

NATIONAL HIGHWAYS LIMITED

- and -

- (1) **PERSONS UNKNOWN CAUSING THE BLOCKING OF, ENDANGERING OR PREVENTING THE FREE FLOW OF TRAFFIC ON THE M25 MOTORWAY, A2, A20 AND A2070 TRUNK ROADS AND M2 AND M20 MOTORWAY, A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING**
- (2) **MR. ALEXANDER RODGER AND 132 OTHERS**

SUPPLEMENTARY BUNDLE INDEX

TAB	DOCUMENT	PAGES
Interim Injunctions		
1.	Order of Mr. Justice Lavender dated 21 September 2021	3 - 6
2.	Order of Mr. Justice Cavanagh dated 24 September 2021	7 - 14
3.	Order of Mr. Justice Holgate dated 2 October 2021	15 - 35
Supporting Witness Statement for M25 Injunction		
4.	Witness Statement of Anthony Nwanodi (without Exhibits) dated 30 September 2021	37 - 44
Claim Forms and Particulars of Claim		
5.	Claim Form dated 21 September 2021	46 - 49
6.	Claim Form dated 24 September 2021	50 - 53
7.	Claim Form dated 2 October 2021	54 - 57
8.	Consolidated Particulars of Claim dated 22 October 2021	58 - 77
Application for Summary Judgment		
9.	Sealed Application Notice	79 - 81
10.	Draft Order	82 - 120
11.	Witness Statement of Nicola Bell (without Exhibit) dated 22 March 2022	121 - 136
12.	First Witness Statement of Laura Higson (without Exhibit) dated 24 March 2022	137 - 175
13.	Second Witness Statement of Laura Higson (without Exhibit) dated 25 April 2022	176 - 197
14.	Claimant's Skeleton Argument	198 - 234
15.	Skeleton Argument of Jessica Branch and Caspar Hughes	235 - 265
Schedule of Named Defendants		
16.	Schedule of Named Defendants	267 - 274
Summary Judgment Hearing Costs Order		
17.	Order of Mr. Justice Bennathan made on 16 January 2023	276- 280

INTERIM INJUNCTIONS

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3.	Order of Mr. Justice Holgate dated 2 October 2021	15 - 35

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

**Before: Mr Justice Lavender
On: 21 September 2021**

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE
FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY FOR THE
PURPOSE OF PROTESTING**

Defendants

ORDER

PENAL NOTICE

**IF YOU THE WITHIN NAMED DEFENDANTS OR ANY OF YOU DISOBEY THIS
ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER
YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE
IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING
WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF
THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE
IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED**

IMPORTANT NOTICE TO THE DEFENDANTS

**This Order prohibits you from doing the acts set out in this Order. You should read it
very carefully. You are advised to consult a solicitor as soon as possible. You have the
right to ask the Court to vary or discharge this Order.**



UPON the Claimant's claim in trespass, nuisance and under the Highways Act 1980 by Claim Form dated 21 September 2021 ("the Claim")

AND UPON READING the Claim Form and the supporting evidence

AND UPON hearing Michael Fry and Jonathan Welch, Counsel for the Claimant

AND UPON the Claimant undertaking to pay the relevant court fees and to provide any witness statement(s) supporting the Claim within 48 hours of the sealing of this Order

AND UPON the Claimant indicating that it will provide to the Defendants copies of further evidence or other documents filed in these proceedings upon request, following the Defendants or their representatives providing contact details to the Claimant's solicitors

AND UPON the Court accepting the Claimant's undertaking that the Claimant will comply with any order for compensation which the Court might make in the event that the Court later finds that this Order has caused loss to a Defendant and the Court finds that the Defendant ought to be compensated for that loss

AND UPON the Claimant undertaking to identify and name Defendants and apply to add them as named Defendants to this Order as soon as reasonably practicable

AND UPON the Claimant confirming that this Order is not intended to prohibit lawful protest which does not endanger, slow, obstruct, or prevent the free flow of traffic onto or along the M25 motorway nor to prevent lawful use of the M25 by any person

IT IS ORDERED THAT:

1. For the purposes of this Order, the "M25" means the London Orbital Motorway including but not limited to the verges, central reservation, on- and off-slip roads, overbridges and underbridges including the Dartford Crossing and Queen Elizabeth II Bridge, and any apparatus related to that motorway.

Injunction in force

2. With immediate effect and until the earlier of (i) Trial; (ii) Further Order; or (iii) 23.59 pm on 21 March 2022, the Defendants and each of them are forbidden from:

- 2.1 Blocking, endangering, slowing down, preventing, or obstructing the free flow of traffic onto or along or off the M25 for the purposes of protesting.
 - 2.2 Causing damage to the surface of or to any apparatus on or around the M25 including but not limited to painting, damaging by fire, or affixing any item or structure thereto.
 - 2.3 Affixing themselves (“locking on”) to any other person or object on the M25.
 - 2.4 Erecting any structure on the M25.
 - 2.5 Tunnelling in the vicinity of the M25.
 - 2.6 Entering onto the M25 unless in a motor vehicle.
 - 2.7 Abandoning any vehicle or item on the M25 with the intention of causing an obstruction.
 - 2.8 Refusing to leave the area of the M25 when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer.
 - 2.9 Causing, assisting or encouraging any other person to do any act prohibited by paragraphs 2.1 – 2.8 above.
 - 2.10 Continuing any act prohibited by paragraphs 2.1 – 2.9 above.
3. The Claimant shall:
 - 3.1 Place copies of this Order and the Claim Form on the National Highways and Gov.uk website; and
 - 3.2 Send a copy of this Order and the Claim Form to Insulate Britain’s email address: Insulate Britain ring2021@protonmail.com.
 4. For the avoidance of doubt, compliance with paragraph 3 shall not constitute service.

Further directions

5. The Defendants or any other person affected by this order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimant’s

solicitors immediately (and in any event not less than 48 hours before the hearing of any such application).

6. Any person applying to vary or discharge this order must provide their full name and address, an address for service, and must also apply to be joined as a named defendant to the proceedings at the same time.
7. The Claimant has liberty to apply to extend or vary this Order or for further directions.
8. The return date hearing to be listed for 10.30 am on 5 October 2021 in person.
9. Costs reserved.

Communications with the Claimant

10. The Claimant's solicitors and their contact details are:

FAO Antony Nwanodi
Government Legal Department,
102 Petty France, Westminster,
London SW1H 9GL
E: tony.nwanodi@governmentlegal.gov.uk
T: 020 7210 3424

BY THE COURT

Dated: 21 September 2021

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Before: Mr Justice Cavanagh

On: 24 September 2021

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND A2070 TRUNK
ROADS AND M2 AND M20 MOTORWAY FOR THE PURPOSE OF
PROTESTING



Defendants

ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED DEFENDANTS OR ANY OF YOU DISOBEY THIS ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

IMPORTANT NOTICE TO THE DEFENDANTS

This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order.

UPON the Claimant’s claim in trespass and nuisance by Claim Form dated 24 September 2021 (“the Claim”)

AND UPON READING the Claim Form and the Witness Statement of Nicola Bell dated 24 September 2021

AND UPON hearing Michael Fry and Jonathan Welch, Counsel for the Claimant

AND UPON the Claimant indicating that it will provide to the Defendants copies of further evidence or other documents filed in these proceedings upon request, following the Defendants or their representatives providing contact details to the Claimant’s solicitors

AND UPON the Court accepting the Claimant’s undertaking that the Claimant will comply with any order for compensation which the Court might make in the event that the Court later finds that this Order has caused loss to a Defendant and the Court finds that the Defendant ought to be compensated for that loss

AND UPON the Claimant undertaking to identify and name Defendants and apply to add them as named Defendants to this Order as soon as reasonably practicable

AND UPON the Claimant confirming that this Order is not intended to prohibit lawful protest which does not slow, obstruct, prevent or otherwise interfere with the flow of traffic onto off or along the A2, A20, A2070, M2 or M20 nor to prevent lawful use of the A2, A20, A2070, M2 or M20 by any person

IT IS ORDERED THAT:

1. For the purposes of this Order, the A2, A20, A2070, M2 and M20 (together the “Roads”) means the roads identified in the plans annexed to this Order including but not limited to the verges, central reservation, on- and off-slip roads, overbridges and underbridges and any apparatus related to that motorway.

Injunction in force

2. With immediate effect and until the earlier of (i) Trial; (ii) Further Order; or (iii) 23.59 pm on 24 March 2022, the Defendants and each of them are forbidden from:
 - 2.1 Blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or along or off the Roads for the purpose of protesting.

- 2.2 Blocking, slowing down, obstructing or otherwise interfering with access to or from the Roads, and on any adjacent roads, slip roads or roundabouts which are not vested in the Claimant, for the purpose of protesting.
 - 2.3 Causing damage to the surface of or to any apparatus on or around the Roads including but not limited to painting, damaging by fire, or affixing any item or structure thereto.
 - 2.4 Affixing themselves (“locking on”) to any other person or object on the Roads.
 - 2.5 Erecting any structure on the Roads.
 - 2.6 Tunnelling in the vicinity of the Roads.
 - 2.7 Entering onto the Roads unless in a motor vehicle.
 - 2.8 Abandoning any vehicle or item on the Roads with the intention of causing an obstruction.
 - 2.9 Refusing to leave the area within 50m of the centre of the Roads when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer.
 - 2.10 Causing, assisting or encouraging any other person to do any act prohibited by paragraphs 2.1 – 2.9 above.
 - 2.11 Continuing any act prohibited by paragraphs 2.1 – 2.10 above.
3. The Claimant shall:
 - 3.1 Place copies of this Order and the Claim Form on the National Highways and Gov.uk website; and
 - 3.2 Send a copy of this Order and the Claim Form to Insulate Britain’s email address: Insulate Britain ring2021@protonmail.com.
 4. For the avoidance of doubt, compliance with paragraph 3 shall not constitute service.

Further directions

5. The Defendants or any other person affected by this order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimant's solicitors immediately (and in any event not less than 48 hours before the hearing of any such application).
6. Any person applying to vary or discharge this order must provide their full name and address, an address for service, and must also apply to be joined as a named defendant to the proceedings at the same time.
7. The Claimant has liberty to apply to extend or vary this Order or for further directions.
8. The return date hearing to be listed for 10.30 am on 5 October 2021 in person.
9. Costs reserved.

Communications with the Claimant

10. The Claimant's solicitors and their contact details are:

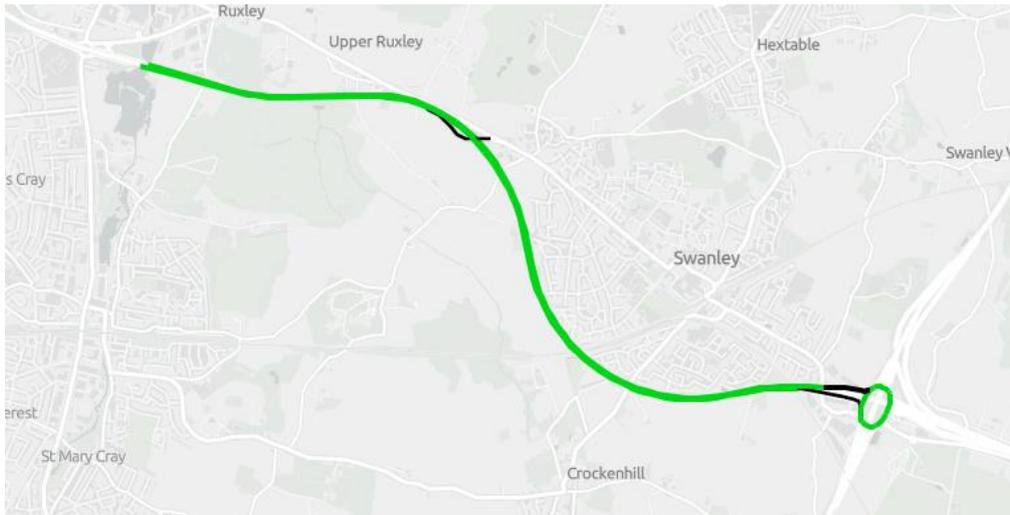
FAO Antony Nwanodi
Government Legal Department,
102 Petty France, Westminster,
London SW1H 9GL
E: tony.nwanodi@governmentlegal.gov.uk
T: 020 7210 3424

BY THE COURT

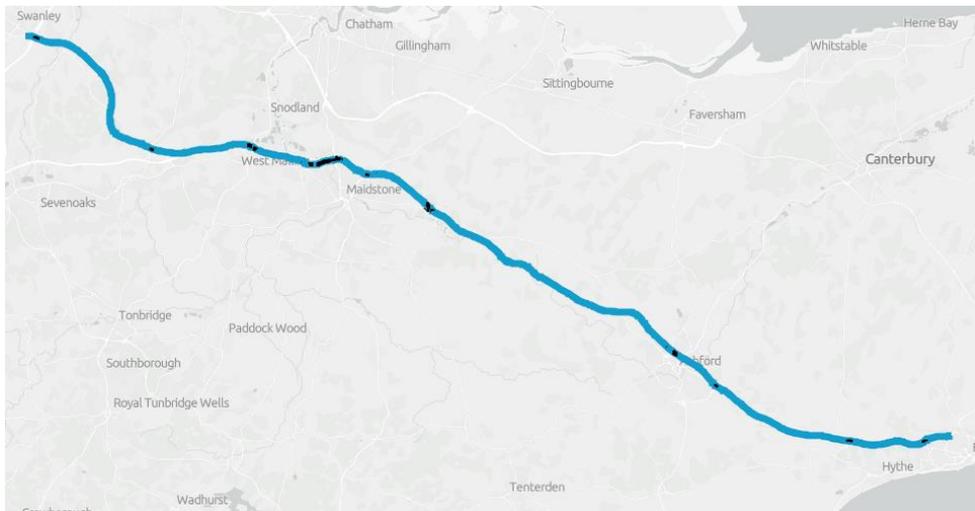
Dated: 24 September 2021

ANNEX TO THE ORDER OF MR JUSTICE CAVANAGH DATED 24 SEPTEMBER 2021

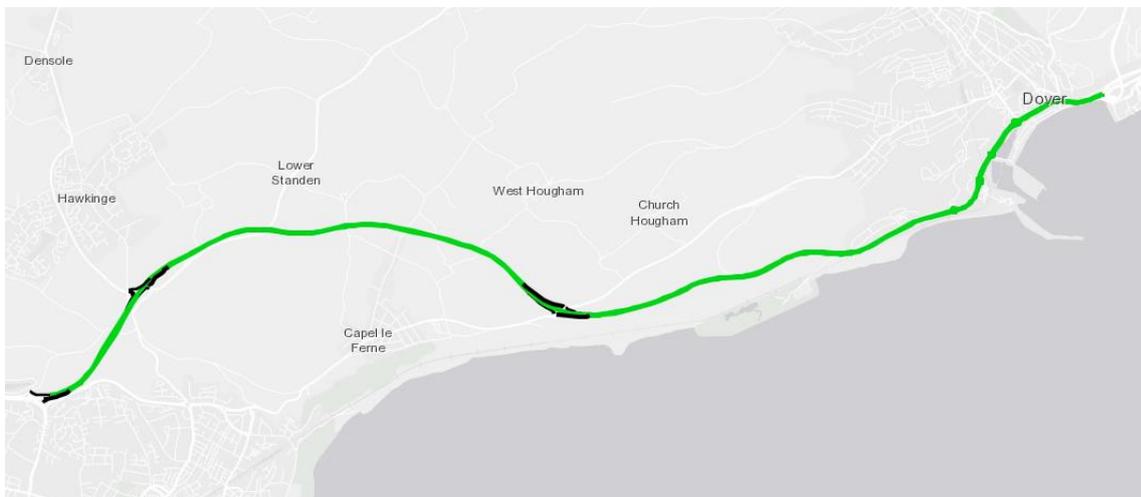
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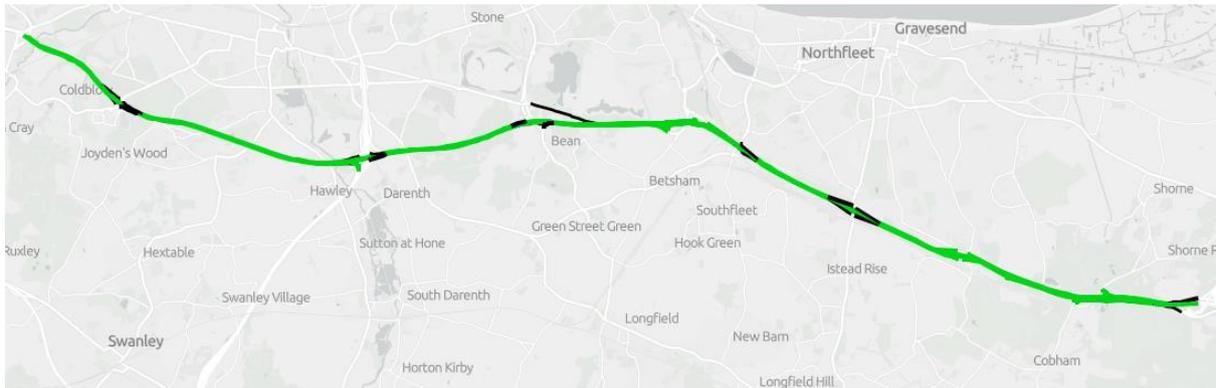
M20



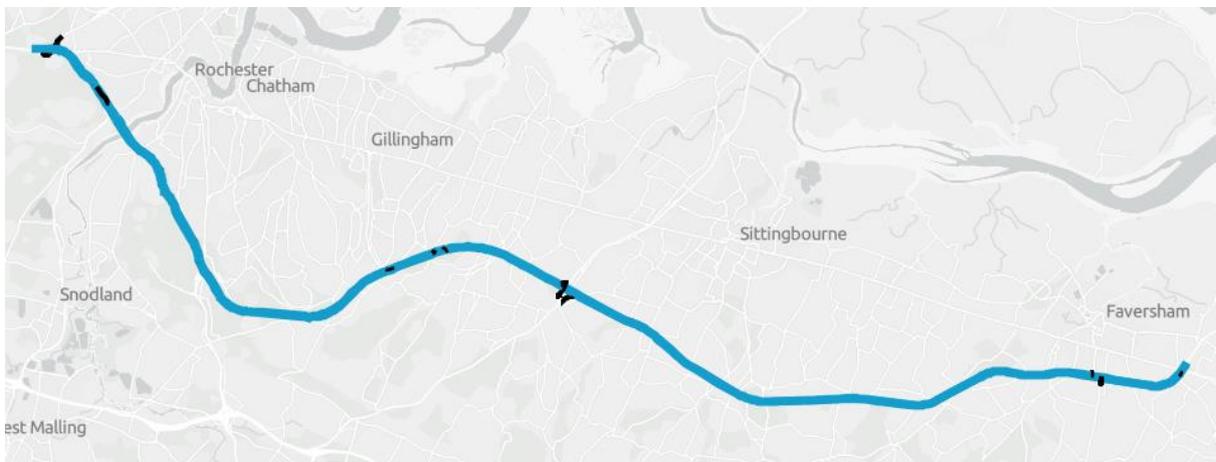
A20 Coast Section



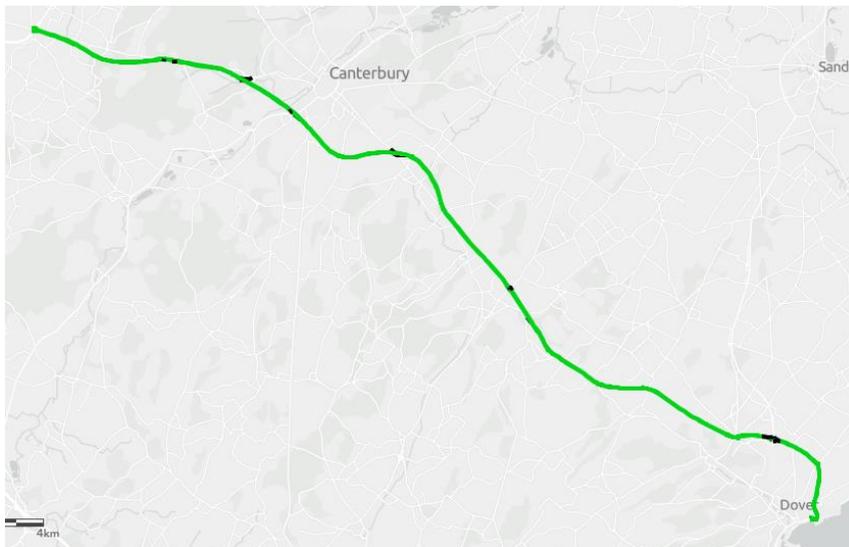
A2 London – M2 Section



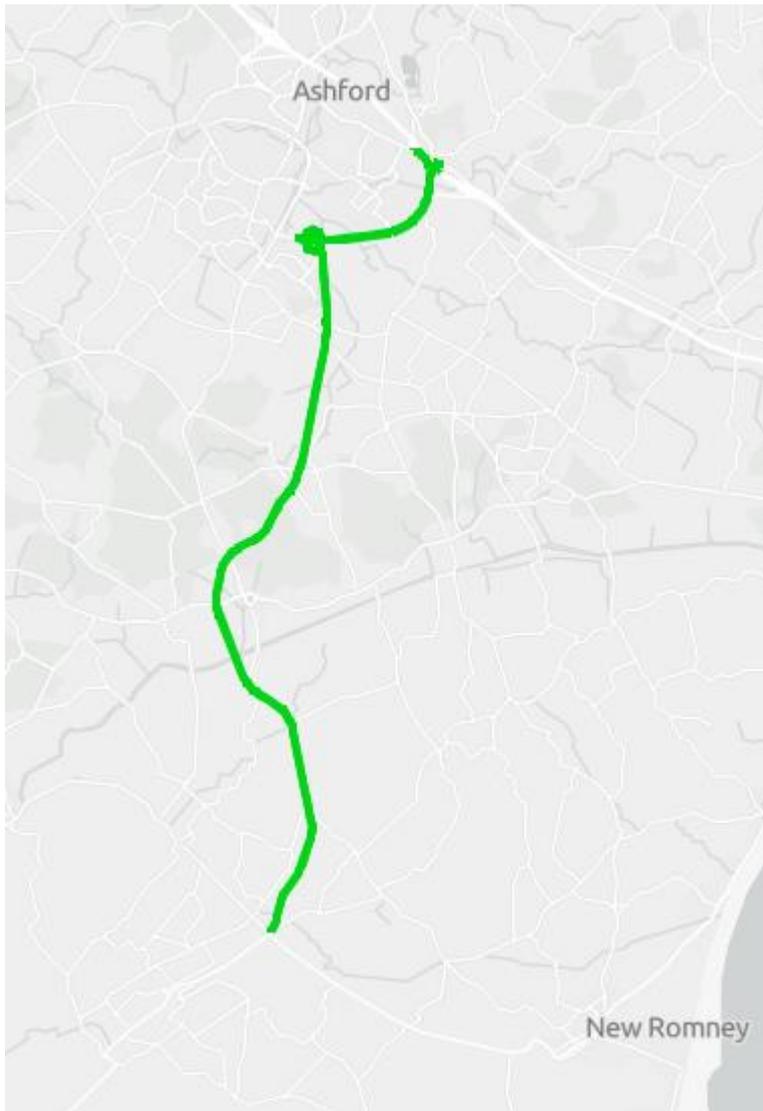
M2



A2 M2 - Dover Section



A2070



Kent & Surrounding areas SRN



IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Before: The Honourable Mr Justice Holgate

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING

(2) MR ALEXANDER RODGER AND 112 OTHERS

Defendants



ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED DEFENDANTS AND PERSONS UNKNOWN OR ANY OF YOU DISOBEY THIS ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

IMPORTANT NOTICE TO THE DEFENDANTS

This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order.

UPON HEARING the Claimant's out of hours application in trespass and nuisance by Claim Form dated 1 October 2021 ("the Claim")

AND UPON READING the Claim Form and the Witness Statements of Nicola Bell

dated 1 October 2021 and the statements of Dhiresh Bhatt and Robert Bell dated 2 October 2021

AND UPON the Claimant undertaking to file the claim and application, and the note of this hearing, and pay the relevant court fees within 24 hours of the sealing of this Order

AND UPON hearing Leading Counsel for the Claimant

AND UPON the Claimant undertaking that it will provide to the Defendants copies of further evidence or other documents filed in these proceedings upon request, including the Claimant's note of this hearing, following the Defendants or their representatives providing contact details to the Claimant's solicitors

AND UPON the Court accepting the Claimant's undertaking that the Claimant will comply with any order for compensation which the Court might make in the event that the Court later finds that this Order has caused loss to a Defendant and the Court finds that the Defendant ought to be compensated for that loss

AND UPON the Claimant undertaking to identify and name Defendants and apply to add them as named Defendants to this Order as soon as reasonably practicable

AND UPON the Claimant confirming that this Order is not intended to prohibit lawful protest which does not slow, obstruct, prevent or otherwise interfere with the flow of traffic onto off or along the A1(M) (Junction 1 to Junction 6), M11 (Junction 4 to Junction 7), A12 (M25 Junction 28 to A12 Junction 12), A13 (M25 Junction 30 to A1089), M26 (whole motorway from M25 to M20), A21 (M25 to B2042), A23 (M23 to Star Shaw), M23 (Junction 7 to Junction 10 (including M23 Gatwick Spur)), A23 (between North and South Terminal Roundabouts), A3 (A309 to B2039 Ripley Junction), M3 (Junction 1 to Junction 4), A30 (M25 Junction 13 to Harrow Road, Stanwell, Feltham), A3113 (M25 Junction 14 to A3044), M4 (Junction 1 to Junction 7), M4 Spur (whole of spur from M4 Junction 4 to M4 Junction 4a), M40 (Junction 7 to A40 at Fray's River Bridge), M1 (Junction 1 to Junction 8) and A414 (M1 Junction 8 to A405).

