish the causes of action relied upon?**

69. The effect of decisions such as *Nottingham City Council v Zain* is that it is settled law that a local authority can rely on s.222 of the Local Government Act 1972 to bring proceedings to restrain actual or threatened public nuisance or

breach of the criminal law where the local authority considers “it expedient for the promotion or protection of the interests of the inhabitants of the area.”

70. The Council argues that it is expedient to bring these proceedings for the promotion and protection of the interests of the inhabitants of North Warwickshire when one takes into account the desirability of establishing and maintaining a law-abiding community; the need to protect inhabitants and visitors of North Warwickshire from serious threats to their safety, health, property and peaceful existence; the need to ensure that businesses of North Warwickshire can go about their lawful operations without disruption, and the need to protect emergency service staff and resources.
71. When considering whether it is expedient to act under s.222, the Council has to take into account any particular responsibilities it has. In this case, s.17 of the Crime and Disorder Act 1998 imposes a duty on the Council “to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and ... (c) re-offending in its area...” The Council also has the ability as a non-highway authority council under s.130(2) of the Highways Act 1980 to “assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority...”
72. The Council relies on underlying causes of action in public nuisance and breach or threatened breach of the criminal law. This is not one of those claims, as discussed by Keene LJ at para. 27 of *Zain*, where the injunction is brought to restrain only breaches of the criminal law such that a local authority may have to demonstrate it has some particular responsibility. As it happens, on the facts of this case, the Council does in any event have such a responsibility by virtue of s.17 of the Crime and Disorder Act 1998.
73. The Council’s decision as to whether it was expedient to bring proceedings to promote or protect the interests of its inhabitants took into account multiple factors including the aforementioned statutory responsibilities, the high risks associated with storing very large volumes of flammable products at an ‘Upper Tier’ site adjacent to residential areas, and the significant scale and extent of disruption caused by protest activity occurring both inside and in the locality of the Terminal. In my judgment, those matters clearly justify the Council utilising its power under s.222.
74. The unchallenged evidence relied on by the Council establishes the commission of the tort of public nuisance and the threat of further such torts being committed. The actions of the protestors materially affected the reasonable comfort and convenience of those trying to go about their lives in North Warwickshire and the wider Midlands. Those affected included locals unable to use roads closed due to protest activity; businesses based at and those associated with the Terminal unable to operate fully due to operations at the Terminal being suspended; oil tanker drivers unable to go about their work when their vehicles were requisitioned by protestors; vehicle users finding they could not obtain fuel from forecourts suffering fuel shortages; local residents inconvenienced by the

scale and noise of required police operations, and individuals affected by the disruption to usual policing caused by additional police resources being diverted to policing the protests. Furthermore, the evidence demonstrates a risk of substantial public nuisance should an explosion or fire occur. The evidence of widespread use of mobile phones by the protesters in close proximity to highly flammable fuels, and the digging of tunnels without regard to the location of underground oil pipework, clearly creates a very significant risk to life, property and the environment. It was more by good luck rather than good judgement that the actions of some of the protesters did not result in a fire or explosion.

75. In light of my finding that the Council has established the commission of the tort of public nuisance, it is unnecessary to consider whether the same facts gave rise to any criminal offences that were in force at that time. The existence of the criminal law as a possible alternative remedy will however be relevant when considering whether it is appropriate for the court to exercise its discretion to grant injunctive relief.

### **The restriction of Article 10 and 11 rights**

76. The Council accepts that the claim engages s.12 of the Human Rights Act 1998 given that the relief sought may affect the protestors' rights to freedom of expression. Some of the named defendants, and necessarily the persons unknown defendants, were neither present nor represented at the trial. By s.12(2) no relief is to be granted unless the court is satisfied that the Council has taken all practicable steps to notify the defendants. The question of service of the order of Soole J dated 6 December 2023 and of the Notice of Hearing was the subject of consideration at the start of the hearing on 11 June 2024. For the reasons given in an ex tempore judgment that day, and as embodied in my order of 12 June 2024, I was satisfied that proper notice had been given to the defendants that have chosen not to acknowledge or defend the claim or attend the trial.
77. It is not in dispute that Articles 10 and 11 are engaged. The issue is whether it is appropriate to interfere with those qualified rights. The Council encourages the court to adopt the approach adopted by *Sweeting J* at para. 133-136 of his judgment granting the interim injunction in this case. Whilst many of the considerations will be the same, in my judgment it is important to reconsider the appropriate framework of questions posed by the Supreme Court in *Ziegler* afresh, having now heard the evidence and the submissions of the three defendants.
78. The answers to the first four questions posed at para. 63 of *Ziegler* can be answered in fairly short order.
- (1) The protesters actions in gathering with others to protest against the granting of licences for the production and use of fossil fuels was an exercise of their Article 10 and 11 rights.
  - (2) The Council's seeking of an injunction to restrict the rights to protest clearly interferes with the protestors' Article 10 and 11 rights as it would prevent much of the activity that has previously occurred.