IT IS ORDERED THAT:

1. The “within named Defendants” are those Defendants whose names appear in the schedule annexed to this Order (Annex 1). The term “Defendants” refers to both “persons unknown” and the within named Defendants.
2. For the purposes of this Order, the A1(M) (Junction 1 to Junction 6), M11 (Junction 4 to Junction 7), A12 (M25 Junction 28 to A12 Junction 12), A13 (M25 Junction 30 to A1089), M26 (whole motorway from M25 to M20), A21 (M25 to B2042), A23 (M23 to Star Shaw), M23 (Junction 7 to Junction 10 (including M23 Gatwick Spur)), A23 (between North and South Terminal Roundabouts), A3 (A309 to B2039 Ripley Junction), M3 (Junction 1 to Junction 4), A30 (M25 Junction 13 to Harrow Road, Stanwell, Feltham), A3113 (M25 Junction 14 to A3044), M4 (Junction 1 to Junction 7), M4 Spur (whole of spur from M4 Junction 4 to M4 Junction 4a), M40 (Junction 7 to A40 at Fray’s River Bridge), M1 (Junction 1 to Junction 8) and A414 (M1 Junction 8 to A405) (together “the Roads”) means the Roads identified by the descriptions and plan annexed to this Order (Annex 2) including but not limited to the verges, central reservation, on- and off-slip roads, overbridges and underbridges, including any roundabouts for access to and from the Roads, and any apparatus related to those Roads.
3. The Claimant has permission to amend the claim form and the notice of application to more accurately describe the Roads.

Injunction in force

4. With immediate effect and until the earlier of (i) Trial; (ii) Further Order; or (iii) 23.59 pm on 24 March 2022, the Defendants and each of them are forbidden from:
 - 4.1 Blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or along or off the Roads for the purpose of protesting.
 - 4.2 Blocking, slowing down, obstructing or otherwise interfering with access to or from the Roads, and on any adjacent roads, slip roads or roundabouts which are not vested in the Claimant, for the purpose of protesting.

- 4.3 Causing damage to the surface of or to any apparatus on or around the Roads including but not limited to painting, damaging by fire, or affixing any item or structure thereto.
 - 4.4 Affixing themselves (“locking on”) to any other person or object on the Roads.
 - 4.5 Erecting any structure on the Roads.
 - 4.6 Tunnelling in the vicinity of the Roads.
 - 4.7 Entering onto the Roads unless in a motor vehicle.
 - 4.8 Abandoning any vehicle or item on the Roads with the intention of causing an obstruction.
 - 4.9 Refusing to leave the area within 50m of the centre of the Roads when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer.
 - 4.10 Causing, assisting or encouraging any other person to do any act prohibited by paragraphs 4.1 – 4.9 above.
 - 4.11 Continuing any act prohibited by paragraphs 4.1 – 4.10 above.
5. The Claimant shall:
 - 5.1 Place copies of this Order and the Claim Form on the National Highways and Gov.uk website; and
 - 5.2 Send a copy of this Order and the Claim Form to Insulate Britain’s email address: Insulate Britain ring2021@protonmail.com.
 6. For the avoidance of doubt, compliance with paragraph 5 shall not constitute service.

Alternative Service

7. The Claimant is permitted in addition to personal service to serve this Order and the claim form and other documents in these proceedings both of the following methods together:
 - 7.1 Service of the sealed Order on Insulate Britain by email; and
 - 7.2 posting a copy of this Order together with a copy of the claim form and evidence in support through the letterbox of each Defendant (or leaving in a separate mailbox) with a notice affixed to the front door if necessary, drawing the recipient's attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order and the proceedings may be affixed to the front door marked with a notice drawing the recipient's attention to the fact that the package contains a court order and should be read urgently. The Notices shall be given in prominent lettering in the form set out in Schedule 1.

Further directions

8. The Defendants or any other person affected by this Order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimant's solicitors immediately (and in any event not less than 48 hours before the hearing of any such application).
9. Any person applying to vary or discharge this Order must provide their full name and address, an address for service, and must also apply to be joined as a named defendant to the proceedings at the same time.
10. The Claimant has permission to apply to extend or vary this Order or for further directions.
11. The return date hearing to be listed for 10.30 am on 12 October 2021 in person. Time estimate 2-3 hours. Any party disagreeing with the time estimate should notify the Court as soon as possible.

12. Any Defendant who proposes to attend and oppose the order on the return date shall file a skeleton argument and any evidence to be relied upon by no later than 10 am on 11 October 2021.

13. Costs reserved.

Communications with the Claimant

14. The Claimant's solicitors and their contact details are:

FAO Antony Nwanodi
Government Legal Department,
102 Petty France, Westminster,
London SW1H 9GL
E: tony.nwanodi@governmentlegal.gov.uk
T: 020 7210 3424

BY THE COURT

Sir David

Holgate

Dated: 2 October 2021

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING

(2) MR ALEXANDER RODGER AND 112 OTHERS

Defendants

ANNEXE 1 TO ORDER – NAMED DEFENDANTS

	Name	Address	Surrey Police	Essex Police	Met Police	Hertfordshire Police	Kent Police	Thames Valley Police
1	Alexander RODGER	[REDACTED]	[REDACTED]				[REDACTED]	
2	Alyson LEE	[REDACTED]		[REDACTED]		[REDACTED]	[REDACTED]	
3	Amy Pritchard	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		

4	Ana Heyata win	[REDACTED]	[REDACTED]		[REDACTED]			
5	Andrew Worsley	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
6	Anne Taylor	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
7	Anthon y WHITE HOUSE	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
8	Arne Springorum	[REDACTED]			[REDACTED]		[REDACTED]	
9	Barry Mitchell	[REDACTED]			[REDACTED]			
10	Barry Mitchell	[REDACTED]				[REDACTED]		
11	Ben TAYLOR	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
12	Benjamin Buse	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	

13	Biff William Courten ay Whipst er	[REDACTED]		[REDACTED]	[REDACTED]		■	
14	Camero n FORD	[REDACTED]	[REDACTED]				■	
15	Catheri ne RENNI E- NASH	[REDACTED]		[REDACTED]		[REDACTED]	■	
16	Cathy Eastbur n	[REDACTED]	[REDACTED]		[REDACTED]		■	
17	Christia n Murray- Leslie	[REDACTED]		[REDACTED]		[REDACTED]		
18	Christia n Rowe	[REDACTED]	[REDACTED]		[REDACTED]		■	
19	Cordeli a Rowlatt	[REDACTED]	[REDACTED]					
20	Daniel Sargiso n	[REDACTED]	[REDACTED]					
21	Daniel Shaw	[REDACTED]			[REDACTED]	[REDACTED]	■	
22	David CRAW FORD	[REDACTED]		[REDACTED]			■	

23	David JONES	[REDACTED]		[REDACTED]		[REDACTED]	■	
24	David Nixon	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		
25	David Squire	[REDACTED]	[REDACTED]					
26	Diana Bligh	[REDACTED]	[REDACTED]					
27	Diana Hekt	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	■	
28	Diana Lewen Warner	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
29	Donald BELL	[REDACTED]		[REDACTED]			■	
30	Edward HERBERT	[REDACTED]	[REDACTED]				■	
31	Elizabeth Rosser	[REDACTED]				[REDACTED]		

32	Emily Brocklebank	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	■	
33	Emma Joanne Smart	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
34	Gabriella Ditton	[REDACTED]		[REDACTED]	[REDACTED]		■	
35	Gregory FREY	[REDACTED]	[REDACTED]		[REDACTED]		■	
36	Gwen HARRISON	[REDACTED]		[REDACTED]			■	
37	Harry Barlow	[REDACTED]	[REDACTED]			[REDACTED]		
38	Ian Bates	[REDACTED]			[REDACTED]	[REDACTED]	■	
39	Ian Duncan Webb	[REDACTED]			[REDACTED]			
40	James Bradbury	[REDACTED]	[REDACTED]					
41	James Sargison	[REDACTED]	[REDACTED]					
42	James Thomas	[REDACTED]			[REDACTED]		■	

		[REDACTED]						
43	Janet Brown	[REDACTED]	[REDACTED]					
44	Janine EAGLING	[REDACTED]		[REDACTED]			[REDACTED]	
45	Jerrard Mark Latimer	[REDACTED]	[REDACTED]					
46	Jessica Causby	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
47	Jonathan Coleman	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
48	Joseph SHEPHERD	[REDACTED]					[REDACTED]	
49	Joshua Smith	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
50	Judith Bruce	[REDACTED]	[REDACTED]			[REDACTED]		
51	Julia Mercer	[REDACTED]			[REDACTED]			
52	Julia Schofield	[REDACTED]	[REDACTED]					

53	Karen Matthews	[REDACTED]			[REDACTED]	[REDACTED]		
54	Karen Wildin	[REDACTED]			[REDACTED]	[REDACTED]		
55	Liam Norton	[REDACTED]			[REDACTED]			
56	Louis McKechnie	[REDACTED]			[REDACTED]		■	
57	Louise Charlotte Lancaster	[REDACTED]		[REDACTED]	[REDACTED]		■	
58	Lucy Crawford	[REDACTED]			[REDACTED]			
59	Mair Bain	[REDACTED]			[REDACTED]	[REDACTED]		
60	Margaret MALOWSKA	[REDACTED]	[REDACTED]				■	
61	Marguerite Dowbley	[REDACTED]			[REDACTED]			
62	Maria Lee	[REDACTED]			[REDACTED]	[REDACTED]		

63	Martin NEWEL L	[REDACTED]	[REDACTED]				■	
64	Mary Adams	[REDACTED]			[REDACTED]			
65	Martin Lunnon	[REDACTED]	[REDACTED]					
66	Matthe w Tulley	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	■	
67	Meredith William s	[REDACTED]			[REDACTED]	[REDACTED]	■	
68	Michael Brown	[REDACTED]	[REDACTED]					
69	Michael WILEY	[REDACTED]	[REDACTED]				■	
70	Michell e Charles worth	[REDACTED]			[REDACTED]	[REDACTED]	■	

71	Natalie MORLEY	[REDACTED]	[REDACTED]				■	
72	Nathaniel Squire	[REDACTED]	[REDACTED]					
73	Nicholas Cooper	[REDACTED]			[REDACTED]	[REDACTED]		
74	Nicholas ONLEY	[REDACTED]		[REDACTED]	[REDACTED]		■	
75	Nicholas TILL	[REDACTED]		[REDACTED]			■	
76	Oliver Rock	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
77	Paul Cooper	[REDACTED]	[REDACTED]					
78	Paul Sheeky	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]		
79	Peter BLENCOE	[REDACTED]				[REDACTED]	■	

80	Peter Morgan	[REDACTED]						
81	Phillipa CLARKE	[REDACTED]						
82	Priyadaka CONWAY	[REDACTED]						
83	Richard RAMSDEN	[REDACTED]						
84	Rob STUART	[REDACTED]						
85	Robin COLLETT	[REDACTED]						
86	Roman Andrzej Paluch-Machnik	[REDACTED]						
87	Rosemary Webster	[REDACTED]						
88	Rowan Tilly	[REDACTED]						
89	Ruth Ann Cook	[REDACTED]						

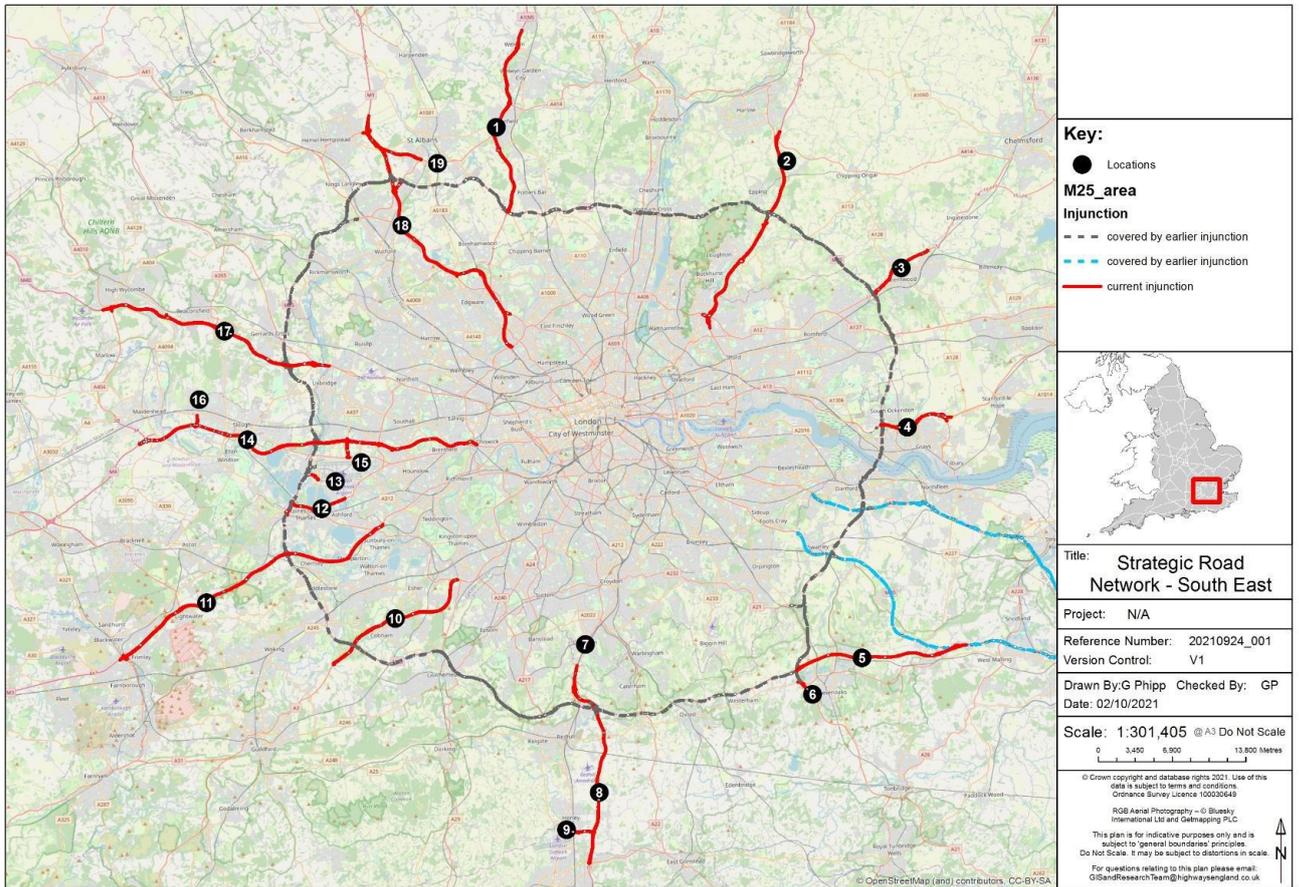
90	Ruth Jarman	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
91	Sarah Hirons	[REDACTED]	[REDACTED]					
92	Serena Schellenberg	[REDACTED]	[REDACTED]					
93	Simon REDING	[REDACTED]		[REDACTED]		[REDACTED]	[REDACTED]	
94	Stefania MOROSI	[REDACTED]		[REDACTED]			[REDACTED]	
95	Stephanie AYLETT	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
96	Stephen Gower	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
97	Stephen Pritchard	[REDACTED]	[REDACTED]		[REDACTED]			
98	Sue Chambers	[REDACTED]	[REDACTED]					

99	Sue Parfitt	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
100	Sue Spence r- Longhurst	[REDACTED]			[REDACTED]	[REDACTED]		
101	Susan HAGLEY	[REDACTED]	[REDACTED]				■	
102	Suzie WEBB	[REDACTED]					■	
103	Tam Millar	[REDACTED]			[REDACTED]			
104	Tessa-Marie Burns	[REDACTED]	[REDACTED]					
105	Teresa NORTON	[REDACTED]		[REDACTED]		[REDACTED]	■	
106	Tim Speers	[REDACTED]		[REDACTED]	[REDACTED]		■	
107	Tim William Hewes	[REDACTED]	[REDACTED]		[REDACTED]		[REDACTED]	
108	Tracey Mallaghan	[REDACTED]	[REDACTED]					

109	Tryrone Hodge	[REDACTED]	[REDACTED]					
110	Valeria SAUND ERS	[REDACTED]	[REDACTED]				■	
111	Venitia CARTE R	[REDACTED]	[REDACTED]				■	
112	Victoria Anne Lindsell	[REDACTED]			[REDACTED]	[REDACTED]	■	
113	Xabier GONZA LEZ TRIMM ER	[REDACTED]		[REDACTED]			■	

ANNEX 2

Plan and description of the Roads covered by this Order



- 1.A1(M) from Junction 1 to Junction 6
- 2.M11 from Junction 4 to Junction 7
- 3.A12 from M25 Junction 28 to A12 Junction 12
- 4.A13 from M25 Junction 30 to A1089
- 5.M26 (the whole motorway) from M25 to M20
- 6.A21 from the M25 to B2042
- 7.A23 from M23 to Star Shaw
- 8.M23 from Junction 7 to Junction 10 (including M23 Gatwick Spur)
- 9.A23 between North and South Terminal Roundabouts
- 10.A3 from A309 to B2039 Ripley Junction
- 11.M3 from Junction 1 to Junction 4
- 12.A30 from M25 Junction 13 to Harrow Road, Stanwell, Feltham
- 13.A3113 from M25 Junction 14 to A3044
- 14.M4 from Junction 4B to Junction 7
- 15.M4 Spur (whole spur) from M4 Junction 4 to M4 Junction 4a
- 16.M4 from Junction 1 to Junction 4B
- 17.M40 from M40 Junction 7 to A40 (Fray's River Bridge)
- 18.M1 from Junction 1 to Junction 8
- 19.A414 from M1 Junction 8 to A405

SCHEDULE 1

[On the package containing the Court order and proceedings]

“VERY URGENT: THIS PACKAGE CONTAIN AN ORDER OF THE HIGH COURT AND YOU SHOULD READ IT IMMEDIATELY AND SEEK LEGAL ADVICE. IF YOU NEED ANOTHER COPY PLEASE CALL - Antony Nwanodi, Government Legal Department, Tel: 020 7210 3424”

[To affix to front door when the package has been posted through the letterbox or placed in a mailbox]

“VERY URGENT: A PACKAGE HAS BEEN LEFT THAT CONTAINS AN ORDER OF THE HIGH COURT AND YOU SHOULD READ IT IMMEDIATELY AND SEEK LEGAL ADVICE. IF YOU NEED ANOTHER COPY PLEASE CALL - Antony Nwanodi, Government Legal Department, Tel: 020 7210 3424”

SUPPORTING WITNESS STATEMENT FOR M25 INJUNCTION

TAB	DOCUMENT	PAGES
Supporting Witness Statement for M25 Injunction		
4.	Witness Statement of Anthony Nwanodi (without Exhibits) dated 30 September 2021	37 - 44

Witness statement on behalf of the Claimant

Antony Nwanodi

1st

AN/1 - AN/4

30th September 2021

Claim No. QB-2021-003576

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING, SLOWING
DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF
TRAFFIC ONTO OR ALONG THE M25 MOTORWAY FOR THE PURPOSE OF
PROTESTING**

Defendant

**WITNESS STATEMENT OF
ANTONY NWANODI**

I, Antony Nwanodi, of the Government Legal Department, 102 Petty France, Westminster, London SW1H 9GL will say as follows:

1. I am the lawyer with conduct of this matter on behalf of the Claimant. I make this statement in support of the Claimant's applications for orders that:
 - a. A number of Chief Constables disclose the names and addresses of protestors removed from the M25 to the Claimant, and additionally all material relevant to enforcement of the injunction of the Honourable Mr Justice Lavender of 21 September 2021. Since this application is made at the request of the police, it is hoped that it is not opposed by the Chief Constables concerned.
 - b. The requirement for personal service of the injunction be dispensed with, and alternative service be permitted.
 - c. Named defendants be added to the proceedings as set out in the annexe to the draft Order.

2. Identical issues have arisen in this case and the other claim in which the Claimant has obtained an interim injunction in respect of the Kent roads (Order of the Honourable Mr Justice Cavanaugh of 24th September 2021). For that reason, the same application has been issued in each case (supported by a very similar statement). It is respectfully suggested that the two applications should be considered together for convenience and saving of time.

Background

3. Starting on 13th September 2021 the group 'Insulate Britain' began a number of protests. Those protests involved individuals running onto the motorway and remaining there. A number of protestors used glue and other methods to secure themselves to the surface of the highway and serious disruption was caused to the flow of the traffic and to the ability of other road users to pass along the motorway.
4. The Claimant is responsible for the operation, maintenance and improvement of the United Kingdom's motorways and major A roads ('the Strategic Road Network'). It is responsible for the M25 and for other highways which have been the subject of protests by Insulate Britain.
5. The Claimant considers that the protests organised by Insulate Britain are extremely dangerous. When entering the motorway there is a substantial risk to the life of the protestors and lawful road users. The vehicles on these roads usually travel at 70 MPH (or faster) and drivers may not react swiftly enough to an unexpected pedestrian incursion. The Claimant is also aware that the disruption and gridlock caused by the protests has imperilled life in other ways: ambulance and other emergency service vehicles are reported to have struggled to make good time when responding to emergencies. Further, serious disruption is caused to other road users and they are prevented from exercising their ordinary rights to pass and repass along the highway.
6. In the light of the danger and disruption caused by the protests the Claimant initiated these proceedings (and other similar applications) seeking an injunction against the protestors. An interim injunction was granted by the Honourable Mr Justice Lavender in respect of the M25 on 21st September 2021 ("the M25 injunction"). An interim injunction was granted by the Honourable Mr Justice Cavanaugh in respect of the A2, A20, A2070, M2 and M20 on 24th September 2021 ("the Kent injunction"). I produce and exhibit those orders as exhibit AN/1.

7. Each of the injunctions includes a recital recording an undertaking given by the Claimant “to identify and name Defendants and apply to add them as named Defendants to this Order as soon as reasonably practicable”. The injunctions also prohibit protestors from refusing to leave when ordered to by *inter alia* ‘a police constable’.
8. Having obtained injunctions discussions occurred with the police forces whose officers were likely to be deployed to the protests. Much of this discussion occurred under the aegis of the National Police Coordination Centre (‘NPoCC’). Those discussions are continuing.
9. Stephen Bramley CBE is the Director of Legal Services of the Metropolitan Police. In this case he has worked through NPoCC to coordinate the approach being taken to the Court’s interim injunctions by the police. In particular, he has been liaising with the Claimant as to the correct approach to be taken to providing information to the Claimant so as to allowing the Claimant’s representatives to serve the injunctions on protestors, and to evidence breaches of the injunctions.
10. In relation to the first of those issues, the Claimant asked the various police forces involved to share the name and address of protestors arrested on the highways. Until the Claimant is provided with the name and address of all of the protestors it cannot add them as named Defendants to the proceedings. In such circumstances the orders’ impact and enforceability is undermined and the Claimant cannot comply with the undertaking it gave when each injunction was granted. Whilst some of these names have now been provided by some of the forces, Mr Bramley remains concerned as to the scope of information that can be shared with NH and it has not been possible therefore to obtain all of the information as to identities held by the police.
11. By an email sent to me and several others at 16:57 on 23rd September he explained (emphasis in the original):

...lawyers for all forces responsible for policing the M25 (MPS, Essex, Kent, Surrey, Thames valley, Herts) have agreed:

- It is safest for all concerned for officers to continue their task of removing protestors from the motorway and establishing their names and addresses. We know at least 104 have been identified this way so far

- **We don't recommend that high court enforcement officers are involved at this stage in serving them with the unamended injunction**

- Instead we would consent to NH applying to the high court for an order under CPR 31.17/18 requiring disclosure by those forces of identifying information of such protesters. We believe this should be a speedy and straightforward process

- Upon forces furnishing NH with such identifying information, **NH then apply to the court to amend the injunction to:**

(i) Add named defendants

...

- This would enable **enforcement officers to serve the amended injunction personally on named defendants** at their home addresses- safer for all concerned

- The need for a protocol to enable enforcement officers to serve the amended injunction personally in a motorway setting would be secondary, and contingent on the named defendants not being contactable at the address given. Police lawyers can consider further the terms of an amended protocol to provide for this, and also for a further pack of evidence to be gathered by police to enable a committal application to be made in due course

...

12. Following discussions, over the weekend of 25th/26th September, a protocol and memorandum of understanding was put together between NH and Mr Bramley, to allow for some information sharing. Despite this, the Police view was that they required a Court order, to be able to share both the name and address of protestors and evidence of breaches of the injunctions with the Claimant. Whilst there has been some information sharing, and there is a willingness to co-operate at some level at least, the position is far from certain given the earlier statements by the Police and the Claimant does not consider that it is acceptable to

allow the uncertainty to continue given the continuing protests and multiple and deliberate breaches of the Court's orders.

13. For that reason, it is necessary to make this application pursuant to CPR 31.17 to make the position with regard to disclosure clear to the Police and to enable the Court orders to be served and to take steps to enable those orders to be enforced. On the basis of Mr Bramley's email it is expected that the various police forces will not oppose the making of an order that they disclose the name and address of each arrested person to the Claimant, and, for the purposes of the proceedings and in particular to take steps to enforce the Court orders, to the forces sharing evidence of breaches of the injunction, such as body worn video footage showing protestors in the road and other evidential material. However, very recent communications with Mr Bramley suggest that there may be some resistance to an order which, absent a clear and unequivocal commitment to disclose the materials sought (which may only be used in the context of proceeding as provided for in CPR Part 31.22) – which strengthens the need to obtain it since it underlines the uncertainty in the position of the Police with regard to sharing information necessary to the civil proceedings.

The necessity of disclosure

14. The names and addresses, and evidence of breaches of the Court's orders constitute material likely to support the Claimant's case and/or to adversely affect the case of the Defendants. Without the provision of information to the identify and addresses of the Defendants, and demonstrating breaches of order, it will be impossible to proceed with the case and to enforce the orders obtained, and thus to restore the proper use of the motorways and the rights of the public over them.. Moreover, the information would allow the Claimant to comply with the undertaking given to Mr Justice Lavender.
15. Furthermore, the disclosure is necessary because without it the interests of both the Claimant and the Defendants are prejudiced. In respect of the Claimant this is because the injunction proceedings are undermined. In respect of the Defendants prejudice arises because unless the protestors are named in the proceedings their ability to contest the injunction is impaired

although it is clear that their own website has links on it to the Court orders, as does the Claimant's website. I exhibit these as AN/2¹.

Conclusion on disclosure

16. In the circumstances the court is requested to make this order pursuant to CPR 31.17 and that in the circumstances it is appropriate and proportionate to do so.

Service of the proceedings and the Orders

17. The Honourable Mr Justice Lavender ordered personal service of the injunction made on 21 September. The Claimants obtained some definitive information concerning the identities of the Defendants for the first time from the police on Monday 27th September. The Claimant has sought to effect personal service on the individuals identified thus far.
18. In a number of cases, personal service has not been possible. I have spoken to the High Court Enforcement Group (who are seeking to effect service for the Claimant), and have been told that in some cases this was due to the individuals refusing service (presumably being tipped off that it was incoming), and in other cases because the individuals are not at their home address, but residing elsewhere. I was told on a call at 2.30pm on 29 September that to date there had been 76 visits by process servers, 11 successful, 65 unsuccessful visits. There were 29 remaining at that time.
19. I exhibit as AN/3 a report sheet which I received at 16:26 from HCEG on 29 September showing various failed attempts at personal service, in various cases there being no response or the process server being told the individual in question was away.

Alternative service

20. The Court is respectfully requested to allow alternative service of the claim form and injunction pursuant to CPR r.6.15 and r.6.27.

¹ <https://www.insulatebritain.com/injunction-what-injunction;>
[https://highwaysengland.co.uk/media/wcufrac5/national-highways-limited-v-persons-unknown-approved-order-21-09-21.pdf;](https://highwaysengland.co.uk/media/wcufrac5/national-highways-limited-v-persons-unknown-approved-order-21-09-21.pdf) [https://highwaysengland.co.uk/media/s5vocubs/interim-injunction-a20-et-al-sealed-202210924.pdf\]](https://highwaysengland.co.uk/media/s5vocubs/interim-injunction-a20-et-al-sealed-202210924.pdf)

21. Notwithstanding the existence of the injunctions, which have been publicised in the press and on Insulate Britain's own website the "Insulate Britain" protesters have continued to obstruct the enjoined highways, in open defiance of the Court's Orders, and showing clear knowledge of the Court's Orders [see: <https://www.insulatebritain.com/injunction-what-injunction>]: see AN/2. Indeed, the Insulate Britain website provides links (which work, as of 29th September) to copies of the injunctions in force [<https://www.insulatebritain.com/insulate-britain-returns-to-block-m25-junction-for-the-second-time-today>]. The group is clearly aware of the existence of the injunctions. I exhibit these pages as AN/4. I can confirm that the links provided lead to the Court Orders and allow them to be read and downloaded.
22. I should draw to the Court's attention that some of the Police forces involved may be willing to allow service of those arrested after they have completed the charging process at the police station, but this is unlikely to enable service to be effected on all of those whose names and addresses have already been given (though there are persons whose names have appeared on a number of occasions who may be arrested again, but this is not certain).
23. Service, which has to date not been possible despite attempts by process servers, is a prerequisite to enforcing the Order of the Court by bringing committal proceedings. The inability to serve the Defendants' personally means the Claimant is hampered in its ability to enforce the Orders of the Court, and since the protesters are clearly willing to act in open defiance of the Court Orders, it seems that committal proceedings will likely be the only means of enforcing the Orders of the Court and preventing the deleterious effects of the protests on the road network.

Conclusion on service

24. The Court is respectfully requested to grant an order permitting alternative service by one or more of the following means:
- a. Publication of the injunction on the "Insulate Britain" website [<https://www.insulatebritain.com/>] which contains links to the Court Orders
 - b. The Claimant to post the injunction on the "Insulate Britain" Facebook page [<https://www.facebook.com/insulatebritain>].

Witness statement on behalf of the Claimant

Antony Nwanodi

1st

AN/1 - AN/4

30th September 2021

- c. The Claimant to post sealed copies on its own web page [<https://highwaysengland.co.uk/media/wcufrac5/national-highways-limited-v-persons-unknown-approved-order-21-09-21.pdf>].
- d. The Claimant to serve by posting a copy of the order through the letterbox of each Defendant with a notice affixed to the front door if necessary, drawing the recipients attention to the fact the package contains a court order. In the event that the premises do not have a letter box, a package containing the Court orders and the proceedings may be affixed to the front door marked with a notice drawing attention to the fact that the package contains a court order and should be read urgently (see details in draft Order).

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

Name:.....Antony Nwanodi.....

Signature:...



Date:.....30 September 2021.....

CLAIM FORMS AND PARTICULARS OF CLAIM

TAB	DOCUMENT	PAGES
Claim Forms and Particulars of Claim		
5.	Claim Form dated 21 September 2021	46 - 49
6.	Claim Form dated 24 September 2021	50 - 53
7.	Claim Form dated 2 October 2021	54 - 57
8.	Consolidated Particulars of Claim dated 22 October 2021	58 - 77



Claim Form

In the High Court of Justice, Queen's Bench Division	
Fee Account no.	
Help with Fees - Ref no. (if applicable)	H W F - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>

You may be able to issue your claim online which may save time and money. Go to www.moneyclaim.gov.uk to find out more.

	<i>For court use only</i>
Claim no.	
Issue date	

Claimant(s) name(s) and address(es) including postcode
 NATIONAL HIGHWAYS LIMITED (Co. Reg. No. 09346363)
 Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ



Defendant(s) name and address(es) including postcode
 PERSONS UNKNOWN CAUSING OR PERMITTING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY FOR THE PURPOSE OF PROTESTING QB-2021-003576

Brief details of claim

1. Possession of the Land, to which the Claimants have an immediate right known as the M25, including its on and off slip roads and the A282 Dartford Crossing and Queen Elizabeth Bridge, as shown coloured green on the plans annexed to the Particulars of Claim, on the grounds of: trespass; actual or threatened anti-social behaviour; and actual or threatened use of the property for unlawful purposes.
2. In nuisance by obstruction and interference with the free passage of the public along the highway land.
3. The removal and prevention of any obstruction to the public highway, pursuant to sections 263 (vesting of title in the Highways Authority), 130 (power to take legal proceedings as part of performing duty to assert and protect rights of public to use the highway) and 137 (obstruction of highway a criminal offence) of the Highways Act 1980.

This claim does not involve possession of a house, demotion of tenancy or the suspension of the right to buy.

Value

You must indicate your preferred County Court Hearing Centre for hearings here (*see notes for guidance*)

Defendant's name and address for service including postcode

	£
Amount claimed	
Court fee	
Legal representative's costs	
Total amount	

For further details of the courts www.gov.uk/find-court-tribunal.

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

Claim No.

--

Does, or will, your claim include any issues under the Human Rights Act 1998? Yes No

Particulars of Claim (attached)(to follow)

To follow.

Statement of Truth

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

- I **believe** that the facts stated in this particulars of claim are true.
- The Claimant** believes that the facts stated this particulars of claim are true. **I am authorised** by the claimant to sign this statement.

Signature

NwaAnCodi

- Claimant
- Litigation friend (where judgment creditor is a child or a patient)
- Claimant's legal representative (as defined by CPR 2.3(1))

Date

Day Month Year

21 09 2021

Full name

Antony Chidi Nwanodi

Name of claimant's legal representative's firm

Gouvernement Legal Department

If signing on behalf of firm or company give position or office held

Senior Lawyer

Claimant's or claimant's legal representative's address to which documents should be sent.

Building and street

102 Petty France

Second line of address

Town or city

Westminster

County (optional)

London

Postcode

S | W | 1 | H | 9 | G | L

If applicable

Phone number

Fax phone number

DX number

123243 Westminster 12

Your Ref.

Z2111665/ACN/DS3

Email



Claim Form

In the High Court of Justice, Queen's Bench Division	
Fee Account no.	
Help with Fees - Ref no. (if applicable)	H W F - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>

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	<i>For court use only</i>
Claim no.	
Issue date	

Claimant(s) name(s) and address(es) including postcode
 NATIONAL HIGHWAYS LIMITED (Co. Reg. No. 09346363)
 Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ



Defendant(s) name and address(es) including postcode
 PERSONS UNKNOWN causing the blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or off or along the A2, A20, A2070, M2 and M20 roads for the purpose of protesting
 QB-2021-003626

Brief details of claim

1. Possession of the Land, to which the Claimants have an immediate right known as the A2, A20, A2070, M2 and M20, including its on and off slip roads on the grounds of trespass.
2. In nuisance by obstruction and interference with the free passage of the public and the Claimant onto or off or along the A2, A20, A2070, M2 and M20 roads.

This claim does not involve possession of a house, demotion of tenancy or the suspension of the right to buy.

Value

You must indicate your preferred County Court Hearing Centre for hearings here (*see notes for guidance*)

Defendant's name and address for service including postcode

	£
Amount claimed	
Court fee	
Legal representative's costs	
Total amount	

For further details of the courts www.gov.uk/find-court-tribunal.

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998? Yes No

Particulars of Claim (attached)(to follow)

To follow.

Statement of Truth

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

- I **believe** that the facts stated in this particulars of claim are true.
- The Claimant** believes that the facts stated this particulars of claim are true. **I am authorised** by the claimant to sign this statement.

Signature

NwaAnCodi

- Claimant
- Litigation friend (where judgment creditor is a child or a patient)
- Claimant's legal representative (as defined by CPR 2.3(1))

Date

Day Month Year

24 09 2021

Full name

Antony Chidi Nwanodi

Name of claimant's legal representative's firm

Gouvernement Legal Department

If signing on behalf of firm or company give position or office held

Senior Lawyer

Claimant's or claimant's legal representative's address to which documents should be sent.

Building and street

102 Petty France

Second line of address

Town or city

Westminster

County (optional)

London

Postcode

S | W | 1 | H | 9 | G | L

If applicable

Phone number

Fax phone number

DX number

123243 Westminster 12

Your Ref.

Z2111665/ACN/DS3

Email



Claim Form

In the	High Court of Justice Queen's Bench Division
Fee Account no.	
Help with Fees – Ref no. (if applicable)	H W F - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
<i>For court use only</i>	
Claim no.	
Issue date	

You may be able to issue your claim online which may save time and money. Go to www.moneyclaim.gov.uk to find out more.

Claimant(s) name(s) and address(es) including postcode

**NATIONAL HIGHWAYS LIMITED (Co. Reg. No. 09346363)
Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ**



Defendant(s) name and address(es) including postcode

- PERSONS UNKNOWN causing the blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or off or along the A1(M), A3, A12, A13, A21, A23, A30, A414 and A3113 Trunk Roads and the M1, M3, M4, M4 Spur, M11, M26, M23 and M40 Motorways for the purpose of protesting
- Mr Alexander Rodger and the Named Defendants listed in Schedule 1 to this Claim Form.

Brief details of claim

- Possession of the Land, to which the Claimants have an immediate right and being the A1(M), A3, A12, A13, A21, A23, A30, A414 and A3113 Trunk Roads and the M1, M3, M4, M4 Spur, M11, M26, M23 and M40 Motorways (shown marked red and described in more detail on Plan 1 to this Claim Form), including all on and off slip roads on the grounds of trespass.
- In nuisance by obstruction and interference with the free passage of the public and the Claimant onto or off or along the A1(M), A3, A12, A13, A21, A23, A30, A414 and A3113 Trunk Roads and the M1, M3, M4, M4 Spur, M11, M26, M23 and M40 Motorways (shown marked red and described in more detail on Plan 1 to this Claim Form).

This claim does not involve possession of a house, demotion of tenancy or the suspension of the right to buy.

Value

You must indicate your preferred County Court Hearing Centre for hearings here (*see notes for guidance*)

Defendant's name and address for service including postcode

- Persons Unknown
Addresses Unknown
- Alexander Rodger and the Named Defendants, whose addresses are listed in Schedule 1.

	£
Amount claimed	
Court fee	£569
Legal representative's costs	
Total amount	

For further details of the courts www.gov.uk/find-court-tribunal.

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number **Page 54**

Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998? Yes No

Particulars of Claim (attached) (to follow)

To follow

Statement of Truth

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

I **believe** that the facts stated in these particulars of claim are true.

The Claimant believes that the facts stated these particulars of claim are true. **I am authorised** by the claimant to sign this statement.

Signature



Claimant

Litigation friend (where judgment creditor is a child or a patient)

Claimant's legal representative (as defined by CPR 2.3(1))

Date

Day

Month

Year

02

10

2021

Full name

Antony Chidi Nwanodi

Name of claimant's legal representative's firm

Government Legal Department

If signing on behalf of firm or company give position or office held

Senior Lawyer

Claimant's or claimant's legal representative's address to which documents should be sent.

Building and street

102 Petty France

Second line of address

Town or city

Westminster

County (optional)

London

Postcode

S W 1 H 9 G L

If applicable

Phone number

Fax phone number

DX number

123243 Westminster 12

Your Ref.

Z2111665/ACN/DS3

Email

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No: QB-2021-003576

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING,
ENDANGERING, SLOWING DOWN, OBSTRUCTING OR
OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC
ONTO OR ALONG THE M25 MOTORWAY FOR THE PURPOSE
OF PROTESTING**

(2) MR ALEXANDER RODGER AND 123 OTHERS

Defendants

Claim No: QB-2021-003626

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING
DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH
THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A2,
A20 AND 2070 TRUNK ROADS AND M2 AND M20 MOTORWAY
FOR THE PURPOSE OF PROTESTING**

(2) MR ALEXANDER RODGER AND 123 OTHERS

Defendants

Claim No: QB-2021-003737

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING
DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH
THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE
A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK
ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND
M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING**

(2) MR ALEXANDER RODGER AND 123 OTHERS

Defendants

CONSOLIDATED PARTICULARS OF CLAIM

1. The Claimant (formerly Highways England Company Limited):
 - (1) is a strategic highways company incorporated pursuant to ss. 1 and 15 of Infrastructure Act 2015;
 - (2) became the licence holder, highways authority and owner of the land for the Strategic Road Network (“**the SRN**”) under the Appointment of a Strategic Highways Company Order 2015, SI 2015 No. 376;
 - (3) is consequently the highway authority for the SRN pursuant to s.1A of the Highways Act 1980 (as amended);
 - (4) as highways authority in any event has the physical extent of the highway vested in it pursuant to s. 263 of the Highways Act 1980.
2. The Claimant is entitled as highways authority, alternatively as owner of the SRN, to take steps to prevent trespass and nuisance (both public and private) to the use of, and access to, the highways comprising the SRN.
3. Those Defendants who have been identified and joined individually as Defendants to these proceedings are set out in Annex 1 to these Particulars. Where necessary the Defendants whose names appear in Annex 1 are referred to as “the Named Defendants”, whilst reference to “the Defendants” includes both the Named Defendants and those persons unknown who have not yet been individually identified.
4. The Defendants have taken part in a series of protests since 13 September 2021 on the SRN in London and across the south east of England under the banner of “Insulate Britain” (“**IB**”). The protest action to date has involved the obstruction of highways, and access to the highways, comprising parts of the SRN in and around London (including the M25) and in Kent and also has interfered with the free flow of traffic and the use of the SRN by members of the public.
5. The roads to which these Particulars relate and to which the Orders referred to below apply, are set out in Annex 2 to these particulars (“**the Roads**”).
6. The Claimant has obtained three interim injunctions preventing the unlawful use of the SRN by the Defendants in claims QB-2021-003576, 003626 and 003737. These are the Claimant’s Consolidated Particulars of Claim in relation to the

three claims.

The IB Protests

7. The IB Protests involve protestors obstructing the Roads comprising part of the SRN with their physical presence, normally either by sitting down on or gluing themselves to the road surface and similar activities. They also involve the interference with access to those highways.
8. The IB Protests have been ongoing across the south east of England since 13 September 2021:
 - (1) On 13 September 2021, protestors blocked slip roads and the carriageway around five junctions on the M25.
 - (2) On 15 and 17 September 2021 further protests took place.
 - (3) On 21 September 2021, protests on the M25 intensified, including the blocking of the main carriageway of the M25 in both directions.
 - (4) On 21 September 2021 Lavender J granted, an interim injunction in respect of persons unknown “*causing the blocking, endangering, slowing down, obstructing or otherwise preventing the free flow of traffic onto or along the M25 motorway for the purposes of protesting*” (QB-2021-003576) (“**the M25 Order**”).
 - (5) Subsequently, the protests moved south east along the strategic highway network, and on 24 September 2021 blocked the A20 in Kent and subsequently the port of Dover.
 - (6) On 24 September 2021, Cavanagh J granted an interim injunction in similar terms to the M25 Order in respect of the IB Protests on or around the A2, A20, A2070, M2 and M20 (QB-2021-003626) (“the Kent Order”).
 - (7) On 29 September 2021, protestors blocked, for the second time, junction 3 of the M25.
 - (8) On 30 September 2021, protestors glued their hands to the ground at Junction 30 of the M25.
 - (9) On 1 October 2021, protestors from IB blocked junction 3 of the M4 and junction 1 of the M1.

- (10) May J on 1 October 2021 made two orders joining the Named Defendants to these proceedings, ordering disclosure from the police and permitting alternative service of the M25 and Kent Orders.
- (11) On 2 October 2021, Holgate J granted a third interim injunction covering the SRN providing access to London both inside and outside the M25 (QB-2021-003737 (“the London Order”), the M25 “feeder roads”, on similar terms to the previous injunctions, joining the same named Defendants and replicating May J’s orders for alternative service.
- (12) On 8 October 2021, protestors from IB blocked the M25 at Junction 25. Other protests, outside the SRN and these proceedings have been carried out causing obstruction to roads within London which are part of the GLA strategic road network.
9. The M25, Kent and London Orders are collectively referred to as “**the Orders**”. A plan and details attached to these Particulars as Annex 3 identifies the areas and the Roads included in the prohibitions imposed by the Orders.
10. Throughout the period referred to above, IB has issued press releases admitting the obstruction caused by the protests by its supporters to the Roads and stating an intention to continue the protest campaign, which intention it has given effect to by continued disruption to the SRN and other road networks.
11. The Defendants have all participated in the protest action described in these Particulars, or at least in some of it, and threaten to continue to participate in similar unlawful protest action to the SRN and not necessarily confined to the Roads.

The Defendants

12. To the extent that it has been possible to identify named defendants participating in the IB protests on the Roads, the names of those Defendants have been added to these proceedings.
13. The Claimant also claims against persons unknown by reference to conduct that is unlawful. That conduct has been defined using non-technical language and is clear in its scope and application. In respect of those Defendants who have not yet been identified, the Claimant will continue during these proceedings to identify and name them as soon as reasonably practicable and to continue to seek relief against that category.

Trespass and nuisance

14. As stated in paragraph 1, the Claimant is the freehold owner and highways authority for the SRN, including the Roads, in which the highway is vested pursuant s. 263 of the 1980 Act.
15. The IB Protests involve trespass to the Roads through the obstruction of the free flow of traffic onto and along those parts of the SRN and through extensive disruption of the use of the Roads to other road users on the following occasions:
 - (1) the M25 on 13, 15, 17, 21, 29 and 30 September 2021 and 8 October 2021;
 - (2) the A20 access to the Port of Dover on 24 September 2021;
 - (3) junction 3 of the M4 on 1 October 2021; and
 - (4) junction 1 of the M1 on 1 October 2021.
16. In particular:
 - (1) The Defendants' actions create an immediate threat to life, putting at risk the lives of those protesting and normal motorway users, as well as those reliant on the movement of emergency services vehicles.
 - (2) The protests have caused widespread and serious disruption to other users of the SRN who are unable to exercise their ordinary rights to use the highway. They have caused considerable public expense and economic damage as well as anxiety, inconvenience and distress to other road users.
 - (3) The obstruction and nuisance caused to road users by the IB protests are, as well as being disruptive and costly, intentional. The IB Protests form part of a co-ordinated campaign directed at intentionally creating disruption throughout the road network, including but not limited to the Roads, for the purposes of effecting a specific political outcome.
17. Further, the Defendants' conduct:
 - (1) has exceeded the rights of the public to use the public highway and by causing obstruction and disruption to the highway are trespassing on the SRN;
 - (2) has endangered the life, health, property or comfort of the public and/or

obstructs the public in the exercise of rights common to all Her Majesty's subjects such that a public nuisance has been created, and the Claimant has suffered particular damage over and above the general inconvenience and injury suffered by the public in expending (i) costs incurred in additional internal managerial and staffing time in order to deal with the protest action and (ii) other costs incurred in remedying the wrong;

- (3) threatens, unless restrained, to continue the actions under (1) and (2) and to cause an interference with the reasonable use of the SRN amounting to a private nuisance by obstructing the access to and use of the SRN.
18. By reason of the matters set out herein, there is a real and imminent risk of trespass and nuisance continuing to be committed across the SRN including to the Roads.
19. The Defendants have openly stated an intention to continue to cause obstruction to the SRN, and various parts of it including the Roads, through further protest action similar to that described herein unless restrained by this Honourable Court.
20. Further, by reason of the unlawful behaviour set out herein, the Claimant has suffered loss and damage.

AND THE CLAIMANT CLAIMS:

- (1) An Order that the Defendants, and each of them, are forbidden from:
 - (a) Blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or along or off the Roads for the purpose of protesting.
 - (b) Blocking, slowing down, obstructing or otherwise interfering with access to or from the Roads, and on any adjacent roads, slip roads or roundabouts which are not vested in the Claimant, for the purpose of protesting.
 - (c) Causing damage to the surface of or to any apparatus on or around the Roads including but not limited to painting, damaging by fire, or affixing any item or structure thereto.
 - (d) Affixing themselves ("locking on") to any other person or object on the Roads.

- (e) Erecting any structure on the Roads.
 - (f) Tunnelling in the vicinity of the Roads.
 - (g) Entering onto the Roads unless in a motor vehicle.
 - (h) Abandoning any vehicle or item on the Roads with the intention of causing an obstruction.
 - (i) Refusing to leave the area within 50m of the centre of the Roads when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer.
 - (j) Causing, assisting or encouraging any other person to do any act prohibited by paragraphs (l)(a) to (i) above.
 - (k) Continuing any act prohibited by paragraphs (l)(a) to (j) above.
- (2) Declaratory relief that the use of the SRN by the Defendants for the purposes of protest which causes an obstruction of the public highway is unlawful and a trespass in that it exceeds the lawful right of the public to use the highway and interferes unreasonably with the use of the highway by other members of the public entitled to use it.
- (3) Damages.
- (4) Costs
- (5) Further **or other relief**

DAVID ELVIN QC

MICHAEL FRY

ADMAS HABTESLASIE

HORATIO WALLER

JOEL SEMAKULA

JONATHAN WELCH

Dated, 22 October 2021

The Claimant believes that the facts stated in these Particulars of Claim are true. The Claimant understands that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by the Claimant to sign this statement.

Signed....  ...