- (3) The interference is however prescribed by law in that the court has a discretion to grant an injunction under s.37 of the Senior Courts Act 1981 and the Council has the standing to bring a claim for injunctive relief pursuant to s.222 of the Local Government Act 1972.
- (4) The interference is in pursuit of a legitimate aim namely the prevention of disorder or crime, the protection of health and the protection of rights of others.
79. The more complex question is that posed at para. 63(5) of *Ziegler* namely whether the interference is 'necessary in a democratic society' to achieve that legitimate aim? That involves consideration of the four further questions identified by the Supreme Court in para. 64(1) – (4).
80. The Council's primary concern is to protect the local community and environment from the risks associated with extreme forms of protesting in close proximity to highly flammable fuels. Given the potential ramifications of any fire or explosion at or in the locality of the Terminal, the stated aims to prevent crime and disorder, protect the health of the community and the rights of others are sufficiently important to justify interference with the Article 10 and 11 rights. The Council can therefore satisfy the question posed by para. 64(1).
81. The terms of the proposed injunction seek to prohibit protests inside the Terminal (ie on private land to which the defendants have no right to enter anyway) and to restrict certain specified acts in the locality of the Terminal. The Council does not seek to prohibit all protest activity in the locality of the Terminal but only more extreme form of protest activity, such as blocking entrances, climbing on structures, locking on, digging or tunnelling and abseiling. For the purposes of the question posed by para. 64(2), there is thus a rational connection between the terms of the injunction sought and the aims of preventing crime and disorder and protecting the health of the community and rights of others.
82. It is then necessary to consider whether there are less restrictive means available to achieve the Council's aims. (Para. 64(3) of *Ziegler*.) The defendants' submissions to the effect that an injunction is unnecessary in light of expanded criminal law powers can be viewed as a request that the court adopt a less restrictive approach and allow the position to be governed by existing laws.
83. The main alternative remedies to be considered as potential means of achieving the Council's aims are (a) a Public Spaces Protection Order ('PSPO'), (b) byelaws and (c) the existing criminal law. The evidence of Mr Maxey (witness statement 5 June 2024 at paras. 7-9) sets out his views on the suitability of a PSPO and byelaws. Mr Smith (witness statement 10 April 2022 at page 4) comments on the attempted use of criminal law to control the protest activity.
84. The Supreme Court in *Wolverhampton* (at para. 204) discussed the availability of PSPOs in the context of considering whether there was a compelling justification for a newcomer injunction against persons unknown. It was noted that a PSPO is directed at behaviour and activities carried on or in a public place which have a detrimental effect on the quality of life of those in the area. A



number of the disadvantages of a PSPO identified by Mr Maxey are valid concerns. The level of protection provided by a PSPO is restricted by virtue of the Council not having jurisdiction to impose such an order on private land. Any order could not therefore extend to the Terminal itself and would be limited to any public land adjacent thereto. The evidence in this case is that some of the protest activity, including some of the more extreme activity in locking onto fuel tanks, occurred inside the perimeter fencing. A PSPO would not therefore address the aim of protecting the local community from the health implications of a fire or explosion caused by a protest within the Terminal. Furthermore, the maximum sanction for breach of a PSPO is a level 3 fine (up to £1000) giving rise to concern that such an order would not have the same deterrent effect as an injunction, breach of which gives rise to a maximum penalty for contempt of two years' imprisonment. Additionally, breach of a PSPO is not an arrestable offence meaning that the police would not be able to remove with immediate effect a protester whose actions were putting at risk the local community. That limits the utility of a PSPO. In my judgement, a PSPO is not a viable less restrictive means of achieving the Council's aims.

85. Byelaws suffer many of the same shortfalls as seen with PSPOs. Breach of a byelaw gives rise to a maximum fine of £500 and is not an arrestable offence. The Council cannot unilaterally make a byelaw and the process requires assessment, consultation, application and approval of the scheme by the Secretary of State and further consultation. It is not therefore an agile solution either in terms of speed of implementation or in terms of the ability to vary the byelaw should circumstances change. It is not therefore a viable less restrictive means of achieving the Council's aims.
86. Since the making of the interim order by Sweeting J in May 2022, the range and seriousness of criminal offences relevant to protest activity have increased. From 12 May 2022, the sentence for the offence of wilful obstruction of the highway has increased from a fine to a maximum of 6 months' imprisonment. (s.80 of the Police, Crime, Sentencing and Courts Act 2022 amending s.137 of the Highways Act 1980.) The Public Order Act 2023 ("the 2023 Act") introduced a range of new offences with effect from 3 May 2023. Those offences include an offence of locking on (s.1), being equipped for locking on (s.2), causing serious disruption by tunnelling (s.3), causing serious disruption by being present in a tunnel (s.4), being equipped for tunnelling (s.5) and interfering with the use or operation of key national infrastructure including downstream oil infrastructure (s.7). There are differing maximum sentences for each of those offences but, other than the 'being equipped' offences which attract fines, the remainder can attract sentences of imprisonment. Section 10 and 11 of the 2023 Act extend police powers of stop and search to a number of the offences. The prosecution can apply for a serious disruption prevention order (s.20) subject to various conditions being met. Those conditions include a requirement that a defendant has committed another protest-related offence or a protest-related breach of an injunction within the five years ending on the day of conviction for the current offence. Certain individuals, such as the chief constable, can apply for a serious disruption prevention order on application (s.21). A local authority such as the Council does not however have standing to make such an application.

87. Ms Lee's submission is that the enhanced criminal powers provide a deterrent to protesters and give increased powers of arrest to the police such that an injunction is no longer required. The Council does not accept the increased criminal powers obviate the need for an injunction. Mr Manning submits that the object of the proceedings is defeated if the local community has to wait until criminal offences occur before action is taken. He submits that the evidence from the police suggests that the criminal justice system is not well equipped to prevent protesters returning to the site because individuals arrested are not typically remanded in custody and offences take time to progress through the criminal courts. It is said that it can also be a matter of circumstance whether an individual protester is prosecuted as that is subject to the view taken by the prosecuting authorities rather than the Council. Mr Manning submits that there is no evidence of the deterrent effect of the increased criminal penalties and new offences in circumstances where public nuisance was already a common law offence in 2022 and did not deter the protestors from acting. In short, the Council submits that the criminal law does not provide a systematic means of protecting the local area from the harm that the authorities are concerned about.
88. It is not helpful that the police evidence relied on by the Council has not been updated to reflect any effects of the introduction of new criminal offences and increased sentencing powers. However, the existence of relevant criminal offences does not, of itself, mean it is inappropriate to grant an injunction to restrain public nuisance nor, particularly in cases where a local authority has a particular responsibility for enforcement, to restrain breaches of acts which would amount to other criminal offences. Indeed, in *Zain*, serious criminal offences existed in respect of the alleged illegal drug activity but it was nonetheless appropriate to grant injunctive relief. The criminal justice system does not, in my judgment, achieve the Council's aims in as comprehensive a manner as injunctive relief could. Firstly, I am not persuaded that new criminal offences and increased sentencing powers have the same deterrent effect as an injunction and power of arrest. The common law offence of public nuisance existed when the protests occurred in 2022 and, as a common law offence, technically had a maximum sentence of life imprisonment. That did nothing to deter the protesters. The increased sentence for wilful obstruction of the highway and many of the offences under the 2023 Act have lower maximum sentences than the 2 years' maximum imprisonment for contempt of court. Secondly, the mechanism by which a protester is brought before the civil courts following arrest is expeditious in that it requires production before a court within 24 hours. It therefore provides both a significant deterrent to a would-be unlawful protester who risks immediate incarceration, and immediate respite to the local community. Thirdly, an injunction hands control of the pursuit of contempt proceedings against protestors to the local authority. By contrast, with criminal proceedings it is for the criminal prosecuting authority to determine whether to pursue a matter. The Council is likely better placed to assess whether contempt proceedings further the Council's aims in preventing crime and disorder in its area and protecting the health of its residents. Moreover, the Council has a positive duty under s.17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely

affecting the local environment) and to prevent re-offending. Permitting the Council rather than prosecuting authorities to take action to prevent unlawful protest activity is consistent with the Council's obligation to do all it reasonably can to prevent crime and disorder. Fourthly, an injunction is designed to be preventative in nature as opposed to the criminal law which reacts to events that have already occurred. In seeking to prevent crime and disorder and protecting the health and rights of others, it is little comfort that the criminal law will swing into action only after the damage has been done. I do not therefore conclude that reliance on the existing criminal law is an adequate less restrictive means of achieving the Council's aims.