Position or office held : Solicitor

Full name : Petra Billing

For the Claimant

DLA Piper UK LLP
1 St Paul's Place
Sheffield
S1 2JX

petra.billing@dlapiper.com

Ref: PXB: 355530/107

Date : 22 October 2021

ANNEX I – the Named Defendants

SCHEDULE 1 – NAMED DEFENDANTS

	Name
1	Alexander RODGER
2	Alyson LEE
3	Amy PRITCHARD
4	Ana HEYATAWIN
5	Andrew WORSLEY
6	Anne TAYLOR
7	Anthony WHITEHOUSE
8	Arne SPRINGORUM
9	Barry MITCHELL
10	Barry MITCHELL
11	Ben TAYLOR
12	Benjamin BUSE
13	Biff William Courtenay WHIPSTER
14	Cameron FORD
15	Catherine RENNIE-NASH
16	Catherine EASTBURN
17	Christian MURRAY-LESLIE

18	Christian ROWE
19	Cordelia ROWLATT
20	Daniel SARGISON
21	Daniel SHAW
22	David CRAWFORD
23	David JONES
24	David NIXON
25	David SQUIRE
26	Diana BLIGH
27	Diana HEKT
28	Diana Lewen WARNER
29	Donald BELL
30	Edward HERBERT
31	Elizabeth ROSSER
32	Emily BROCKLEBANK
33	Emma Joanne SMART
34	Gabriella DITTON
35	Gregory FREY
36	Gwen HARRISON
37	Harry BARLOW

38	Ian BATES
39	Ian Duncan WEBB
40	James BRADBURY
41	James SARGISON
42	James THOMAS
43	Janet BROWN
44	Janine EAGLING
45	Jerrard Mark LATIMER
46	Jessica CAUSBY
47	Jonathan COLEMAN
48	Joseph SHEPHERD
49	Joshua SMITH
50	Judith BRUCE
51	Julia MERCER
52	Julia SCHOFIELD
53	Karen MATTHEWS
54	Karen WILDIN
55	Liam NORTON
56	Louis MCKECHNIE

57	Louise Charlotte LANCASTER
58	Lucy CRAWFORD
59	Mair BAIN
60	Margaret MALOWSKA
61	Marguerite DOWBLEDAY
62	Maria LEE
63	Martin NEWELL
64	Mary ADAMS
65	Matthew LUNNON
66	Matthew TULLEY
67	Meredith WILLIAMS
68	Michael BROWN
69	Michael WILEY
70	Michelle CHARLSWORTH
71	Natalie MORLEY
72	Nathaniel SQUIRE
73	Nicholas COOPER
74	Nicholas ONLEY
75	Nicholas TILL
76	Oliver ROCK

77	Paul COOPER
78	Paul SHEEKY
79	Peter BLENCOWE
80	Peter MORGAN
81	Phillipa CLARKE
82	Priyadaka CONWAY
83	Richard RAMSDEN
84	Rob STUART
85	Robin COLLETT
86	Roman Andrzej PALUCH-MACHNIK
87	Rosemary WEBSTER
88	Rowan TILLY
89	Ruth Ann COOK
90	Ruth JARMAN
91	Sarah HIRONS
92	Serena SCHELLENBERG
93	Simon REDING
94	Stefania MOROSI

95	Stephanie AYLETT
96	Stephen GOWER
97	Stephen PRITCHARD
98	Sue CHAMBERS
99	Sue PARFITT
100	Sue SPENCER-LONGHURST
101	Susan HAGLEY
102	Suzie WEBB
103	Tam MILLAR
104	Tessa-Marie BURNS
105	Theresa NORTON
106	Tim SPEERS
107	Tim William HEWES
108	Tracey MALLAGHAN
109	Tyrone HODGE
110	Valerie SAUNDERS
111	Venitia CARTER
112	Victoria Anne LINDSELL
113	Xavier GONZALEZ TRIMMER

114	Bethany MOGIE
115	Indigo RUMBELOW
116	Adrian TEMPLE-BROWN
117	Ben NEWMAN
118	Christopher PARISH
119	Elizabeth SMAIL
120	Julian MAYNARD SMITH
121	Rebecca LOCKYER
122	Simon MILNER-EDWARDS
123	Stephen BRETT
124	Virginia MORRIS

ANNEX 2 – the Roads

I. For the purposes of these proceedings, the “Roads” comprises:

(1) In the case of the **M25 Order** -

The London Orbital Motorway including but not limited to the verges, central reservation, on- and off-slip roads, overbridges and underbridges including the Dartford Crossing and Queen Elizabeth II Bridge, and any apparatus related to that motorway.

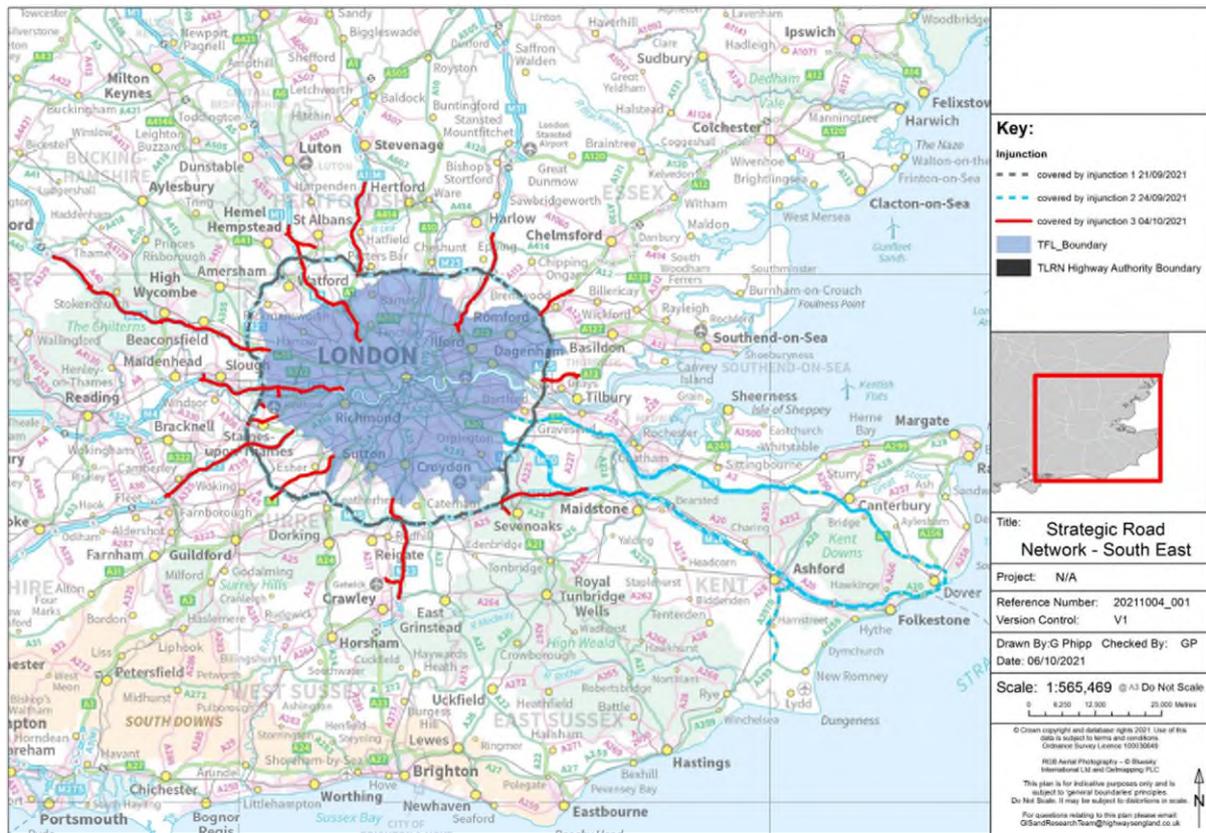
(2) In the case of the **Kent Order** -

The A2, A20, A2070, M2 and M20 including but not limited to the verges, central reservation, on- and off-slip roads, overbridges and underbridges including the Dartford Crossing and Queen Elizabeth II Bridge, and any apparatus related to that motorway.

(3) In the case of the **London Order** -

The A1(M) (Junction 1 to Junction 6), M11 (Junction 4 to Junction 7), A12 (M25 Junction 28 to Junction 12), A13 (M25 Junction 30 to A128 Orsett Junction), M26 (M25 to Junction 3), A21 to B2042, A23 Star Shaw to M25, M23 (Junction 7 to Junction 10 (including M23 Gatwick Spur), A23 (between North and South Terminal Roundabouts), A3 (A240 to M25 Junction 10 to B2039 Ripley Junction), M3 (Junction 1 to Junction 4), A30 (M25 Junction 13 to A3115), A3113 (M25 Junction 14 to A3044), M4 (Junction 4B to Junction 7), M4 Spur (M4 Junction 4 to M4 Junction 4a), M40 (Junction 1A to Junction 4), M4 (M4 Junction 7 to A4), M1 (Junction 1 to Junction 8) and A414 (M1 Junction 8 to A405) (together the “Roads”) means the roads identified in the plans annexed to this Order (Annex 2) including but not limited to the verges, central reservation, on- and off-slip roads, overbridges and underbridges and any apparatus related to that motorway.

ANNEX 3 – Plan



1. A1(M) from junction 1 to Junction 6
2. M11 from Junction 4 to Junction 7
3. A12 from M25 Junction 28 to A12 Junction 12
4. A13 from M25 Junction 30 to junction with A1089
5. M26 (the whole motorway) from M25 to M20
6. A21 from the M25 to B2042
7. A23 from M23 to Star Shaw
8. M23 from Junction 7 to Junction 10 (including M23 Gatwick Spur)
9. A23 between North and South Terminal Roundabouts
10. A3 from A309 to B2039 Ripley Junction
11. M3 from Junction 1 to Junction 4
12. A30 from M25 Junction 13 to Harrow Road, Stanwell, Feltham
13. A3113 from M25 Junction 14 to A3044
14. M4 from Junction 4B to Junction 7
15. M4 Spur (whole spur) from M4 Junction 4 to M4 Junction 4a
16. M4 from Junction 1 to Junction 4B
17. M40 from M40 Junction 7 to A40 (Fray's River Bridge)
18. M1 from Junction 1 to Junction 8
19. A414 from M1 Junction 8 to A405
20. A2 from TfL boundary to M2
21. M2 (the whole motorway) from Junction 1 to Junction 7

22. A2 from M2 Junction 7 to A20 Eastern Docks Roundabout, Dover
23. A20 from TfL boundary to M25 Junction 3
24. M20 (the whole motorway) from M25 Junction 3 to M20 Junction 13. 25.A20 from M20 Junction 13 up to and including Eastern Docks Roundabout
26. A2070 from A259 to M20 Junction 10 and 10a

APPLICATION FOR SUMMARY JUDGMENT

TAB	DOCUMENT	PAGES
Application for Summary Judgment		
9.	Sealed Application Notice	79 - 81
10.	Draft Order	82 - 120
11.	Witness Statement of Nicola Bell (without Exhibit) dated 22 March 2022	121 - 136
12.	First Witness Statement of Laura Higson (without Exhibit) dated 24 March 2022	137 - 175
13.	Second Witness Statement of Laura Higson (without Exhibit) dated 25 April 2022	176 - 197
14.	Claimant's Skeleton Argument	198 - 234
15.	Skeleton Argument of Jessica Branch and Caspar Hughes	235 - 265

Application notice

For help in completing this form please read the notes for guidance form N244 Notes.

Find out how HM Courts and Tribunals Service uses personal information you give them when you fill in a form: <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

Name of court Queen's Bench	Claim no. QB-2021-003576 and QB-2021-003626 and QB-2021-003737								
Fee Account no. (if applicable) PBA0087960	Help with Fees - Ref. no. (if applicable) <table border="1"> <tr> <td>H</td> <td>W</td> <td>F</td> <td>-</td> <td></td> <td>-</td> <td></td> <td></td> </tr> </table>	H	W	F	-		-		
H	W	F	-		-				
Warrant no. (if applicable)									
Claimant's name (including ref.) National Highways Limited									
Defendant's name (including ref.) <p>(1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY FOR THE PURPOSES OF PROTESTING</p> <p>(2) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND A2070 TRUNK ROADS AND M2 AND M20 MOTORWAY FOR THE PURPOSE OF PROTESTING</p> <p>(3) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING</p> <p>(4) MR ALEXANDER RODGER AND 142 OTHERS</p>									
Date	24 March 2022								

1. What is your name or, if you are a legal representative, the name of your firm?

DLA Piper UK LLP

2. Are you a Claimant Defendant Legal Representative

Other
(please specify)

If you are a legal representative whom do you represent? Claimant / Applicant

3. What order are you asking the court to make and why?

That, on the Claimant's application for summary judgment, the Court:

1. grant a final injunction in each of the 3 claims and make an Order for related further directions in the terms of the draft order;
2. make an order for third party disclosure under CPR 31.17 in the terms of the draft order;
3. make an order for alternative service under CPR 6.27 in the terms of the draft order; and
4. make an order for costs in the terms of the draft order.

4. Have you attached a draft of the order you are applying for? Yes No

5. How do you want to have this application dealt with? at a hearing without a hearing
at a telephone hearing

6. How long do you think the hearing will last? hours Minutes

Is this time estimate agreed by all parties? Yes No

7. Give details of any fixed trial date or period

4 & 5 May 2022 (as per the order of Chamberlain J dated 17 March 2022)

8. What level of Judge does your hearing need?

High Court Judge

9. Who should be served with this application?

The Defendants – Claimant to serve

9a. Please give the service address, (other than details of the claimant or defendant) of any party named in question 9.

N/A

10. What information will you be relying on, in support of your application?

- the attached witness statements
 the statement of case
 the evidence set out in the box below

If necessary, please continue on a separate sheet.

Statement of Truth

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

Signed _____ Dated **24 March 2022**
Applicant('s legal representative)(~~s litigation friend~~)

Full name Petra Billing

Name of applicant's legal representative's firm **DLA Piper UK LLP**

Position or office held **Partner**
(if signing on behalf of firm or company)

11. Signature and address details

Signed  Dated **24 March 2022**
 Applicant('s legal representative)(~~'s litigation friend~~)

Position or office held **Partner**
 (if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

DLA Piper UK LLP 1 St Paul's Place Sheffield									
Postcode	S	1				2	J	X	

If applicable	
Phone no.	+442073490296
Fax no.	
DX no.	708580 Sheffield 10
Ref no.	RXS/366530/107

E-mail address	petra.billing@dlapiper.com / rob.shaw@dlapiper.com
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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No: QB-2021-003576

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE
FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY
FOR THE PURPOSE OF PROTESTING**

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003626

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND A2070 TRUNK
ROADS AND M2 AND M20 MOTORWAY FOR THE PURPOSE OF
PROTESTING**

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003737

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23,
A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR,
M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF
PROTESTING**

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Draft ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED DEFENDANTS AND PERSONS UNKNOWN OR ANY OF YOU DISOBEY THIS ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

IMPORTANT NOTICE TO THE DEFENDANTS

This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible.

UPON the application of the Claimant for summary judgment

AND UPON hearing Leading and Junior Counsel for the Claimant and [Counsel for the Defendants/the Defendants in person]

AND UPON the Claimant confirming that this Order is not intended to prohibit lawful protest which does not slow, obstruct, endanger, prevent or otherwise interfere with the flow of traffic onto off or along the Roads defined in paragraph 2 of the Order (“**the Roads**”)

IT IS ORDERED THAT:

1. The “Named Defendants” are those Defendants whose names appear in Schedule 1 annexed to this Order. The term “Defendants” refers to both “persons unknown” and the Named Defendants.

2. For the purposes of this Order, “the Roads” shall mean all of the following:
 - 2.1. The M25, meaning the London Orbital Motorway and meaning the roads identified by the descriptions in paragraphs 2.1 and 2.4 of this Order and shown in red on the plans at Appendix 1 annexed to this Order.

- 2.2. The A2, A20, A2070, M2 and M20, meaning the roads identified by the descriptions in paragraphs 2.2 and 2.4 of this Order and shown in blue and green on the plans at Appendix 2 annexed to this Order;
- 2.3. The A1(M) (Junction 1 to Junction 6), A1 (from A1M to Rowley Lane and from Fiveways Corner roundabout to Hilltop Gardens), M11 (Junction 4 to Junction 7), A12 (M25 Junction 28 to A12 Junction 12), A1023 (Brook Street) (from M25 Junction 28 roundabout to Brook Street Shell Petrol Station access), A13 (M25 Junction 30 to A1089), A13 (from junction with A1306 for Wennington to M25 Junction 30), A1089 (from junction with A13 to Port of Tilbury entrance), M26 (whole motorway from M25 to M20), A21 (M25 to B2042), A23 (M23 to Star Shaw), M23 (Junction 7 to Junction 10 (including M23 Gatwick Spur)), A23 (between North and South Terminal Roundabouts), A3 (A309 to B2039 Ripley Junction), M3 (Junction 1 to Junction 4), A316 (from M3 Junction 1 to Felthamhill Brook), A30 (M25 Junction 13 to Harrow Road, Stanwell, Feltham), A3113 (M25 Junction 14 to A3044), M4 (Junction 1 to Junction 7), M4 Spur (whole of spur from M4 Junction 4 to M4 Junction 4a), M40 (Junction 7 to A40 at Fray's River Bridge), M1 (Junction 1 to Junction 8), A405 (from M25 Junction 21A to M1 Junction 6), A1 (from Fiveways Corner roundabout to Hilltop Gardens), and A414 (M1 Junction 8 to A405), meaning the roads identified by the descriptions in paragraphs 2.3 and 2.4 of this Order and shown in red on the plan at Appendix 3 annexed to this Order;
- 2.4. In the case of each of the Roads, the reference to the Roads shall include but not be limited to all carriageways, hard shoulders, verges, central reservation, slip roads, side roads, access roads, roundabouts including those at junctions providing access to and from the Roads, gantries, tunnels, bridges including overbridges and underbridges including in the case of the M25 the Dartford Crossing and Queen Elizabeth II Bridge and other highway structures whether over, under or adjacent to the motorway/trunk road, together with all supporting infrastructure including but not limited to all fences and barriers, footways, cycleways, road traffic signs, road traffic signals, road lighting, communications installations, technology systems, lay-bys, police observation points/park up points, emergency refuge areas, embankments and cuttings.

3. The three claims (QB-2021-003576, 003626 and 00737) are hereby consolidated.
4. With immediate effect and until [---] April 2025 the Defendants and each of them are forbidden from:
 - 4.1. Blocking, endangering, slowing down, preventing, or obstructing the free flow of traffic onto or along or off the Roads for the purposes of protesting by any means including but not limited to their presence on the Roads, or affixing themselves to the Roads or any object or person, tunnelling in the vicinity of the Roads, abandoning any object, erecting any structure on the Roads or otherwise causing, assisting, facilitating or encouraging any of those matters.
 - 4.2. Causing damage to the surface of or to any apparatus on or around the Roads including but not limited to by painting, damaging by fire, or affixing any item or structure thereto.
 - 4.3. Unless in a motor vehicle, entering onto those parts of the Roads which are not designed or authorised for access on foot other than in cases of emergency.
 - 4.4. Refusing to leave the area of the Roads when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer when carrying out any action prohibited by paragraph 4.1 above.
5. The Claimant shall:
 - 5.1. Place copies of this Order on the National Highways and Gov.uk website; and
 - 5.2. Send a copy of this Order to Insulate Britain's known email addresses: ring2021@protonmail.com and insulatebritainlegal@protonmail.com.
6. For the avoidance of doubt, compliance with paragraph 5 alone shall not constitute service.

Alternative service

7. The Claimant is permitted in addition to personal service to serve this Order by the following methods together:
 - 7.1. service of the sealed Order on Insulate Britain by email to their known email addresses identified at paragraph 5.2 above; and
 - 7.2. posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox) with a notice affixed to the front door if necessary, drawing the recipient's attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to the front door marked with a notice drawing the recipient's attention to the fact that the package contains a court order and should be read urgently. The Notices shall be given in prominent lettering in the form set out in Appendix 4.

Third-Party Disclosure

8. The Chief Constables for those forces listed in Schedule 2 to this Order shall disclose to the Claimant:
 - 8.1. all of the names and addresses of any person who has been arrested by one of their officers in the course of, or as a result of, protests on the Roads referred to in these proceedings; and
 - 8.2. all arrest notes, body camera footage and/or all other photographic material relating to possible breaches of this Order.
9. The Claimant is to serve this order on the Police Representative Assistant Chief Constable Owen Weatherill (owen.weatherill@npocc.police.uk), by email only.

Further directions

10. There shall be listed on [12 months from the date of the Order] a hearing at which the Court shall review whether it should vary or discharge this Order.
11. The Named Defendants shall pay the Claimant's costs of the claim (including any costs reserved by interim orders) to be assessed if not agreed on the standard basis.

Communications with the Claimant

12. The Claimant's solicitors and their contact details are:

- A. FAO Antony Nwanodi

Government Legal Department,
102 Petty France, Westminster,
London SW1H 9GL

E: [REDACTED]