89. The final question in determining whether an interference with a qualified convention right is proportionate requires consideration of whether there is a fair balance between the rights of the individual and the general interest of the community, including the rights of others. (Para. 64(4) of *Ziegler*.) The proposed injunction does not prohibit all protests in the locality of the Terminal but only those which involve more extreme forms of protest activity which put the community at risk. By permitting some protest activity, the proposed injunction strikes a fair balance between the rights of the protestors and the general interest of the local community.

**Is it appropriate to grant injunctive relief against the named defendants?**

90. In *Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303 the Court of Appeal guidance at para. 82(1) was to the effect that if an individual is "known and has been identified, they must be joined as individual defendants to the proceedings." The decision in *Wolverhampton* does not affect that proposition. Of named defendants appearing at Schedule A to the judgment, those numbered up to and including the 17<sup>th</sup> defendant were the original named defendants to the claim having been arrested at or in the locality of the Terminal in relation to protest activity taking place between 31 March and 10 April 2022. The defendants numbered 20<sup>th</sup> onwards were added as named defendants following their arrest at or in the locality of the Terminal in relation to protest activity after the initial interim injunction was granted on 14 April 2022.
91. Mr Maxey recognises in his evidence that "the Council has no means of knowing definitively whether every one of the named defendants has continued to be involved in this type of protesting, as we do not have access to the records of the criminal courts or the police national computer...It seems to me that the only realistic course that the Council can therefore take is to proceed on the basis that the defendants may well still participate in such conduct." [Para. 16(iii) of his statement of 5 June 2024.]
92. In my judgment it is appropriate to grant injunctive relief in principle against each of the named defendants appearing in in Schedule A. None of the defendants have filed a defence and thus have not sought to challenge the claimant's case that each defendant has been arrested for relevant protest activity at the Terminal and is affiliated with Just Stop Oil and its aims. Indeed, when making their submissions the 8<sup>th</sup>, 78<sup>th</sup> and 115<sup>th</sup> defendants did not seek to dispute their involvement in protest activity at the Terminal nor seek to disavow their support of the aims of Just Stop Oil. Whilst there has been no

protest activity at the Terminal since September 2022, the evidence establishes that Just Stop Oil has continued in disruptive protest activity in other locations. [Para. 8(c) of the statement of Mr Maxey dated 18 January 2024.] In her submissions, the 8<sup>th</sup> defendant acknowledged an ongoing intention of Just Stop Oil to protest but with a focus on more ‘media friendly’ opportunities. By that she was referring to protest activity that prompts maximum media attention. The opportunity for headline-making is only too obvious if a fire or explosion occurred at the Terminal. The behaviour of a number of the defendants during the various contempt proceedings also evidences the defendants’ collective intention to cause disruption in aid of their cause. Such conduct included many defendants refusing to accept the jurisdiction of the court and some variously telling the court they would not attend future hearings if bailed, refusing to come out of cells to attend court, climbing on dock furniture, gluing body parts to the dock, and removing their clothes when in the dock. There is a clearly a risk that unless restrained the named defendants may engage in future protest activity at or in the locality of the Terminal that endangers the local community.

**Is it appropriate to grant injunctive relief against ‘newcomer’ persons unknown taking into account the requirements outlined in *Wolverhampton*?**

93. Any newcomer injunction is a form of without notice injunction and, as recognised by the Supreme Court in *Wolverhampton* at para. 167, only likely to be justified as “a novel exercise of discretionary power” if certain conditions are met.

*Compelling need not adequately met by any other measures*

94. There is however a compelling need for injunctive relief to protect the inhabitants of North Warwickshire and those who work in or travel through or otherwise visit the area from the more extreme types of protest activity at and in the locality of the Terminal that amount to public nuisance and/or criminal offences. For the reasons discussed in paragraphs 82 to 88 of this judgment, the required protection cannot be met by other measures available to the Council. The ongoing nature of Just Stop Oil’s protest activity is such that there is a real risk of future incidences of public nuisance occurring and/or of criminal offences being committed at or in the locality of the Terminal.

*Procedural protections*

95. Any newcomer injunction must ensure that there are sufficient procedural protections to safeguard the newcomers against draconian nature of a without notice order. The persons unknown defendants have been given notice of this claim, the interim injunctions and the progression of the proceedings to the trial dates by various methods of alternative service. Those steps have included physical signage at the Terminal, use of the Council’s website and social media accounts, and direct communications with Just Stop Oil through their email addresses and social media accounts. Persons unknown have therefore already had ample opportunity to participate in these proceedings but have elected not to. Any final injunction against newcomers can also be the subject of stringent alternative service provisions to ensure persons potentially affected are given full information as to the terms and scope of the order, any power of arrest and

the trial papers before the court. The Council has provided details of the steps it proposes to take to publicise an order, power of arrest and documents contained in the trial bundles. Those steps involve making use of signage along the boundary of and at the entrances to the Terminal, posting documents on its website, publicising through the Council's social media, asking local police to publicise through their social media and communicating directly with Just Stop Oil through known email addresses and social media. Such an approach will ensure effective notice can be given to newcomers. Mindful of its obligations to ensure procedural fairness, the Council concedes that any order should have a generous liberty to apply provision enabling any person served with the order or affected by it to apply to the court to vary or discharge the order on 48 hours' notice to the Council. This will ensure any newcomer has the ability to raise any objection even though they have not participated in the trial.

#### *Disclosure duty*

96. The Council acknowledges its obligation to comply with its disclosure duty on seeking a remedy against newcomer persons unknown. The Council's skeleton argument, at paragraphs 68 to 73, addresses the Council's duty and considers what arguments defendants might wish to pursue. It has also ensured that the court has before it the interim injunction judgment of Sweeting J at [2023] EWHC 1719 (KB) which discusses the arguments raised by the 73<sup>rd</sup> defendant and Ms Hardy at the interim hearing. Mr Manning's closing submissions included taking the court through the various new criminal offences introduced by the 2023 Act, and the increased sentencing powers for wilful obstruction of the highway, to ensure full consideration could be given to possible less restrictive alternative measures. I am therefore persuaded that the Council is both alive to its disclosure duty and has complied with the same in putting its case and counter-arguments as fairly as possible.

#### *Territorial and temporal limits*

97. The terms of the draft order limit the geographical scope of the injunction to two areas. The first area is defined in paragraph 1 of the draft order as covering the Terminal itself. That area is privately owned land upon which the defendants have no right to access without the permission of the land owner. The land is identifiable in the draft order by reference to boundaries edged in red on a colour plan attached to the order. The plan is drawn to a scale of 1:5000. The geographical limit is thus clear to see. The second area is defined in paragraph 2 of the draft order as being "anywhere in the locality of the Terminal..." The Council acknowledges that the term "locality" is a flexible concept but submits it is one which has the necessary clarity having been endorsed as appropriate for use in injunctive orders by the Court of Appeal in *Manchester City Council v Lawler* [1998] 31 HLR 119. Butler-Sloss LJ (as she then was) noted that "in the locality" was a term adopted by parliament and considered it would be "a question of fact for the judge whether the place in which the conduct occurred was or was not within the locality." I considered the construction of the term in contempt proceedings within this claim (*NWBC v Aylett, Goode & Jordan* [2022] EWHC 2458 (KB) at para. 94-100). I maintain my conclusion that the expression is not unreasonably vague such that it may be susceptible to more than one interpretation. It is an expression adopted by parliament and endorsed

for use in injunctions by the Court of Appeal. Furthermore, a defendant facing contempt proceedings has the additional procedural safeguard arising from the requirement on the Council to establish to the criminal standard of proof that a given place is "within the locality."