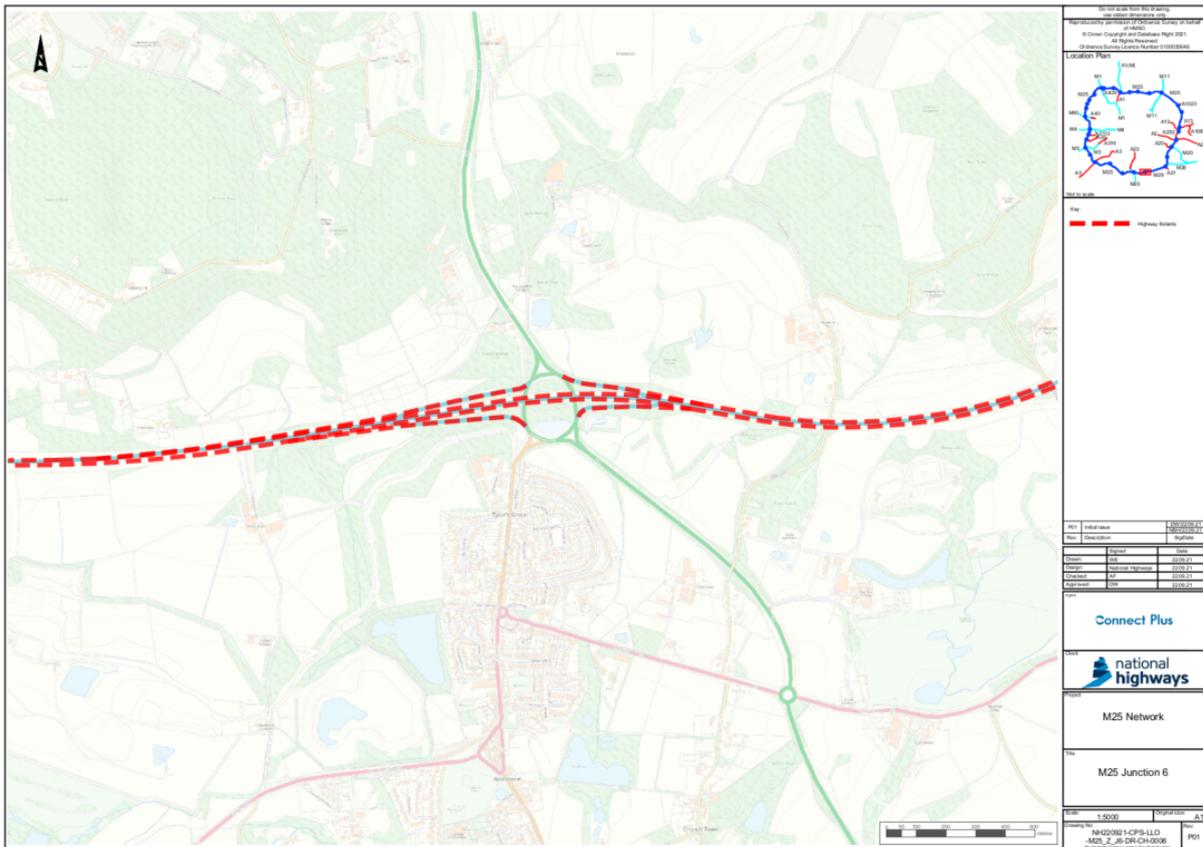
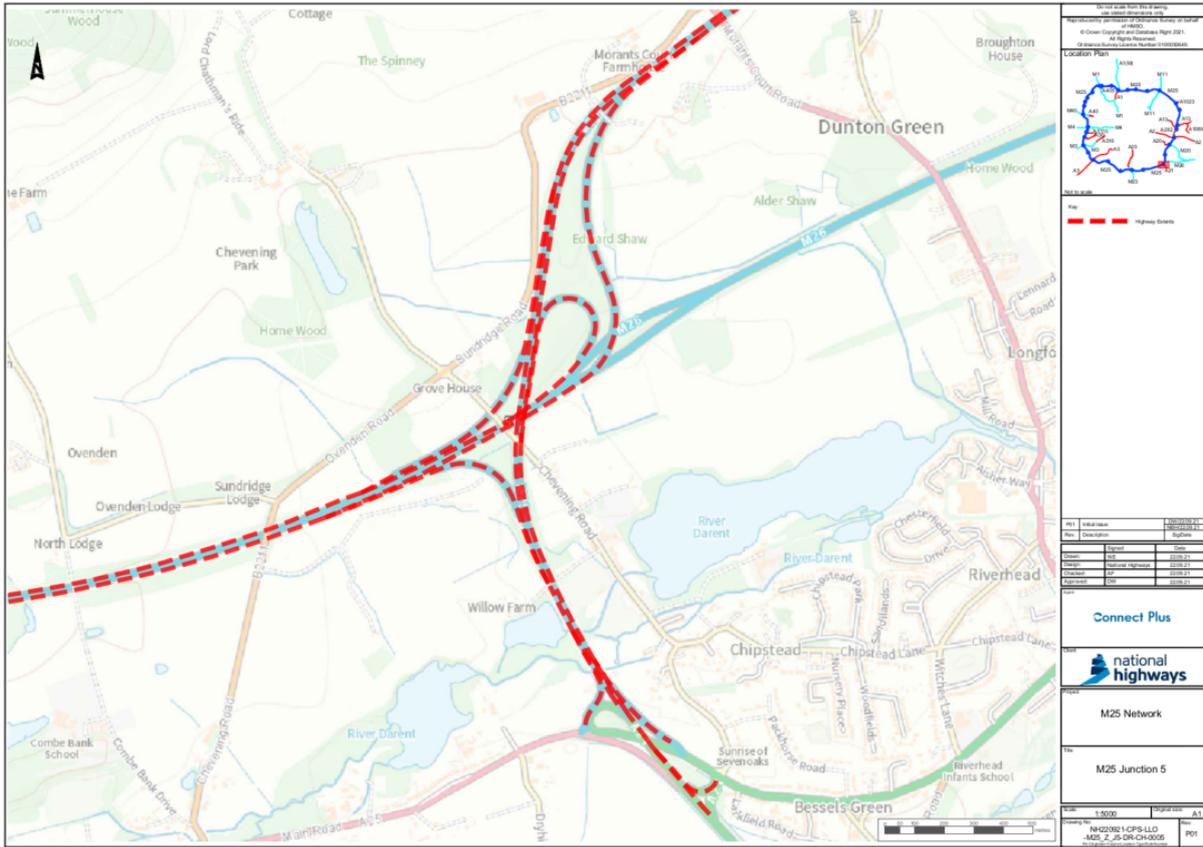
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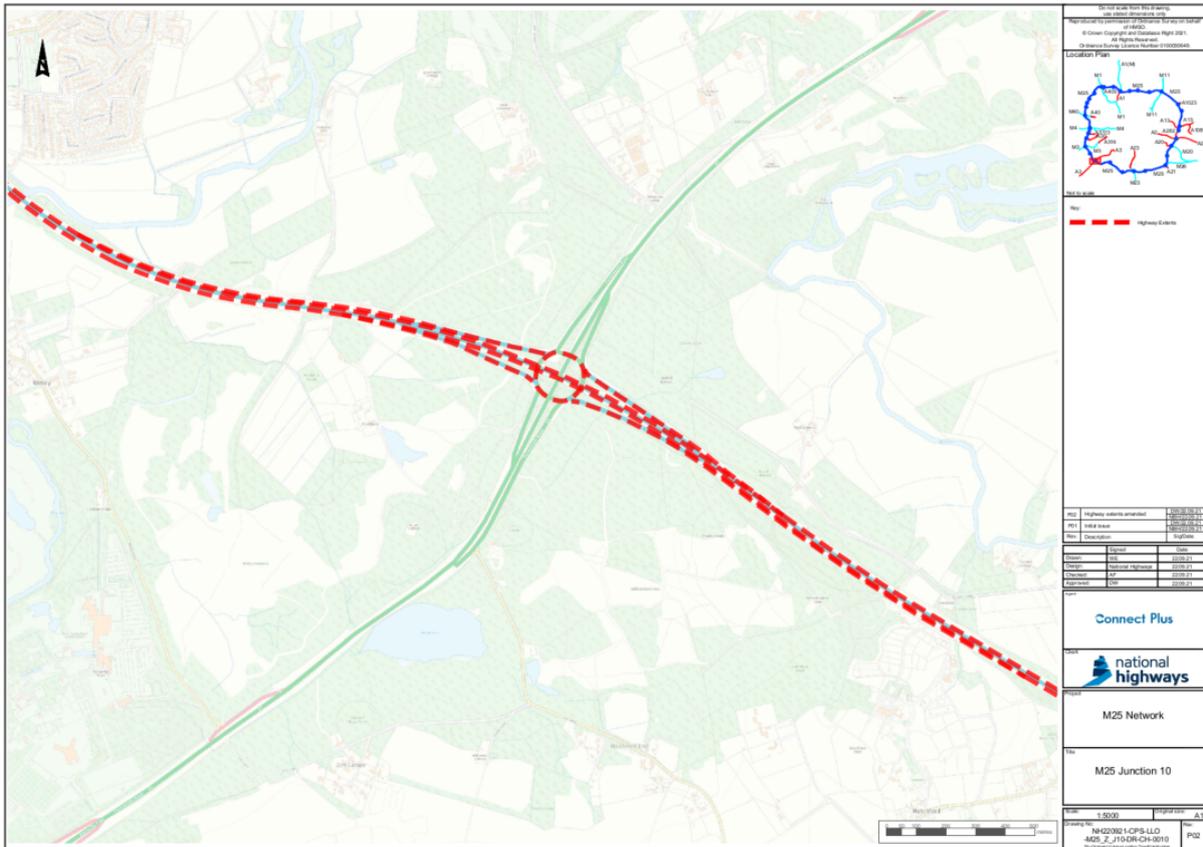
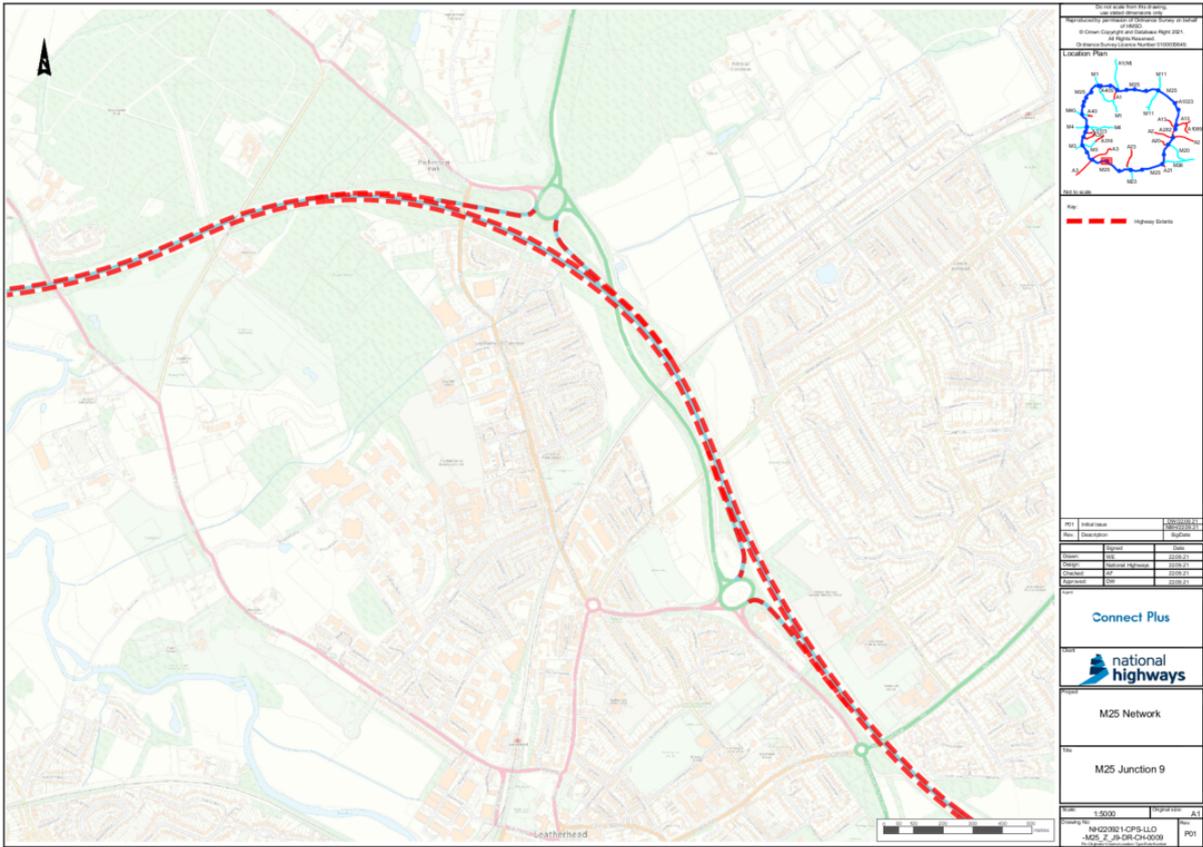
- B. DLA Piper UK LLP

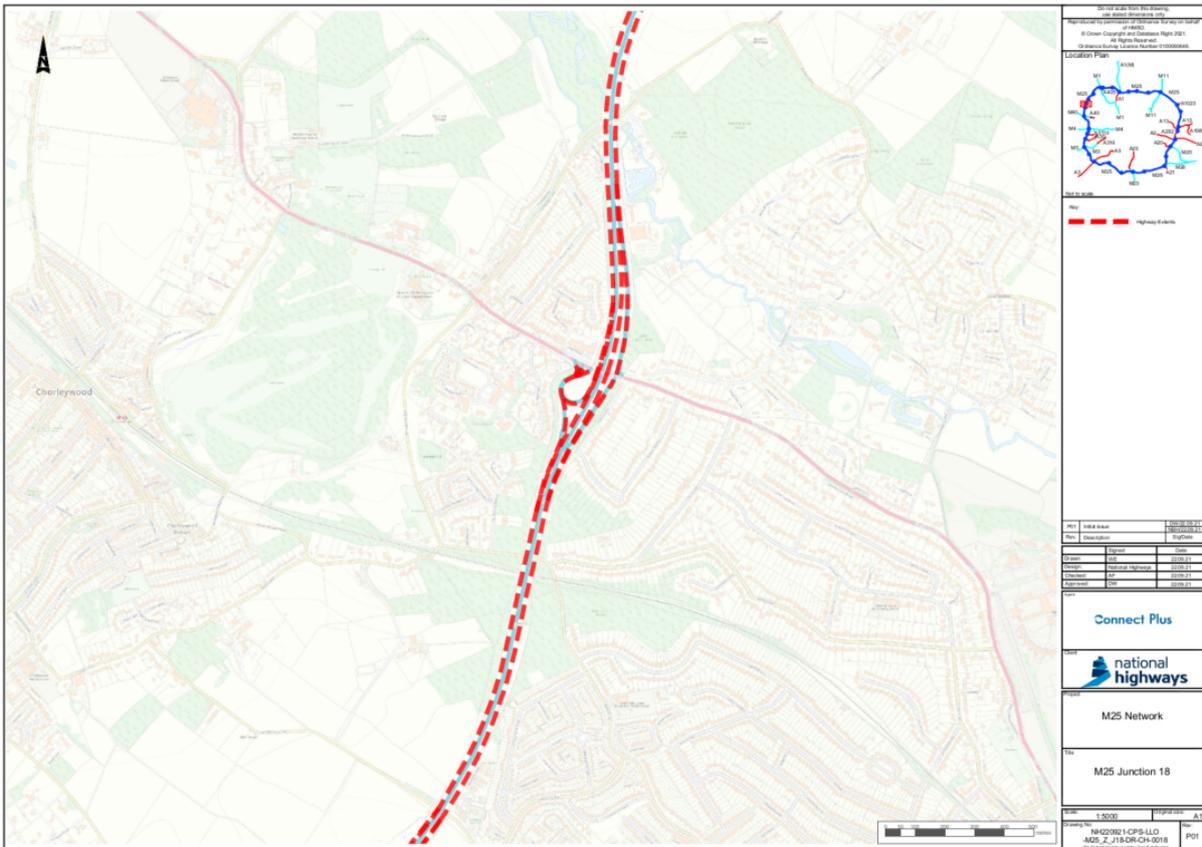
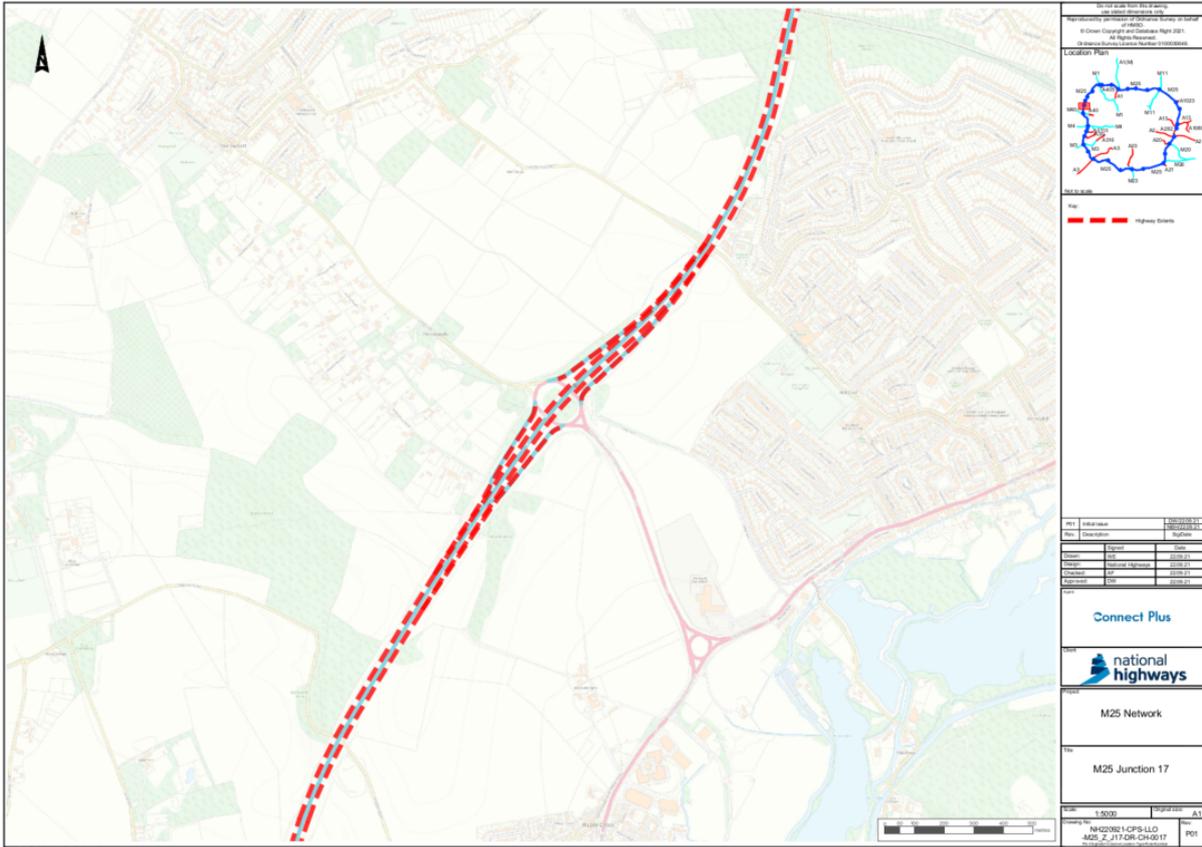
Attention: Petra Billing and Rob Shaw
1 St. Paul's Place
Sheffield S1 2JX

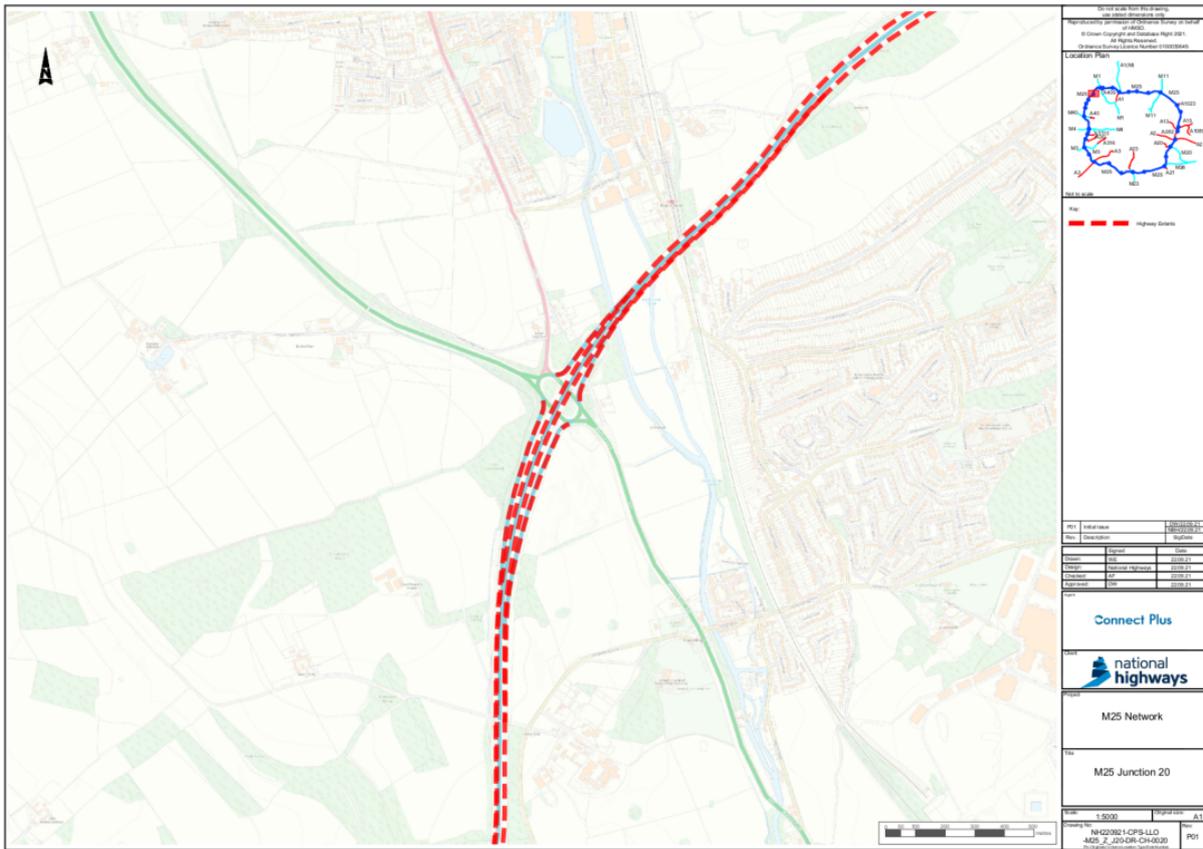
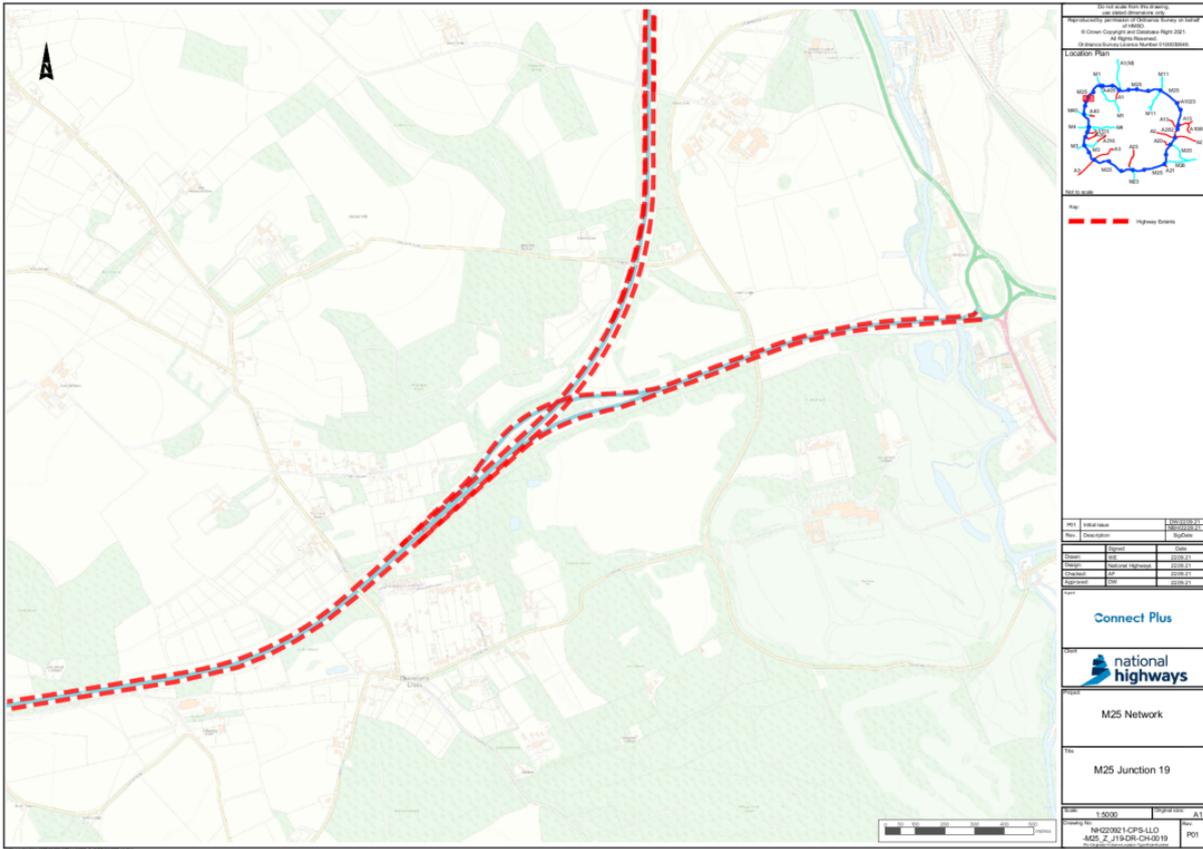
E: petra.billing@dlapiper.com and rob.shaw@dlapiper.com

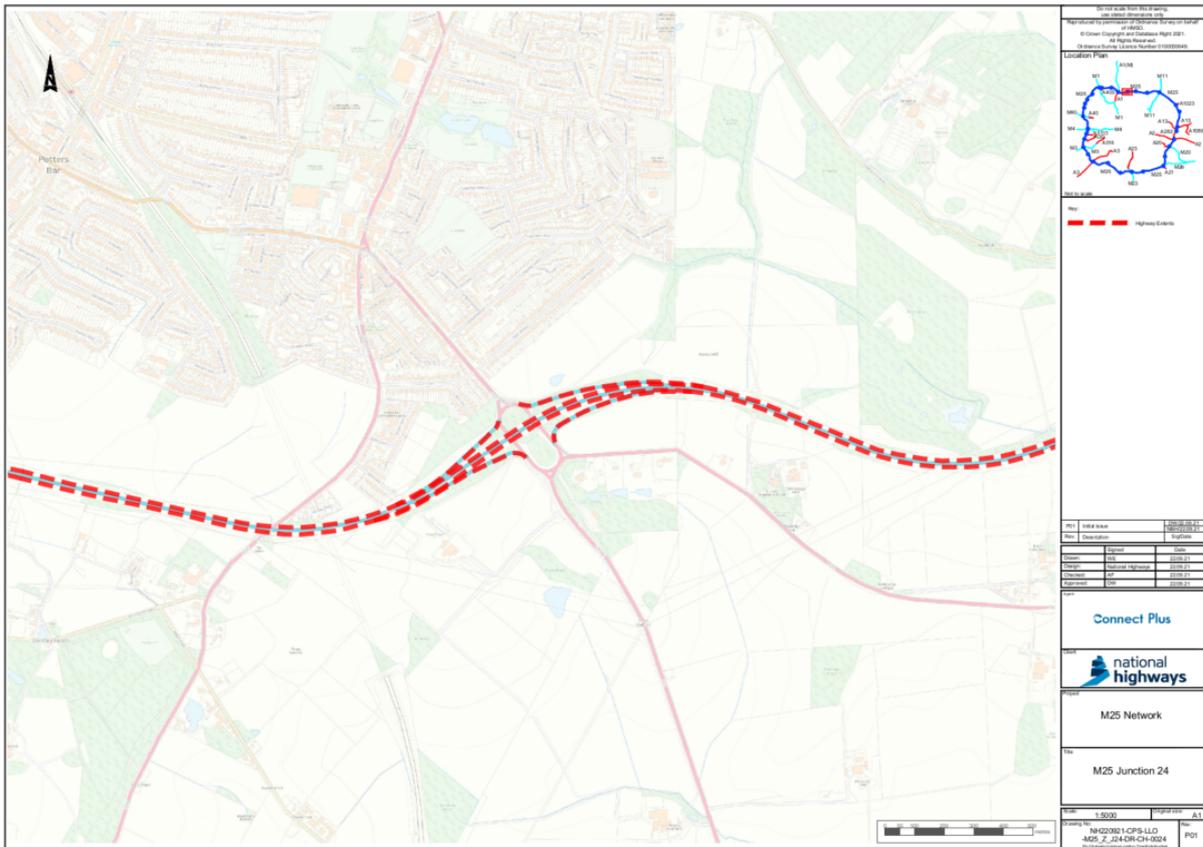
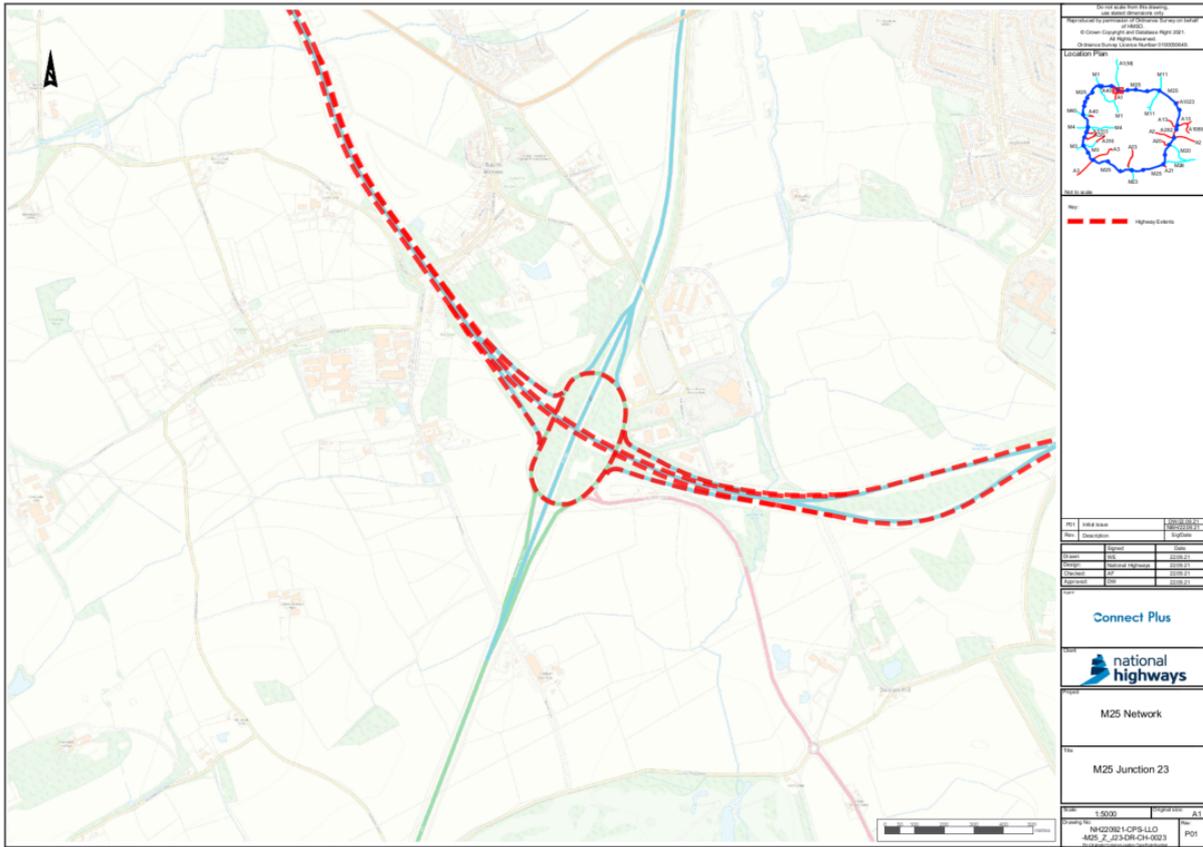
T: 0207 796 6047 / 0114 283 3312