98. Any newcomer injunction must also be subject to strict temporal limits. The Council seeks an injunction for a period of three years from trial with annual hearings to review its operation. The interim injunction has itself been in force for over two years, which is longer than anticipated when the claim was first issued. In the context of gypsy or traveller newcomer injunctions, the Supreme Court in *Wolverhampton* (at para. 225) took the view that such injunctions "ought to come to an end (subject to any order of the judge), by effluxion of time in all cases after no more than one year unless an application is made for their renewal." Slightly different considerations apply where an injunction limits only certain types of protest behaviour as the consequences of an order are less draconian than for a gypsy or traveller being deprived of somewhere to site the vehicle in which they live. In *Valero Energy Ltd & others v Persons Unknown* [2024] EWHC 134 (KB) ("*Valero Energy*") Ritchie J granted a newcomer injunction against protestors for a period of five years subject to annual reviews. The claimants in *Valero* owned or had a right to possession of eight oil refinery or oil terminal sites in England and Wales which had been targeted by protest groups including Just Stop Oil. Whilst an annual review is essential to ensure ongoing consideration of the appropriateness of an injunction remaining in force, a term of three years is within appropriate temporal limits. The sustained duration of protest activity between March and September 2022 and the regular ongoing protest activity of Just Stop Oil at other locations demonstrates the need for the term of any order to extend to three years.

*Just and convenient*

99. The Council seek to protect their inhabitants from unlawful activity in the form of public nuisance and/or the commission of criminal offences. The highly flammable nature of the products stored on and transported to and from the Terminal means that some of the protest activity seen at this location has risked fire or explosion. The balance of convenience falls in favour of granting injunctive relief to protect the local population whilst still permitting the defendants to engage in protest activity in the locality of the Terminal.
100. The terms of the final injunction in *Valero Energy* already provides some protection to the local community as it covers part of the Terminal that is within the control of one of the four operators of the Terminal. I do not take the view that the *Valero Energy* order renders it inappropriate to grant the Council relief. Firstly, the Council does not hold the benefit of that order and would not be able to enforce it. Secondly, the claimants to the *Valero Energy* claim are not local authorities and thus could not rely on s. 27 of the Police and Justice Act 2006 so as to seek a power of arrest. Thirdly, the order does not cover the Terminal as a whole nor the locality of the Terminal.
101. I am therefore persuaded it is appropriate for the court to exercise its discretion to grant injunctive relief against the newcomer defendants.

**The terms of the injunction and whether a power of arrest should be attached.**

102. For the reasons aforementioned, it is appropriate for an injunction to be granted against all the defendants listed in schedule A for a term of three years from the trial with annual review hearings. The substance of the draft order will be adopted but the court will hear submissions on the detail of the required order after the judgment has been handed down.
103. The Council seeks that a power of arrest be attached to the injunction pursuant to s.27 of the Police and Justice Act 2006. The application of s.27 to the facts of this case was considered by Sweeting J when granting the interim injunction: [2023] EWHC 1719 (KB) at paras. 108 to 115. That analysis is still applicable following the hearing of the evidence. The decision in *Wolverhampton* does not undermine the ability of the court to attach a power of arrest to an injunction against persons unknown. The substance of the injunction will prohibit conduct which is capable of causing nuisance or annoyance to the inhabitants of the Council's area. It remains the case that there is a significant risk of harm for the purposes of s.27(3)(b) given the extreme forms of protest seen at the Terminal, the ongoing protest activity of Just Stop Oil generally and the implications of a fire or explosion at the Terminal. I am therefore satisfied that the Council meets the threshold test imposed by s.27(2) and (3). Whether to then attach a power of arrest becomes an exercise of discretion. As was the position at the interim stage of this case, there remain cogent reasons why a power of arrest is appropriate, indeed an imperative. Firstly, a power of arrest will enable the police to immediately remove a protestor from the scene and thereby reduce or extinguish the risk to others. Secondly, a power of arrest ensures that the Council can take effective enforcement action. A protestor would be arrested, detained, identified and brought before a court within 24 hours. Without such a power, the Council would find it impossible or at least extremely difficult in many cases to ascertain the names and addresses of the perpetrators so as to bring a paper contempt application. That in turn would diminish the desired deterrent effect of the injunction. A power of arrest will therefore be attached to the order.

**Required form of order**

104. I will hear submissions on the detail of the required order on the handing down of judgment but make the following provisional comments on the latest version of the draft order as supplied by the Council at trial:
- i) The description of the protests covered should be extended to mirror the definition adopted in the description of defendants 19A to 19D, namely a protest "against the production of fossil fuels and/or the use of fossil fuels and/or the grant of licences to extract fossil fuels."
  - ii) The order will cover the Terminal and the locality of the Terminal.
  - iii) The order will prohibit all protest activity within the Terminal itself but, in respect of the locality of the Terminal, the prohibited activity will be limited to defined actions as particularised in draft paragraph 1(b)(i) to (xi).

- iv) The alternative service provisions in Schedule 3 in respect of the persons unknown defendants and those defendants for whom the Council has no contact details requires amendment to ensure that (a) it is clear that all alternative service steps must be undertaken, (b) the relevant documents are publicised widely including signposting from the Council's website landing page and (c) there is no ambiguity as to the size and number of physical signs that will be required.
- v) Further case management directions need to be made in respect of the first review hearing.

HHJ Emma Kelly



SCHEDULE A

SCHEDULE OF DEFENDANTS

(2) THOMAS BARBER
(3) MICHELLE CADET-ROSE
(4) TIMOTHY HEWES
(5) JOHN HOWLETT
(6) JOHN JORDAN
(7) CARMEN LEAN
(8) ALYSON LEE
(9) AMY PRITCHARD
(10) STEPHEN PRITCHARD
(11) PAUL RAITHBY
(14) JOHN SMITH
(15) BEN TAYLOR
(17) ANTHONY WHITEHOUSE
(19A) PERSONS UNKNOWN WHO, OR WHO INTEND TO, PARTICIPATE IN PROTESTS WITHIN THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA (THE “TERMINAL”) AGAINST THE PRODUCTION OF FOSSIL FUELS AND/OR THE USE OF FOSSIL FUELS, AND/OR THE GRANT OF LICENCES TO EXTRACT FOSSIL FUELS;
(19B) PERSONS UNKNOWN WHO, OR WHO INTEND TO, PARTICIPATE IN PROTESTS IN THE LOCALITY OF THE TERMINAL, AGAINST THE PRODUCTION OF FOSSIL FUELS AND/OR THE USE OF FOSSIL FUELS AND/OR THE GRANT OF LICENCES TO EXTRACT FOSSIL FUELS, AND WHO, IN CONNECTION WITH ANY SUCH PROTEST, DO, OR INTEND TO DO, OR INSTRUCT ASSIST OR ENCOURAGE ANY OTHER PERSON TO DO, ANY OF THE FOLLOWING:  (A) ENTER OR ATTEMPT TO ENTER THE TERMINAL; (B) CONGREGATE AT ANY ENTRANCE TO THE TERMINAL; (C) OBSTRUCT ANY ENTRANCE TO THE TERMINAL; (D) CLIMB ON TO OR OTHERWISE DAMAGE OR INTERFERE WITH ANY VEHICLE OR ANY OBJECT ON LAND (INCLUDING BUILDINGS, STRUCTURES, CARAVANS, TREES AND ROCKS);

(E) DAMAGE ANY LAND INCLUDING (BUT NOT LIMITED TO) ROADS, BUILDINGS, STRUCTURES OR TREES ON THAT LAND, OR ANY PIPES OR EQUIPMENT SERVING THE TERMINAL ON OR BENEATH THAT LAND;

(F) AFFIX THEMSELVES TO ANY OTHER PERSON OR OBJECT OR LAND (INCLUDING ROADS, STRUCTURES, BUILDINGS, CARAVANS, TREES OR ROCKS);

(G) ERECT ANY STRUCTURE;

(H) ABANDON ANY VEHICLE WHICH BLOCKS ANY ROAD OR IMPEDES THE PASSAGE OF ANY OTHER VEHICLE ON A ROAD OR ACCESS TO THE TERMINAL;

(I) DIG ANY HOLES IN OR TUNNEL UNDER (OR USE OR OCCUPY EXISTING HOLES IN OR TUNNELS UNDER) LAND, INCLUDING ROADS; OR

(J) ABSEIL FROM BRIDGES OR FROM ANY OTHER BUILDING, STRUCTURE OR TREE ON LAND.

(19C) PERSONS UNKNOWN WHO, OR WHO INTEND TO, ORGANISE, PUBLICISE OR PROMOTE ANY PROTEST WITHIN THE TERMINAL AGAINST THE PRODUCTION OF FOSSIL FUELS AND/OR THE USE OF FOSSIL FUELS AND/OR THE GRANT OF LICENCES TO EXTRACT FOSSIL FUELS.