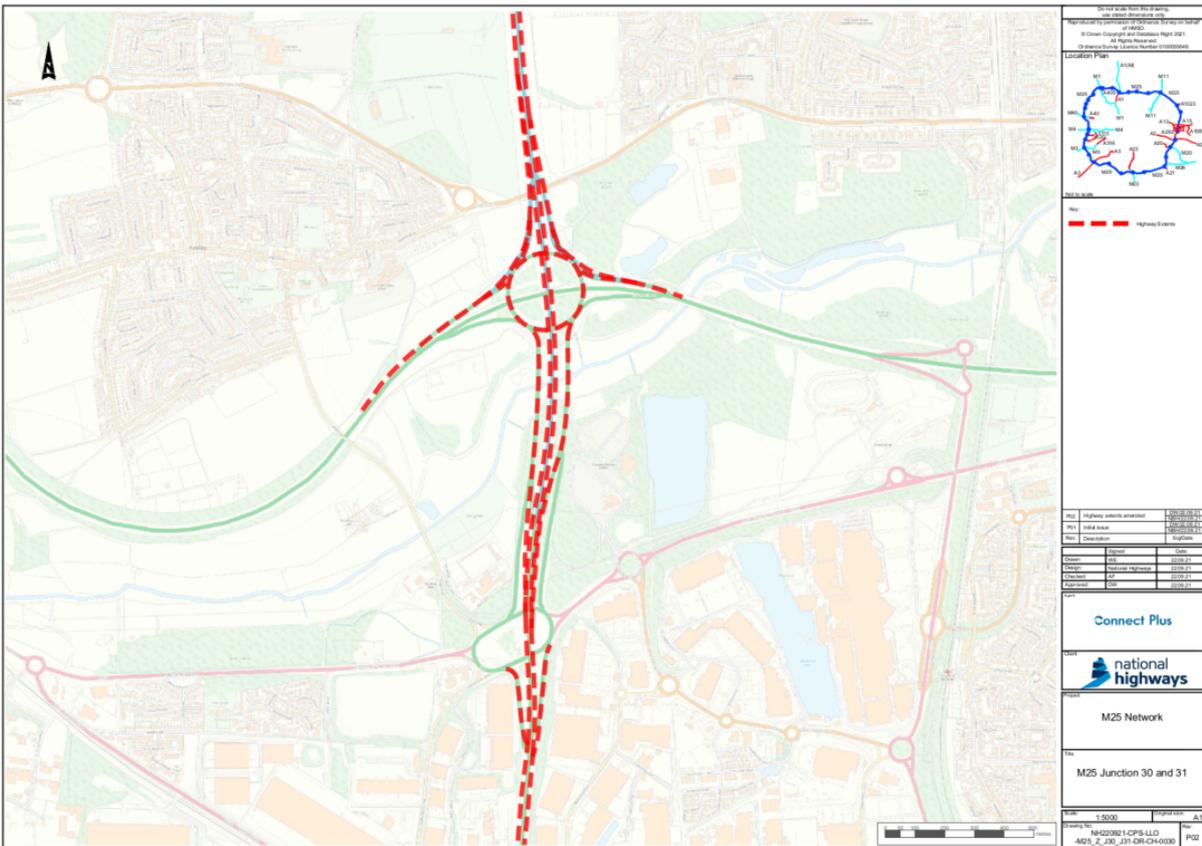
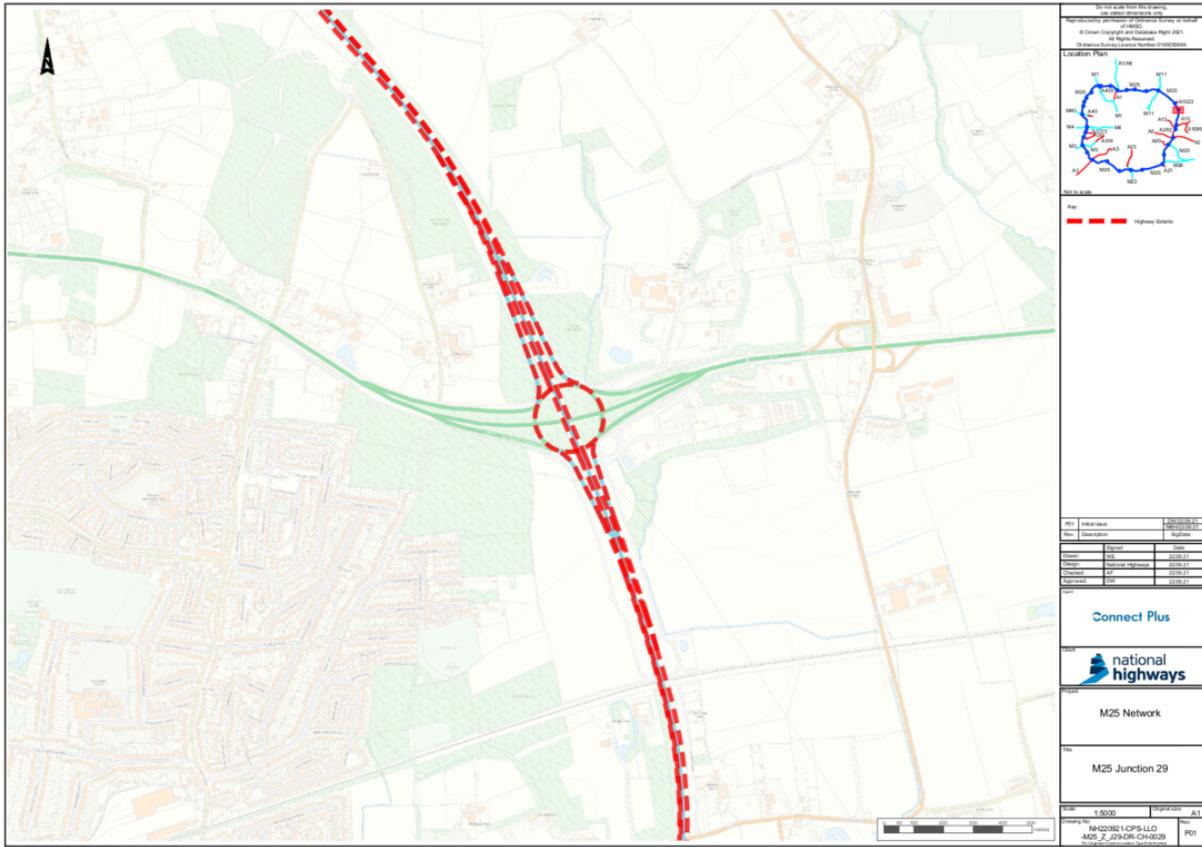






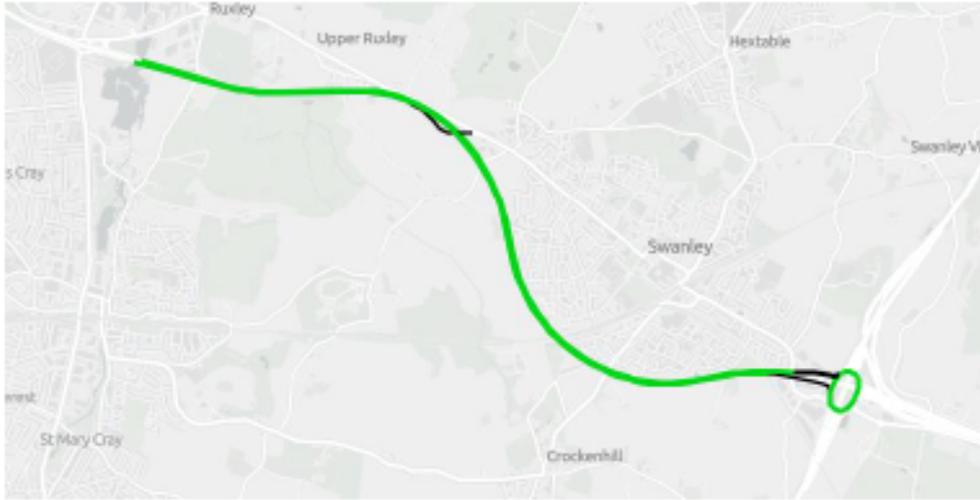




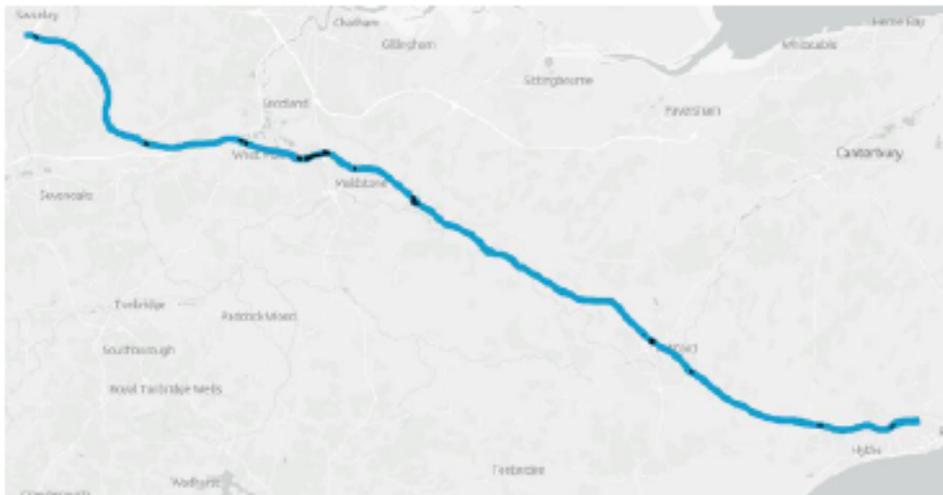


APPENDIX 2

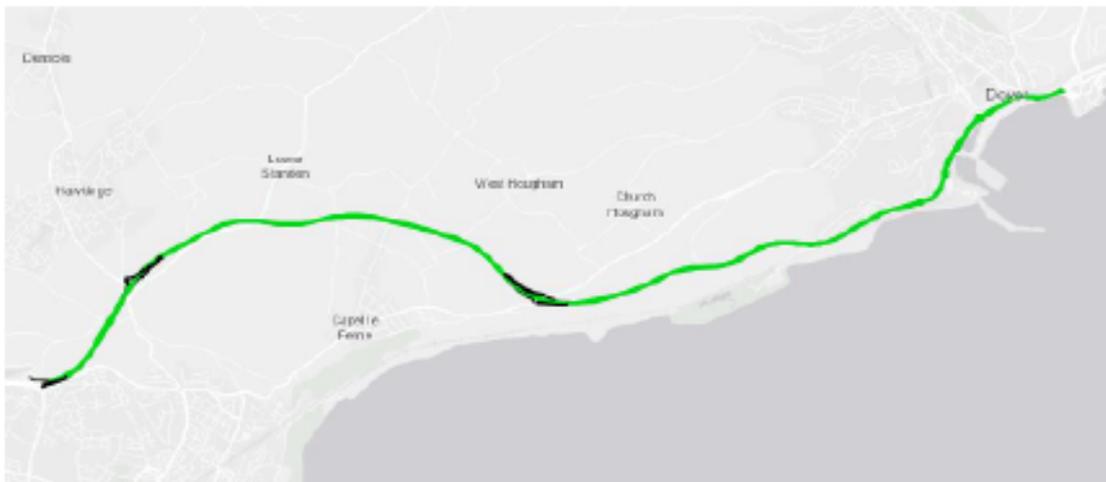
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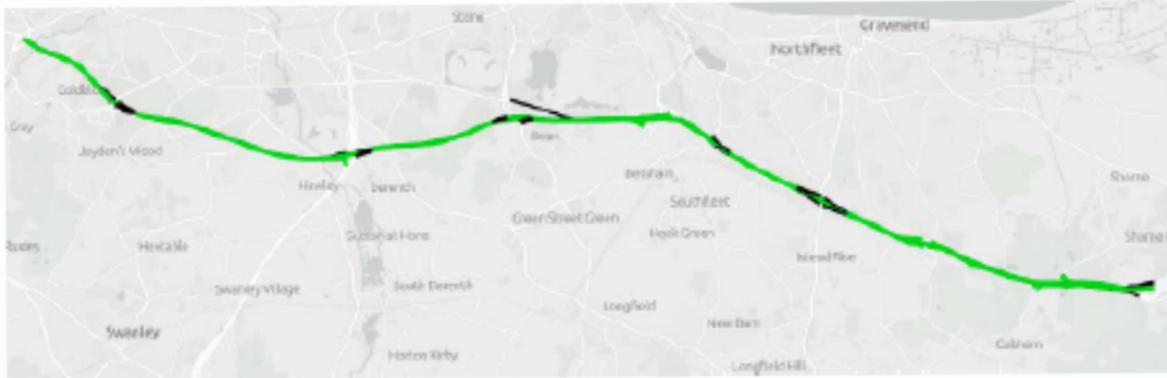
M20



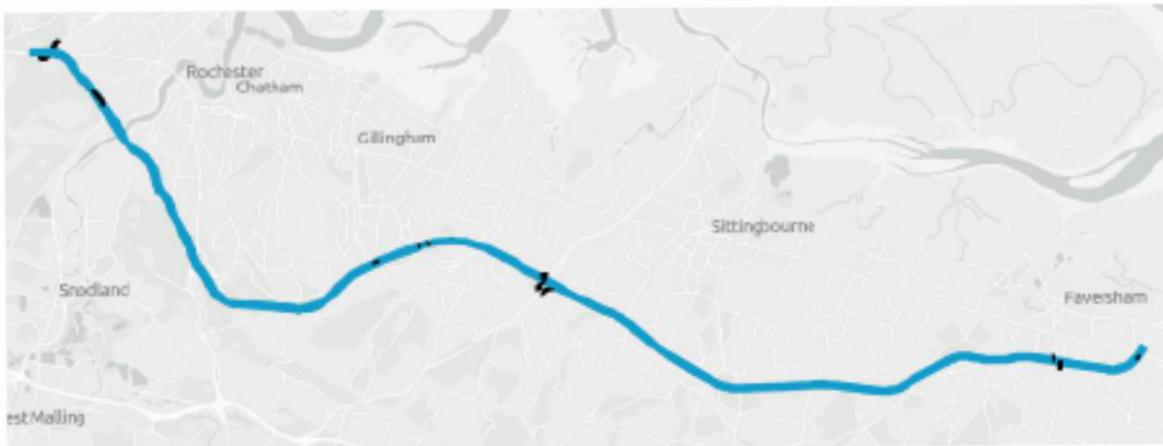
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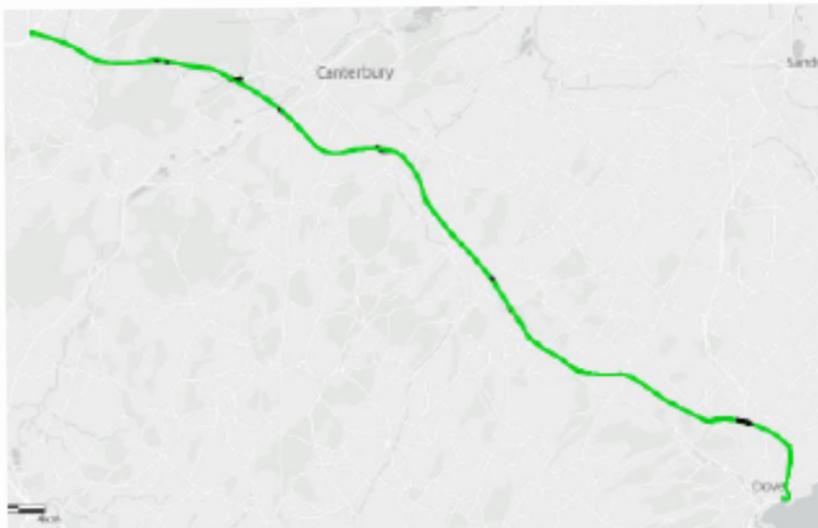
A2 London – M2 Section



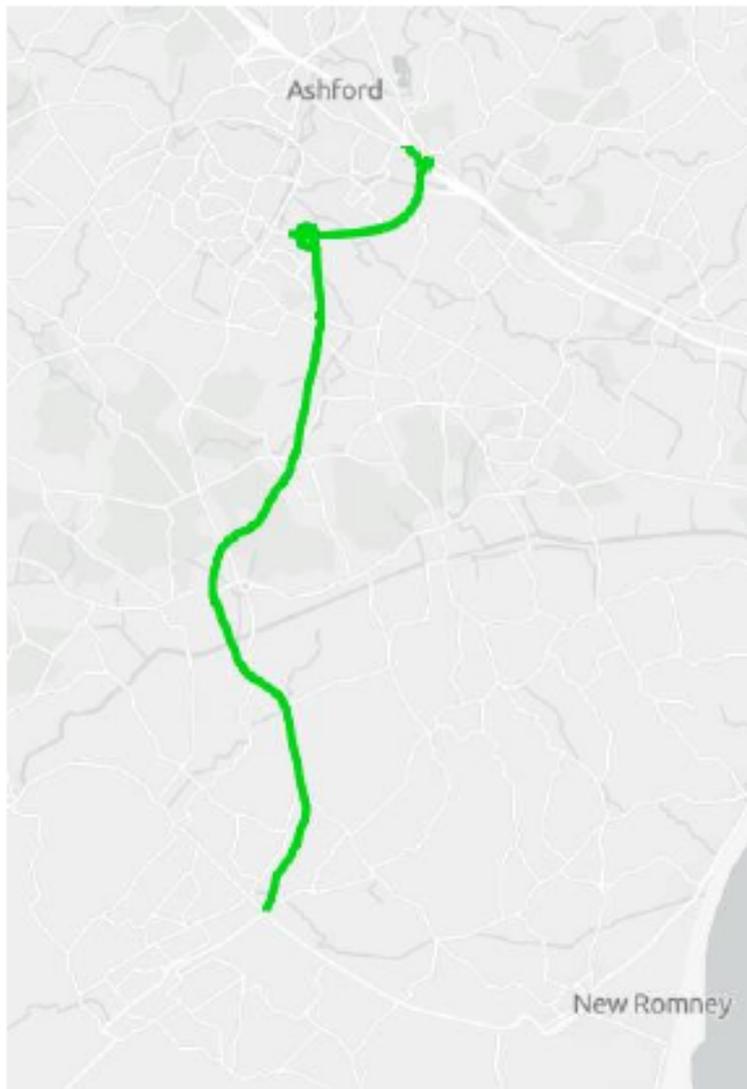
M2



A2 M2 - Dover Section



A2070

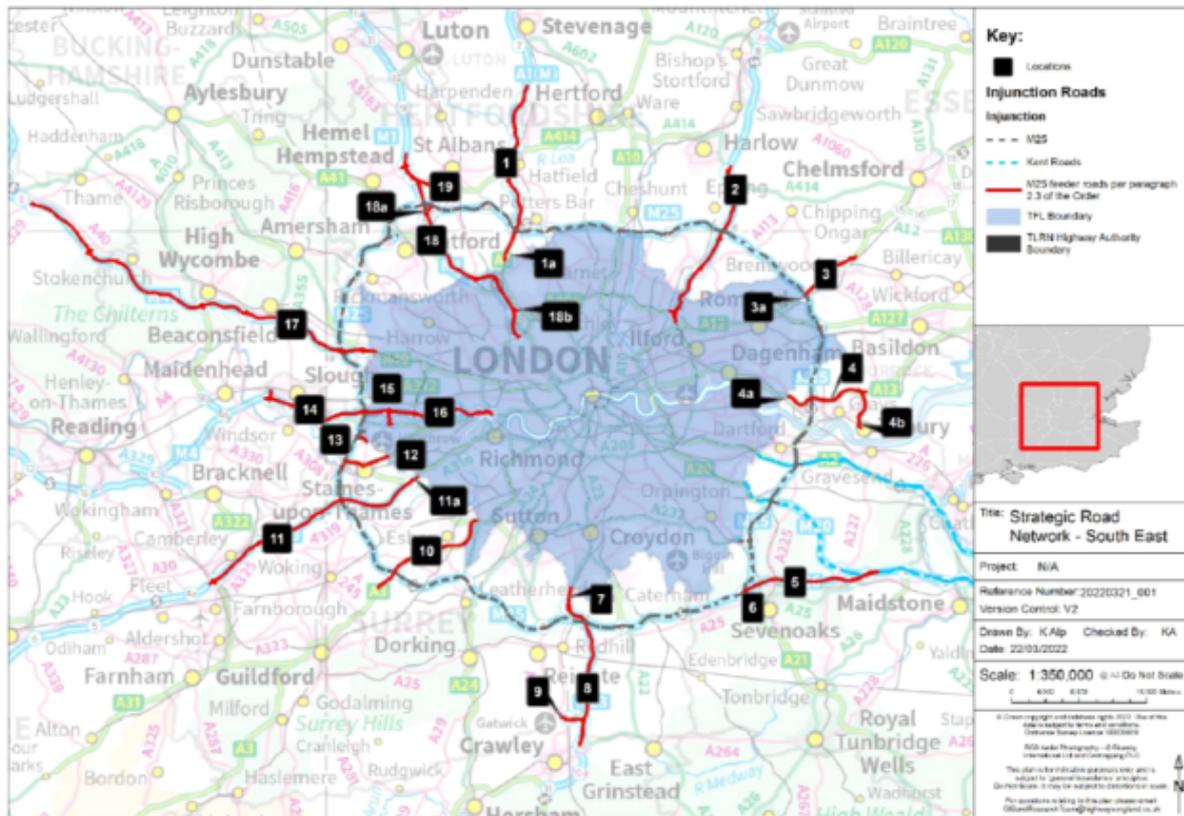


Kent & Surrounding areas SRN



APPENDIX 3

Strategic Road Network – South East



1. A1(M) from Junction 1 to Junction 6

1a. A1 from A1(M) to Rowley Lane

2. M11 from Junction 4 to Junction 7

3. A12 from M25 Junction 28 to A12 Junction 12

3a. A1023 (Brook Street) from M25 Junction 28 roundabout to Brook Street Shell Petrol Station access

4. A13 from M25 Junction 30 to junction with A1089

4a. A13 from junction with A1306 for Wennington to M25 Junction 30

4b. A1089 from junction with A13 to Port of Tilbury entrance

5. M26 (the whole motorway) from M25 to M20
6. A21 from the M25 to B2042
7. A23 from M23 to Star Shaw
8. M23 from Junction 7 to Junction 10 (including M23 Gatwick Spur)
9. A23 between North and South Terminal Roundabouts
10. A3 from A309 to B2039 Ripley Junction
11. M3 from Junction 1 to Junction 4
- 11a. A316 from M3 Junction 1 to Felthamhill Brook
12. A30 from M25 Junction 13 to Harrow Road, Stanwell, Feltham
13. A3113 from M25 Junction 14 to A3044
14. M4 from Junction 4B to Junction 7
15. M4 Spur (whole spur) from M4 Junction 4 to M4 Junction 4a
16. M4 from Junction 1 to Junction 4B
17. M40 from M40 Junction 7 to A40 (Fray's River Bridge)
18. M1 from Junction 1 to Junction 8
- 18a. A405 from M25 Junction 21A to M1 Junction 6
- 18b. A1 from Fiveways Corner roundabout to Hilltop Gardens
19. A414 from M1 Junction 8 to A405

APPENDIX 4

[On the package containing the Court order]

“VERY URGENT: THIS PACKAGE CONTAINS AN ORDER OF THE HIGH COURT AND YOU SHOULD READ IT IMMEDIATELY AND SEEK LEGAL ADVICE. IF YOU NEED ANOTHER COPY PLEASE CALL - Antony Nwanodi, Government Legal Department, Tel: 020 7210 3424”

[To affix to front door when the package has been posted through the letterbox or placed in a mailbox]

“VERY URGENT: A PACKAGE HAS BEEN LEFT THAT CONTAINS AN ORDER OF THE HIGH COURT AND YOU SHOULD READ IT IMMEDIATELY AND SEEK LEGAL ADVICE. IF YOU NEED ANOTHER COPY PLEASE CALL - Antony Nwanodi, Government Legal Department, Tel: 020 7210 3424”

SCHEDULE 1 – NAMED DEFENDANTS

	Name	Address
1.	Alexander RODGER	[REDACTED]
2.	Alyson LEE	[REDACTED]
3.	Amy PRITCHARD	[REDACTED]
4.	Ana HEYATAWIN	[REDACTED]
5.	Andrew Taylor WORSLEY	[REDACTED]
6.	Anne TAYLOR	[REDACTED]
7.	Anthony WHITEHOUSE	[REDACTED]
8.	Arne SPRINGORUM	[REDACTED]
9.	Barry MITCHELL	[REDACTED]
10.	Ben TAYLOR	[REDACTED]
11.	Benjamin BUSE	[REDACTED]
12.	Biff William Courtenay WHIPSTER	[REDACTED]
13.	Cameron FORD	[REDACTED]
14.	Catherine RENNIE- NASH	[REDACTED]

15.	Catherine EASTBURN	[REDACTED]
16.	Christian MURRAY-LESLIE	[REDACTED]
17.	Christian ROWE	[REDACTED]
18.	Cordelia ROWLATT	[REDACTED]
19.	Daniel Lee Charles SARGISON	[REDACTED]
20.	Daniel SHAW	[REDACTED]
21.	David CRAWFORD	[REDACTED]
22.	David JONES	[REDACTED]
23.	David NIXON	[REDACTED]
24.	David SQUIRE	[REDACTED]
25.	Diana Elizabeth BLIGH	[REDACTED]
26.	Diana HEKT	[REDACTED]
27.	Diana Lewen WARNER	[REDACTED]
28.	Donald BELL	[REDACTED]
29.	Edward Leonard HERBERT	[REDACTED]
30.	Elizabeth ROSSER	[REDACTED]
31.	Emily BROCKLEBANK	[REDACTED]

32.	Emma Joanne SMART	[REDACTED]
33.	Gabriella DITTON	[REDACTED]
34.	Gregory FREY	[REDACTED]
35.	Gwen HARRISON	[REDACTED]
36.	Harry BARLOW	[REDACTED]
37.	Ian BATES	[REDACTED]
38.	Ian Duncan WEBB	[REDACTED]
39.	James BRADBURY	[REDACTED]
40.	James Malcolm Scott SARGISON	[REDACTED]
41.	James THOMAS	[REDACTED]
42.	Janet BROWN	[REDACTED]
43.	Janine EAGLING	[REDACTED]
44.	Jerrard Mark LATIMER	[REDACTED] [REDACTED]
45.	Jessica CAUSBY	[REDACTED]
46.	Jonathan Mark COLEMAN	[REDACTED]
47.	Joseph SHEPHERD	[REDACTED]

48.	Joshua SMITH	[REDACTED]
49.	Judith BRUCE	[REDACTED]
50.	Julia MERCER	[REDACTED]
51.	Julia SCHOFIELD	[REDACTED]
52.	Karen MATTHEWS	[REDACTED]
53.	Karen WILDIN	[REDACTED]
54.	Liam NORTON	[REDACTED]
55.	Louis MCKECHNIE	[REDACTED]
56.	Louise Charlotte LANCASTER	[REDACTED]
57.	Lucy CRAWFORD	[REDACTED]
58.	Mair BAIN	[REDACTED]
59.	Margaret MALOWSKA	[REDACTED]
60.	Marguerite DOWBLEDAY	[REDACTED]
61.	Maria LEE	[REDACTED]

62.	Martin John NEWELL	[REDACTED]
63.	Mary ADAMS	[REDACTED]
64.	Matthew LUNNON	[REDACTED]
65.	Matthew TULLEY	[REDACTED]
66.	Meredith WILLIAMS	[REDACTED]
67.	Michael BROWN	[REDACTED]
68.	Michael Anthony WILEY	[REDACTED]
69.	Michelle CHARLSWORTH	[REDACTED]
70.	Natalie Clare MORLEY	[REDACTED]
71.	Nathaniel SQUIRE	[REDACTED]
72.	Nicholas COOPER	[REDACTED]
73.	Nicholas ONLEY	[REDACTED]
74.	Nicholas TILL	[REDACTED]
75.	Oliver ROCK	[REDACTED]
76.	Paul COOPER	[REDACTED]
77.	Paul SHEEKY	[REDACTED]
78.	Peter BLENCOWE	[REDACTED]

79.	Peter MORGAN	[REDACTED]
80.	Phillipa CLARKE	[REDACTED]
81.	Priyadaka CONWAY	[REDACTED]
82.	Richard RAMSDEN	[REDACTED]
83.	Rob STUART	[REDACTED]
84.	Robin Andrew COLLETT	[REDACTED]
85.	Roman Andrzej PALUCH-MACHNIK	[REDACTED]
86.	Rosemary WEBSTER	[REDACTED]
87.	Rowan TILLY	[REDACTED]
88.	Ruth Ann COOK	[REDACTED]
89.	Ruth JARMAN	[REDACTED]
90.	Sarah HIRONS	[REDACTED]
91.	Serena SCHELLENBERG	[REDACTED]
92.	Simon REDING	[REDACTED]
93.	Stefania MOROSI	[REDACTED]
94.	Stephanie AYLETT	[REDACTED]

95.	Stephen Charles GOWER	[REDACTED]
96.	Stephen PRITCHARD	[REDACTED]
97.	Susan CHAMBERS	[REDACTED]
98.	Sue PARFITT	[REDACTED]
99.	Sue SPENCER- LONGHURST	[REDACTED]
100.	Susan HAGLEY	[REDACTED]
101.	Suzie WEBB	[REDACTED]
102.	Tam MILLAR	[REDACTED]
103.	Tessa-Marie BURNS	[REDACTED]
104.	Theresa NORTON	[REDACTED]
105.	Tim SPEERS	[REDACTED]
106.	Tim William HEWES	[REDACTED]
107.	Tracey MALLAGHAN	[REDACTED]
108.	Valerie SAUNDERS	[REDACTED]
109.	Venitia CARTER	[REDACTED]
110.	Victoria Anne LINSELL	[REDACTED]

111.	Xavier GONZALEZ TRIMMER	[REDACTED]
112.	Bethany MOGIE	[REDACTED]
113.	Indigo RUMBELOW	[REDACTED]
114.	Adrian TEMPLE- BROWN	[REDACTED]
115.	Ben NEWMAN	[REDACTED]
116.	Christopher PARISH	[REDACTED]
117.	Elizabeth SMAIL	[REDACTED]
118.	Julian MAYNARD SMITH	[REDACTED]
119.	Rebecca LOCKYER	[REDACTED]
120.	Simon MILNER- EDWARDS	[REDACTED]
121.	Stephen BRETT	[REDACTED]
122.	Virginia MORRIS	[REDACTED]
123.	Andria EFTHIMIOUS- MORDAUNT	[REDACTED]
124.	Ben HORTON	[REDACTED]
125.	Christopher FORD	[REDACTED]
126.	Darcy MITCHELL	[REDACTED]

127.	David MANN	[REDACTED]
128.	Ellie LITTEN	[REDACTED]
129.	Hannah SHAFER	[REDACTED]
130.	Jesse LONG	[REDACTED]
131.	Julie MACOLI	[REDACTED]
132.	Kai BARTLETT	[REDACTED]
133.	Marc SABITSKY	[REDACTED]
134.	Sophie FRANKLIN	[REDACTED]
135.	Tony HILL	[REDACTED]
136.	Nicholas BENTLEY	[REDACTED]
137.	Thomas FRANKE	[REDACTED]
138.	Nicola STICKELLS	[REDACTED]
139.	Mary LIGHT	[REDACTED]
140.	David McKENNY	[REDACTED]
141.	Giovanna LEWIS	[REDACTED]
142.	William WRIGHT	[REDACTED]
143.	Margaret REID	[REDACTED]

SCHEDULE 2

CHIEF CONSTABLES OF THE FORCES OF:

City of London Police

Metropolitan Police Service

Avon and Somerset Constabulary

Bedfordshire Police

Cambridgeshire Constabulary

Cheshire Constabulary

Cleveland Police

Cumbria Constabulary

Derbyshire Constabulary

Devon & Cornwall Police

Dorset Police

Durham Constabulary

Essex Police

Gloucestershire Constabulary

Greater Manchester Police

Hampshire Constabulary

Hertfordshire Constabulary

Humberside Police

Kent Police

Lancashire Constabulary

Leicestershire Police

Lincolnshire Police

Merseyside Police

Norfolk Constabulary

North Yorkshire Police

Northamptonshire Police

Northumbria Police

Nottinghamshire Police
South Yorkshire Police
Staffordshire Police
Suffolk Constabulary
Surrey Police
Sussex Police
Thames Valley Police
Warwickshire Police
West Mercia Police
West Midlands Police
West Yorkshire Police
Wiltshire Police

On behalf of:
Applicants/Claimants
By: Nicola Bell
No: 1
Exhibit: NB1
Date: 22 March 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No: QB-2021-003576

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

- (1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE
FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY
FOR THE PURPOSE OF PROTESTING**
(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003626

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

- (1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND A2070 TRUNK
ROADS AND M2 AND M20 MOTORWAY FOR THE PURPOSE OF
PROTESTING**
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Defendants

Claim No: QB-2021-003737

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

- (1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23,
A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR,
M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF
PROTESTING**

WITNESS STATEMENT OF NICOLA BELL

I, NICOLA BELL, of Bridge House, 1 Walnut Close, Guildford, Surrey GU1 4LZ WILL SAY AS FOLLOWS:-

Introduction

1. I am an engineer by training and profession, with an HNC in Civil Engineering (Member of the Chartered Institution of Highways & Transportation) and MSc in Transport Planning and Engineering (Chartered Transport Planning Professional). I have worked / have been in National Highways (and its predecessor organisations) since 2016. I am duly authorised by the Board of National Highways Limited (“NHL”) to make this statement on behalf of NHL.
2. My current role is Regional Director, Operations South East Region at NHL. The South East Region is one of six geographic regions in England. Within that region, I am responsible for a number of teams: Service Delivery teams, which include Regional Operations Centres and traffic officers, respond to incidents and keep our country moving. Service Delivery Teams also deliver all day-to-day maintenance activities on the strategic road network. Planning and Development teams comment on planning applications and plan our forward programme of improvement works, and finally, Scheme Delivery teams are responsible for delivering our improvement works.
3. I make this statement in support of NHL's application for summary judgment ("**the SJ Application**") in three claims brought by NHL in relation to protests carried out on the Strategic Road Network ("**the SRN**") under the banner of 'Insulate Britain' ("**IB**", "**the IB Protests**"). There is now shown to me a paginated clip of documents which I exhibit hereto as NB1. Page numbers without qualification refer to that exhibit.
4. The IB Protests have been ongoing across the south east of England since 13 September 2021 and involve protestors blocking motorways with their physical presence, normally

either by sitting down on or gluing themselves to the road surface and similar activities. They are dangerous and very disruptive and have caused widespread and serious disruption to other users of the SRN. The IB Protests originally focused on blocking a number of junctions on the M25 motorway. More recently, IB has indicated that it intends to combine its protest campaign with a broader and more ambitious campaign directed at causing disruption to the UK's oil infrastructure.

5. The SJ Application is made in respect of the three sets of proceedings in which NHL, as claimant, has obtained interim injunctions on an urgent basis to restrain conduct arising from the IB Protests. Those injunctions, and the proceedings they relate to, are as follows:
 - (1) On 21 September 2021, Lavender J granted an interim injunction in relation to the M25 (“**the M25 Injunction**”) (claim no. QB-2021-003576);
 - (2) On 24 September 2021, Cavanagh J granted an interim injunction in relation to parts of the SRN in Kent (claim No. QB-2021-3626) (“**the Kent Injunction**”);
 - (3) On 2 October 2021, Holgate J granted an interim injunction in relation to certain M25 ‘feeder roads’ (“**the M25 Feeder Injunction**”) (claim No. QB-2021-3737) (collectively, “**the Interim Injunctions**”, “**the Claims**”).
6. NHL has also made three applications for contempt of court (“**the Contempt Applications**”) in relation to breaches of the Interim Injunctions. The Contempt Applications are dealt with more fully in the Witness Statement of Laura Higson.
7. In this Statement, I deal with the importance of the SRN as national infrastructure (§§8-18 below), and the impact of IB Protests and the continued threat of those protests (§§19-21 below).

Importance of the SRN as national infrastructure

8. By the SJ Application, NHL seeks a final injunction in the terms of the draft Order provided with the SJ Application (“**the Final Injunction**”). I deal in this section with the importance of those parts of the SRN covered by the Final Injunction. In relation to the parts of the SRN covered by the M25 Injunction and the Kent Injunction, the scope of the Final Injunction is the same as the Interim Injunctions. In relation to the M25 Feeder

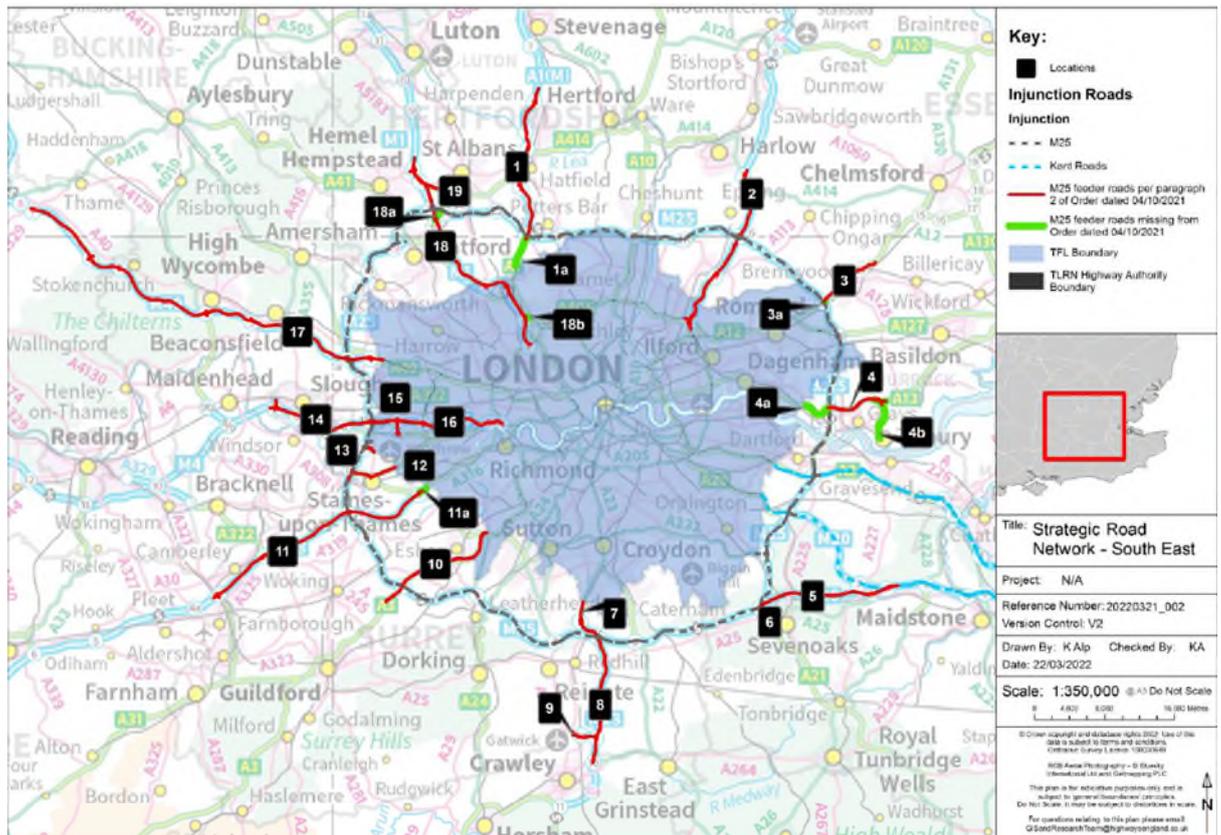
Injunction, as I explain below, the Final Injunction seeks the addition of seven additional sections for which NHL considers there is strong justification, some of which were omitted accidentally from the urgent application for the M25 Feeder Injunction. The Final Injunction also corrects certain errors in the plan appended to the M25 Feeder Injunction. I address these points below. The precise roads covered by each of the Interim Injunctions are shown on plans and documents exhibited to the Witness Statement of Laura Higson and I do not exhibit those documents myself.

The M25 Injunction

9. The M25 is a major (and arguably the most major) part of the SRN. The 117-mile motorway encircles most of Greater London and is one of the busiest and most important roads in the UK. It passes through 5 counties: Surrey, Buckinghamshire, Hertfordshire, Kent and Essex, and borders Berkshire and serves the most populated part of the country.

The M25 Feeder Injunction

10. The plan below (and exhibited at page 1 of NB1) shows in red the geographical extent of the M25 Feeder Injunction as granted by Holgate J and, in green, shows the sections that NHL proposes to include in the Final Injunction that were not included in the M25 Feeder Injunction:



11. The above plan, but showing the above roads all in red, is appended as Appendix 3 to NHL's draft order for the Final Injunction.
12. Therefore, from the list of roads set out at Appendix 3 to the draft order, the following represent the sections that were not included in the M25 Feeder Injunction:
 - (1) Road 1a: A1 from A1(M) to Rowley Lane;
 - (2) Road 3a. A1023 (Brook Street) from M25 Junction 28 roundabout to Brook Street Shell Petrol Station access;
 - (3) Road 4a: A13 from junction with A1306 for Wennington to M25 Junction 30;
 - (4) Road 4b: A1089 from junction with A13 to Port of Tilbury entrance;
 - (5) Road 11a: A316 from M3 Junction 1 to Felthamhill Brook;
 - (6) Road 18a: A405 from M25 Junction 21A to M1 Junction 6; and
 - (7) Road 18b: A1 from Fiveways Corner roundabout to Hilltop Gardens.
13. I explain in more detail below the importance of the M25 Feeder roads that it is proposed the Final Injunction would cover. It will be seen that Roads 1a, 3a and 4a simply ensure that the part of the SRN already covered by the M25 Feeder Injunction continues over

the relevant junction, and so address what would otherwise be a gap in the effectiveness of the injunction. It will also be seen from the description below that the justification for the new sections (including those four sections just mentioned but also Roads 4b, 11a, 18a and 18b) is closely connected to the justification for those parts of the SRN that were included in the M25 Feeder Injunction. In fact, the failure to include a number of the additional sections in the plan attached to the M25 Feeder Injunction was an oversight that arose from the urgent timescale within which NHL had to prepare, apply for and finalise the M25 Feeder Injunction. I attach at page 2 to 56 of NB1 my witness statement in support of NHL's application for the M25 Feeder Injunction and exhibit N2, which shows Roads 1a (as part of Road 1), 4a (shown as part of Road 4) and 18a (shown as part of Road 18) as part of the proposed interim injunction sought.

14. There are slight discrepancies between the red roads as shown above and as shown on the plan appended to the M25 Feeder Injunction. The position is that the plan appended to the M25 Feeder Injunction did not accurately reflect the extent of some of the roads as described. Those errors have been corrected in the Final Injunction (and on the plan above), and it will be seen that the plan here and in the Final Injunction slightly narrows the scope of roads 14 to 16. These discrepancies, again, were a result of the timescale within which NHL was required to prepare its application for the M25 Feeder Roads Injunction. These points have been clarified following review by NHL as part of the preparation for the SJ Application.
15. As to the importance of the particular feeder roads:
 - (1) Roads 1 and 1a: A1(M), Junctions 1-6 and A1 from A1(M) to Rowley Lane: This is one of the main gateways into and out of London and one of the strategic diversion routes for when other main roads (e.g. the M1) are closed. Road 1 supports the QE2 hospital in Welwyn Garden City at Junction 4. Road 1 is a major interchange with the M25 Junction 23, a traffic officer outstation and regional operation centre, facilities which are important to the running of the all lane running smart motorway, which is safety critical. Road 1 goes across South Mimms, where there is a police station and motorway service area, a key point for refuelling for road customers, including haulage. Road 1a is also a significant artery into and out of north London.

- (2) Road 2: M11, Junctions 4 -7: Junction 4 is linked to the strategic route with the A406, a major route. Road 2 has a highways operational depot for the highways operations contractor for the M25 and that stretch of M11. North Weald airfield is between Junctions 6-7. Blocking Road 2 would also impact freight, goods and people traffic going through Stansted airport, despite the airport being slightly further up than J7. Also on Road 2 is the Princess Alexandra hospital in Harlow, an Inland Border Facility in North Weald at Junction 7, which crucial for the movement of freight and the effectiveness of the supply chain across the UK.
- (3) Roads 3 and 3a: A12 from M25 Junction 28 - A12 Junction 12 and A1023 (Brook Street) from M25 Junction 28 to Brook Street Shell Petrol Station access: These roads contain a large Shell petrol station, which is a popular refuelling stop for road users as one of the main roads going into and out of London, linking to Transport for London roads. West in Romford is the Queens Hospital, and ambulances use Roads 3 and 3a as of necessity.
- (4) Roads 4, 4a and 4b: A13 from M25 Junction 30 to junction A1089 Orsett Junction, A13 from junction with A1306 Wennington to M25 Junction 30 and A1089 from junction with A13 to Port of Tilbury entrance: These roads link into Dartford, meaning that disruption would affect Thurrock. Nearby is the DP World London Gateway port, off the A13, which is a strategic container port. Nearby also is Tilbury (with its docks), as well as Lakeside shopping centre, a significant leisure destination. Road 4b connects the A13 to the entrance to Tilbury docks. There is a large Procter & Gamble site - and various distribution centres around the junction. Also nearby is the Navigator terminal at the Thames - the major supplier of fuel to the South East (almost all fuel supplied to Kent and Essex comes to that location). That is immediately adjacent to the A13, which is next to the Queen Elizabeth Bridge. Ships unload there with raw material and it is refined into fuel for the South East. Westbound is the connection to City Airport. East of Orsett junction is Basildon University Hospital. Incidents at Junction 30 impact the Dartford crossing, a very sensitive piece of infrastructure which is rated as NHL's highest level of critical national infrastructure. If an incident occurs, NHL cannot allow standing traffic within the tunnel because of exhaust fumes, and so within 20 minutes of an incident, I would expect congestion for 5 to 10 kilometres.
- (5) Road 5: M26 - M25 to Junction 3. This is the major route from the South Coast ports south of the M25 through Surrey, then heading east to west of the country

(and back the other way). Any haulage or freight coming from the west side of the country nationally will use this route. Anything coming through the M40 or M4 or M3 would use the M26 to go to or come from the South Coast Ports. 50% of all freight movements either goes south via the M25 or across Dartford to the east. This road section is a two lane motorway, unlike many others with 3 or 4 lanes, and so is much more vulnerable to congestion. This route is very important for freight travelling to ports - this route connects with the Inland Border Facility (“**IBF**”) at Sevington (via J10/10A of the M20) - a crucial part of the EU exit operation, and important for Operation Brock, which is the contraflow system designed to keep traffic on the M20 and other roads in Kent moving when there is disruption to travel across the English Channel. As a result, if there is disruption at a port, this route and the IBF is crucial.

- (6) Road 6: A21 to B2042: This route serves Sevenoaks, Tonbridge and Royal Tunbridge Wells. It is a main commuter route for the area, including into and out of London. Disruption would significantly interrupt travel to and from those towns, for which there is little road travel choice without significant inconvenience and diversion. Additionally, Pembury Hospital is just south of Tunbridge Wells, and this part of the road is dual carriageway (making it quite vulnerable to disruption). This road is also a principal route to the South Coast and East Sussex.
- (7) Road 7: A23 Star Shaw to M25. This is a strategic route to Gatwick Airport, and a significant commuter route into and out of South London. It is a major interchange where it provides access and exit from the start of the M23 from Junction 7, which provides access to the M25 at Junction 8, then Gatwick Airport at Junction 9. It is a route to and from Croydon University Hospital, and from the M23 another route to East Surrey Hospital and Redhill Aerodrome which contains the National Police Air Service base, and Kent and Sussex Air ambulances.
- (8) Road 8: M23 – Junction 7 to Junction 10 (including M23 Gatwick spur). This is the principal route into Gatwick Airport, with all the important implications that carries for passengers and freight movements. It is the link to Manor Royal, a sizeable and important industrial hub for the South East (containing major distribution hubs for Amazon and DPD, to name but two). It is the major access route to the M25, and is an important route to East Surrey Hospital.
- (9) Road 9: A23 between North and South terminal roundabouts: This is the road that links the two terminals of Gatwick Airport and is therefore crucial for movements

within the airport and interoperable with other infrastructure within the airport. Whilst Gatwick North is presently closed to passengers, it remains an important route for airport operations including freight. It provides a major link with Manor Royal, where many airline staff, catering and service companies are based. The regional Hazardous Access Emergency Response Team comes out of Gatwick using this route.