(19D) PERSONS UNKNOWN WHO, OR WHO INTEND TO, ORGANISE, PUBLICISE OR PROMOTE ANY PROTEST IN THE LOCALITY OF THE TERMINAL, AGAINST THE PRODUCTION OF FOSSIL FUELS AND/OR THE USE OF FOSSIL FUELS AND/OR THE GRANT OF LICENCES TO EXTRACT FOSSIL FUELS, AT WHICH PROTEST THEY INTEND OR FORESEE OR OUGHT TO FORESEE THAT ANY OF THE ACTS DESCRIBED AS PART OF THE DESCRIPTION OF DEFENDANT 19B WILL BE CARRIED OUT.

(20) JOHN JORDAN

(22) MARY ADAMS

(23) COLLIN ARIES

(24) STEPHANIE AYLETT

(25) MARCUS BAILIE

(28) PAUL BELL

(29) PAUL BELL

(30) SARAH BENN

(31) RYAN BENTLEY

(32) DAVID ROBERT BARKSHIRE

(33) MOLLY BERRY

(34) GILLIAN BIRD
(36) PAUL BOWERS
(37) KATE BRAMFITT
(38) SCOTT BREEN
(40) EMILY BROCKLEBANK
(42) TEZ BURNS
(43) GEORGE BURROW
(44) JADE CALLAND
(46) CAROLINE CATTERMOLE
(48) MICHELLE CHARLESWORTH
(49) ZOE COHEN
(50) JONATHAN COLEMAN
(53) JEANINIE DONALD-MCKIM
(55) JANINE EAGLING
(56) STEPHEN EECKELAERS
(58) HOLLY JUNE EXLEY
(59) CAMERON FORD
(60) WILLIAM THOMAS GARRATT-WRIGHT
(61) ELIZABETH GARRATT-WRIGHT
(62) ALASDAIR GIBSON
(64) STEPHEN GINGELL
(65) CALLUM GOODE
(68) JOANNE GROUNDS
(69) ALAN GUTHRIE
(70) DAVID GWYNE
(71) SCOTT HADFIELD
(72) SUSAN HAMPTON
(73) JAKE HANDLING
(75) GWEN HARRISON
(76) DIANA HEKT
(77) ELI HILL
(78) JOANNA HINDLEY
(79) ANNA HOLLAND
(81) JOE HOWLETT

(82) ERIC HOYLAND
(83) REUBEN JAMES
(84) RUTH JARMAN
(85) STEPHEN JARVIS
(86) SAMUEL JOHNSON
(87) INEZ JONES
(88) CHARLOTTE KIRIN
(90) JERRARD MARK LATIMER
(91) CHARLES LAURIE
(92) PETER LAY
(93) VICTORIA LINDSELL
(94) EL LITTEN
(97) DAVID MANN
(98) DIANA MARTIN
(99) LARCH MAXEY
(100) ELIDH MCFADDEN
(101) LOUIS MCKECHNIE
(102) JULIA MERCER
(103) CRAIG MILLER
(104) SIMON MILNER-EDWARDS
(105) BARRY MITCHELL
(106) DARCY MITCHELL
(107) ERIC MOORE
(108) PETER MORGAN
(109) RICHARD MORGAN
(110) ORLA MURPHY
(111) JOANNE MURPHY
(112) GILBERT MURRAY
(113) CHRISTIAN MURRAY-LESLIE
(114) RAJAN NAIDU
(115) CHLOE NALDRETT
(117) DAVID NIXON
(118) THERESA NORTON
(119) RYAN O TOOLE

(120) GEORGE OAKENFOLD
(121) NICOLAS ONLAY
(122) EDWARD OSBOURNE
(123) RICHARD PAINTER
(124) DAVID POWTER
(125) STEPHANIE PRIDE
(127) SIMON REDING
(128) MARGARET REID
(129) CATHERINE RENNIE-NASH
(130) ISABEL ROCK
(131) CATERINE SCOTHORNE
(133) GREGORY SCULTHORPE
(135) VIVIENNE SHAH
(136) SHEILA SHATFORD
(137) DANIEL SHAW
(138) PAUL SHEEKY
(139) SUSAN SIDEY
(141) JOSHUA SMITH
(142) KAI SPRINGORUM
(145) HANNAH TORRANCE BRIGHT
(146) JANE TOUIL
(150) SARAH WEBB
(151) IAN WEBB
(153) WILLIAM WHITE
(155) LUCIA WHITTAKER-DE-ABREU
(156) EDRED WHITTINGHAM
(157) CAREN WILDEN
(158) MEREDITH WILLIAMS