- (10) Road 10: A3 - A240 to M25 Junction 10 to B2039 Ripley Junction. The A3 is one of the principal routes across from M25 to South Coast running all the way down to Portsmouth/Southampton and Dorset. It is a road that provides a link between Gatwick and Heathrow, and is a very busy part of the network. Junction 10 is one of the busiest, and National Highways is currently applying for a Development Consent Order for a large scale junction improvement to expand Junction 10 because of the volume of traffic and the junction's significance. It is a significant commuter route, and this part of the road provides a link to the Royal Surrey Hospital in Guildford, Chessington World of Adventures attraction, and is used as a diversion route within the perimeter of the M25.
- (11) Roads 11 and 11a: M3 – Junction 1 to Junction 4 and A316 from M3 Junction 1 to Felthamhill Brook: Road 11 is one of the major roads coming out of West London very near Heathrow, to which it also links (where the motorway ends at Sunbury, near Kempton Park Racecourse, it becomes the A316, continuing into West London). It is a significant link into and a major interchange with the M25. Junctions 2-4 allow access to the A303 which is the principal route to and from the south west of England. It provides access to St Peters Hospital in Chertsey, Twickenham Stadium, Kempton Park, and Thorpe Park. At Junction 5 is Hook RAF base, a major base in Hampshire and RAF Odiham, which is the helicopter centre for the RAF. Between the A3 and M3 is Aldershot, the home of the British army, and also Farnborough airfield. Minley in Camberley is another military camp accessed directly from Junction 4A or Junction 4 and the Royal Military Academy at Sandhurst is accessed via Junction 4. As to Road 11a in particular, this part of the SRN covers the on-slip from the A308 on to the northbound carriageway from Sunbury Cross Roundabout and the off-slip southbound from the A316 towards Sunbury Cross Roundabout on to the A308. It is also the point at which the A316 becomes the M3, which is an arterial route linking London to the West Country via the A303.

- (12) Road 12: A30 - M25 J13 to A3115: This links with the M25 at the large gyratory at Junction 13 near to Heathrow, and becomes the Staines Bypass, and is critical to Heathrow's efficient operation. It is a very busy part of the network, and works as an important relief road. It is a diversion for M3 closures for coming out of London back to the M25. There are a large number of freight forwarding companies in this area, in particular around Stanwell, and other logistics companies which link up with Heathrow. It is effectively the main artery of the industrial hinterland of Heathrow. It provides a direct link to the Great West Road/the A4 just east of Heathrow. It also provides access to Ashford Hospital.
- (13) Road 13: The A3113 - M25 J14 to A3044: This connects to Heathrow Terminal 5 - the British Airways worldwide terminal.
- (14) Road 14: The M4 - Junction 4B to Junction 7: This road connects to the Princess Margaret Hospital. Nearby is the Heston police traffic unit and National Highways traffic officer out station which provides response to the M4 and M25 motorways for incidents and any impacts to the roads. It also provides access to Windsor Castle and Legoland significant tourist attractions. These are strategically important for local economy. It is also relevant that all of this stretch is smart motorway under construction - which has lots of ongoing works - so if there were any protests then it would be very difficult to access, and would hold up installation of safety enhancement infrastructure.
- (15) Road 15: M4 Spur - M4 Junction 4 to M4 Junction 4a: This is the Heathrow spur. Nearby also to the north is Hillingdon Hospital and to the south is Ashford Hospital. Heathrow itself houses an air ambulance service. Indeed, in general terms, many of the emergency service teams use the SRN to respond to incidents. If they only have limited resource in one area, they share resources using these crucial arteries, using the SRN. They along with NHL's other partners would be widely impacted by any unplanned disruption which is why a lot of consideration and planning goes into any strategic diversions which are unavoidable.
- (16) Road 16: M4 - Junction 1A to Junction 4: This is a main route to go to Hillingdon Hospital just to the south. Wexham Park Hospital is approximately half way between the M4 and M40 just north of Slough so would be impacted by disruption on either- also RAF Northolt is just to the east. It is a significant route in and out of London. It is also an access to Wycombe Hospital, and Wembley Stadium. It is

also very close to Heathrow airport, and crucial for maintaining access to that significant national infrastructure.

- (17) Road 17: M40 Junction 7 to A40: This provides access to Slough and therefore also Wexham Park Hospital. It is also the diversion route for the A4. Nearby is Eton Dorney the major international rowing facility and a key leisure attraction. It is a major route transporting road customers to and from the Midlands and the North.
- (18) Roads 18,18a and 18b: M1 - Junction 1 to Junction 8, A405 from Junction 21A to M1 Junction 6 and A1 from Fiveways Corner roundabout to Hilltop Gardens: This is a very significant artery into and out of north London and a connector to the North Circular. It contains Scratchwood services at J2 (also known as London Gateway), a major motorway service area. Nearby also is a police traffic unit, and connect plus, the highways maintenance company office. It also provides access to Watford Hospital and Barnet Hospital on the other side. Also nearby is Hemel Hempstead Hospital by Junction 8. It is the main route from London to Luton, and Milton Keynes, the major connection between Luton into London, and access to M25. Anyone coming from Wembley North of Watford will come down the M1, and one sees many coaches come down this road to go to Wembley. On this route there is a major distribution hub for Amazon. As with the other roads, the London Fire Brigade use these major arteries to get around London quickly. So, many different fire stations in this area would use the M1 to get across London quickly to support major incidents. It is the same for Ambulance service and HART teams (Hazardous Access Emergency Response Team) need to use the major roads. As to Road 18a, the A405 North Orbital Road, this links junction 21A of the M25 to junction 6 of the M1. If this road were blocked it could delay or deny access to and from the M25 and the M1 simultaneously, thus impacting two of the busiest motorways in the country. As to Road 18b (the A1), this is where the M1 at junction 2 meets and joins with the A1 Watford Way/Great North Way. This junction is significant because if it were blocked it would deny access to and from the M25 and the A1 simultaneously. It is also a raised section of the M1 and is the furthest extent of the M1 on and off slip roads.
- (19) Road 19: A414 - M1 Junction 8 to A405: This is a key route to Hemel Hempstead Hospital. Also, it serves as a key strategic diversion route if the M1 were closed or blocked, and connects to the St Albans City Hospital. It is also the route for the

Buncefield Oil Depot and Refinery - just north of Hemel Hempstead - a crucial and strategic piece of national infrastructure.

The Kent Injunction

16. The parts of the SRN covered by the Kent Roads Injunction are shown highlighted on the plan below, which enumerates the different roads:



17. The M20 Motorway runs roughly parallel with the A20, and also provides a direct link into Dover and Folkstone. The A2, A2070 and M2 are used in connection with the Port of Dover and Eurotunnel. The strategic importance of those locations and facilities is very significant.

- (1) Road 1: M20: The M20 acts as the main gateway to and from Europe, is considered an international route and is used by large volumes of heavy goods, commuter and holiday traffic. The route joins London via the M25 and M26 to the towns of Maidstone and Ashford before terminating near Folkestone, where it provides access to the Channel Tunnel link. The M20 provides access to a range of primary healthcare facilities including Maidstone & Tunbridge Wells Hospital, Maidstone, William Harvey Hospital, Ashford and Royal Victoria Hospital in Folkestone.

The M20 also feeds directly into the A20 which is the main link for the rest of the UK to access the busiest port in Europe, Dover.

- (2) Road 2: A20: The A20 is a major road in southeast England, connecting London with the English Channel port of Dover in Kent. Passing towns like Maidstone, Ashford and Folkestone, most of the route has been superseded by the M20. It begins at the Port of Dover heading in a north-westerly direction towards Maidstone, passing within 1.8 miles of NHL Maidstone office and Coldharbour Depot where it starts to parallel the M20. It then runs through the M26 Junction 2a onto the M25 Junction 3 where it becomes a main artery into London, terminating at Deptford joining the A2.
- (3) Road 3: A2: The A2 is a major road in southeast England, connecting London with the English Channel port of Dover in Kent. This route has always been of importance as a connection between London and sea trade routes to Continental Europe. It gives an alternative route between London and the Port of Dover, making it an important link for lorry drivers and goods entering the UK. It starts at the Port of Dover, heading north-westerly and terminating on Tower Bridge Road in central London. The A2 passes through the Rochester Crossing whereafter it becomes a main feeder road for the proposed Lower Thames crossing. It then goes onto the M2, Junction 1, where it becomes a dual carriageway creating a link to the Dartford crossing via the M25, Junction 2, thereafter becoming a main artery into the city of London where it meets the A20.
- (4) Road 4: M2: The M2 is a 26-mile long motorway in Kent, south-east England. It runs through the towns of Medway, Sittingbourne and Faversham. Feeding into the A2, it runs parallel to the M20 (just a few miles north of it) and gives an alternative route between London and the Port of Dover, making it an important link for lorry drivers. The M2 crosses the Medway River using the Medway Viaduct. Should the Lower Thames Crossing project go ahead, it would be connected to the M2 west of Strood. Although it represents a strong alternative route between London and Dover, it is most commonly used as a route between London and the North coast of Kent. The M2 also gives access to the Spire Alexandra Hospital, and could be used as a main road to join the Sittingbourne Memorial Clinic as well as the Faversham Cottage Hospital.
- (5) Road 5: A2070: The A2070 is an A road linking Brenzett with Ashford and the M20 in Kent. It feeds into both the M20 and the A259. It is a strategic access route

to Ashford from the southern part of Kent. The A2070 is characterised as a suburban road and it provides access to the William Harvey Hospital, as well as the Julie Rose stadium.

18. The Port of Dover is one of the busiest international freight ports in the UK. The two main routes to the port are the A20 and M20 and the A2 and M2. Due to the volume of freight traffic using the port, NHL, in partnership with the Kent Resilience Forum and policing partners, operates a series of systems to ensure the SRN remains safe and free flowing when normal port operations are disrupted (for example due to industrial action, adverse weather or critical incidents) such as TAP20 (Dover Traffic Access Protocol) and Operation BROCK (contraflow system to keep M20 flowing). These operations require freight traffic to travel on the SRN routes to the port and not to divert via local authority roads.

Impact of the IB Protests and continued threat from protests

19. NHL's priorities are safety of road users of the SRN and delivery of our Road Investment Strategy which includes supporting the smooth flow of traffic, encouraging economic growth and keeping the network in good condition. A central part of NHL's functions is to minimise the traffic flow impact of any incident. Against that backdrop, the IB Protests create a serious problem for NHL, given the obvious serious ramifications and foreseeable harm such traffic impact has for emergency services, road users, businesses and the economy of the country as a whole. The IB Protests are both extremely dangerous and disruptive. Indeed, that is their point:

- (1) The IB Protests carry obvious and serious risk of life to the protestors themselves from sitting or lying, standing on the edge of or attempting to enter a live carriageway. The vehicles on these roads usually travel at 70 MPH and drivers may not react swiftly enough to an unexpected pedestrian incursion. See the news reports exhibited at pages 57 to 66 of NB1.¹ There is also a risk to life of the

¹ 'M25 crash blamed on Insulate Britain activists as woman is airlifted to hospital', Daily Telegraph, 15 September 2021, <https://www.telegraph.co.uk/news/2021/09/15/m25-protest-insulate-britain-block-britains-busiest-motorway/>. Mum paralysed from stroke after M25 protest delayed hospital trip', Watford Observer, 20 September 2021 <https://www.watfordobserver.co.uk/news/19591197.mum-paralysed-stroke-m25-protest-delayed-hospital-trip/>

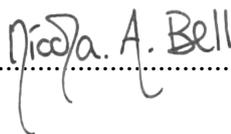
emergency services, as emergency service personnel, for example police officers, are being put at risk in a live carriageway. The mere presence of unauthorised protestors on the land covered by the Interim Injunctions is unsafe at any time of the day and has often required parts of the roads to be closed whilst the police remove the protestors from the road.

- (2) The IB Protests entail significant disruption to the SRN. A consistent, and intended, feature of the IB Protests is that they make it impossible, while there are effective ‘sit ins’ on the road, for traffic to proceed. That is clear from some of the photos of the IB Protests: see pages 67 to 69 of NB1.
20. Given the importance of those parts of the SRN covered by the Interim Injunctions, the highly disruptive and inherently dangerous effect of the IB Protests, IB’s stated commitment to continuing their campaign and strength of belief in that campaign, the statements of intent to continue with and the indications that a significant further phase of Protests is to commence in March through IB’s partnership with JSO (or other similar Protest organisations), NHL is operating on the basis that the risk of further Protests is real and imminent. IB’s statements certainly indicate that the campaign is ongoing and that future protests are imminent. The timeline of IB Protests so far has shown that IB’s statements deserve to be taken seriously. My view is that the Interim Injunctions and Contempt Applications have shown a measure of success as a deterrent.
 21. For those reasons, as well as the reasons set out in the Witness Statement of Laura Higson, NHL is requesting that the Court make a permanent injunction or injunctions that continue the effect of the Interim Injunctions. The details of the permanent injunction(s) sought, including the duration for which it is sought, are addressed in the Witness Statement of Laura Higson and also NHL’s Skeleton Argument in support of the SJ Application.

Statement of Truth

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

Dated: **22 March 2022**

Signed: 

On behalf of: The Claimant
By: L N Higson
No: 1
Exhibit: LNH1
Date: 24 March 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No: QB-2021-003576

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE
FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY
FOR THE PURPOSE OF PROTESTING**

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003626

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND 2070 TRUNK
ROADS AND M2 AND M20 MOTORWAY FOR THE PURPOSE OF
PROTESTING**

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003737

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF
TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23,
A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR,
M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF
PROTESTING**

**WITNESS STATEMENT OF
LAURA NATASHA HIGSON**

I, LAURA NATASHA HIGSON, of DLA Piper UK LLP WILL SAY AS FOLLOWS:-

1. I am a solicitor of the Senior Courts of England and Wales and an Associate at DLA Piper UK LLP with shared day-to-day conduct of this matter under the supervision of my partners. I am authorised to make this Witness Statement on behalf of the Claimant in this claim.
2. These proceedings concern a series of protests that commenced on 13 September 2021 on the Strategic Road Network (“**the SRN**”) in and around London and the south-east of England under the banner of Insulate Britain (“**IB**”, “**the IB Protests**”). The IB Protests involved protestors blocking highways comprising parts of the SRN with their physical presence, normally by sitting down on the road or gluing themselves to the road surface. They have taken place principally in and around London (including the M25) and in Kent. Such action has interfered with the free flow of traffic and the use of the SRN by members of the public – indeed, that has been the intention of the IB Protests.
3. I make this statement in support of the Claimant’s application for summary judgment (“**the SJ Application**”) in respect of these three sets of proceedings. There is now shown to me a paginated bundle of documents which I exhibit hereto as LNH1. Page numbers without qualification refer to that exhibit.
4. This statement is structured as follows:
 - 4.1 The Claimant and proceedings in relation to the IB Protests; §§5-11
 - 4.2 The SJ Application; §§12-13
 - 4.3 The IB Protests so far; §§14-36
 - 4.4 The IB Protests: the attitudes of those protesting; §§37-38

4.5	Future protest action by IB and others with whom they are affiliated;	§§39-47
4.6	The Defendants	§§48-51
4.7	The contempt of Court of the Named Defendants;	§§52-54
4.8	Basis for the final injunction sought;	§§55-62
4.9	Alternative Service;	§§63-66
4.10	Third-party disclosure by the police;	§§67-69
4.11	Conclusion.	§§70

The Claimant and proceedings in relation to the IB Protests

5. The Claimant (“NHL”) (formerly Highways England Company Limited):
 - 5.1 is a strategic highways company incorporated pursuant to ss. 1 and 15 of the Infrastructure Act 2015;
 - 5.2 became the licence holder, highways authority and owner of the land for the SRN under the Appointment of a Strategic Highways Company Order 2015, SI 2015 No.376.
 - 5.3 is consequently the highways authority for the SRN pursuant to s.1A of the Highways Act 1980 (as amended);
 - 5.4 as highways authority in any event has the physical extent of the highway vested in it pursuant to s.263 of the Highways Act 1980.
6. NHL is entitled as highways authority, alternatively as owner of the SRN, to take steps to prevent trespass and nuisance (both public and private) to the use of, and access to, the highways comprising the SRN.
7. Each of these proceedings arose from an application by NHL for an interim injunction on an urgent basis. The injunctions, and the proceedings they relate to, are as follows:

- 7.1 On 21 September 2021, Lavender J granted an interim injunction in relation to the M25 ("**the M25 Injunction**") (claim no. QB-2021-003576);
 - 7.2 On 24 September 2021, Cavanagh J granted an interim injunction in relation to parts of the SRN in Kent ("**the Kent Injunction**") (claim No. QB-2021-3626);
 - 7.3 On 2 October 2021, Holgate J granted an interim injunction in relation to certain M25 'feeder roads' ("**the M25 Feeder Injunction**") (claim No. QB-2021-3737) (collectively, "**the Interim Injunctions**", "**the Claims**").
8. The Interim Injunctions and related documents are exhibited as follows:
- 8.1 The M25 Injunction is at pages 1 to 4 with a description of the roads covered at page 2.
 - 8.2 The Kent Injunction is at pages 5 to 12, and the plan showing the scope of the M25 Injunction is at pages 10 to 12, with a description of the roads covered at page 6. NHL's Skeleton Argument setting out the basis for the application for the Kent Injunction is at pages 13 to 21.
 - 8.3 The M25 Feeder Injunction is at pages 22 to 42, and the plan showing the scope of the M25 Injunction is at page 41, with a description of the roads covered at page 41 and 42. NHL's Skeleton Argument setting out the basis for the application for the M25 Feeder Injunction is at pages 43 to 56, and a note of the hearing before Holgate J is at pages 57 to 65.
9. The Interim Injunctions are now subject to the following long-stop dates following the Order of the Honourable Mr Justice Chamberlain dated 17 March 2022:
- 9.1 the M25 Injunction – 9 May 2022 or further order; and
 - 9.2 the Kent and M25 Feeder Injunctions – 9 May 2022 or further order.
10. On 25 October 2021, NHL obtained an interim injunction in relation to the entire SRN excluding those parts covered by the Interim Injunctions ("**the SRN Injunction**"). The SRN Injunction expired on 31 December 2021. NHL filed a notice of discontinuance of the related proceedings on 14 February 2022. The SRN Injunction is no longer effective and NHL is not seeking to revive it.

11. NHL has made three applications for contempt of court (“**the Contempt Applications**”) in relation to breaches of the Interim Injunctions, as follows:
 - 11.1 The first application was made on 22 October 2021 and determined on 17 November 2021 in *National Highways Limited v Ana Heyatawin and others* [2021] EWHC 3078 (QB) (“**CA1**”);
 - 11.2 The second application was made on 19 November 2021 and determined on 15 December 2021 in *National Highways Limited v Benjamin Buse and others* [2021] EWHC 3404 (QB) (“**CA2**”);
 - 11.3 The third application was made on 17 December 2021 and determined on 2 February 2022 in *National Highways Limited v Arne Springorum and others* [2022] EWHC 205 (QB) (“**CA3**”).

The SJ Application

12. By the SJ Application, NHL is seeking summary judgment in relation to all of the Claims and relief as sought in NHL’s Consolidated Particulars of Claim, being:
 - 12.1 A final injunction in substantially the same form as the Interim Injunctions, covering the same parts of the SRN (i.e. with largely the same geographical extent), for a duration of time until a date in April 2025. The witness statement of Nicola Bell dated 22 March 2022 which I have read addresses the description of the Roads in the final injunction sought and its extent geographically and explains why slight changes to the wording and the plans are needed;
 - 12.2 A declaration to the effect *"that the use of the SRN by the Defendants for the purposes of protest which causes an obstruction of the public highway is unlawful and a trespass in that it exceeds the lawful right of the public to use the highway and interferes unreasonably with the use of the highway by other members of the public entitled to use it"*; and
 - 12.3 damages, although the Claimant has taken a decision not to pursue a damages claim against any of the Defendants;
 - 12.4 costs.

13. A draft Order (“**the draft SJ Order**”) is provided with the SJ Application.

The IB Protests so far

14. The IB Protests take the form of protestors blocking motorways and other parts of the SRN (as well as other roads) by their physical presence, usually by sitting down on or gluing themselves to the road surface. The intention is to thereby prevent traffic from proceeding along the highway. Where the IB Protests have taken place, they have, as intended, caused traffic jams and significant tailing-back of traffic.
15. A sense of what the IB Protests involve in practice can be seen from the photographs of various IB Protests exhibited at pages 66 to 69.
16. I set out below a timeline of the IB Protests and press statements by IB, taken from press releases posted by IB on its website and news reports which I exhibit at pages 70 to 170. I also highlight the steps taken by NHL through the court process.
17. On 13 September 2021, protestors blocked slip roads and the carriageway around five junctions on the M25.¹ (70-75)
18. Further protests took place on 15 September and 17 September 2021.² (76-90)
19. On 21 September 2021, protests on the M25 escalated, including by blocking the main carriageway of the M25 in both directions.³
20. As noted above, the M25 Injunction was granted on 21 September 2021. Even before this, however, IB’s statements made consistent reference to the fact that protestors were being arrested for criminal offences and seeking to cause maximum disruption:

20.1 IB’s statement of 13 September 2021 said: “*Arrested Insulate Britain campaigners vow to cause further disruption until government acts. Insulate Britain campaigners arrested during this morning’s rush hour protest on the*

¹ ‘M25 junctions blocked by Insulate Britain campaigners’, BBC News, 13 September 2021, <https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-58543603>

² ‘M25 protests: Insulate Britain block junctions again’, BBC News, 15 September 2021, <https://www.bbc.co.uk/news/av/uk-england-london-58570577> ; ‘Motorway blockades and green new deal crusaders: the UK’s new climate activists’, The Guardian, 17 September 2021

³ Video footage of the protest of 21 September 2021 can be viewed here: <https://www.youtube.com/watch?v=nE1D0kwk5FU>

M25 vowed to cause further disruption until the government gets on with the job of insulating Britain's homes. 78 arrests were made during the protests which lasted for approximately two hours and involved multiple junctions on the M25."⁴ (91-95)

20.2 IB's statement of 15 September 2021 is entitled "*Why we are here*". *People blocking motorways explain their actions as over 70 further arrests made today*".⁵ (96-100)

20.3 IB's statement of 16 September 2021⁶ recorded that "*People from Insulate Britain involved in blocking the M25 on Wednesday and released from custody this morning told the police that they would repeat the protest as soon as possible. In the early hours of this morning, 89 people were released from several different custody centres across South East England, despite informing officers of their intent to continue taking action until the government gets on with the job of insulating the nation's leaky homes*". The statement also recorded that the personal statements of protestors were based on a document entitled "*Insulate Britain Statement of intent 15.09.2021*" which states "*I must be clear that if I am released from this police station, I intend to return to sit on a highway at the earliest opportunity and will repeat this until our Government agrees to our demands.*" (101-104)

20.4 IB's statement of 17 September 2021 records that "*[e]arly this morning, 79 people from Insulate Britain attempted to block the M25 for a third time in a week, hours after being released by police.*"⁷ (105-109). Another statement of the same date: "*At least 40 people from Insulate Britain were arrested on the M25, M1 and M11 today. Insulate Britain expects that figure to almost double.*"⁸ (110-113)

20.5 "*Oliver, 41, from London [a protestor], said: "I told two officers I was going out to commit the crime again. They just advised against it. If this is so*

⁴ <https://www.insulatebritain.com/we-have-to-keep-going>

⁵ <https://www.insulatebritain.com/why-we-are-here-people-blocking-motorways-explain-their-actions-as-over-70-further-arrests-made>

⁶ <https://www.insulatebritain.com/insulate-britain-we-told-the-police-we-would-go-back-to-the-m25>

⁷ <https://www.insulatebritain.com/79-newly-released-campaigners-from-insulate-britain-head-back-to-m25>

⁸ <https://www.insulatebritain.com/insulate-britain-responds-to-priti-patel>

dangerous, they are now part responsible as they have full knowledge of our intentions?” (18 September 2021)⁹ (114-115)

20.6 *“Earlier today Insulate [Britain] wrote to the Highways Agency and the relevant Police forces, informing them (...) that the campaign would continue, and specified that supporters would be on the M25 network on Monday 20th September from 7am.” (19 September 2021)¹⁰ (116-117)*

20.7 *“Early this morning, Insulate Britain blocked the M25 for a fourth time. They say that actions will continue until the government makes a meaningful commitment to insulate all of Britain’s 29 million leaky homes by 2030, and all social housing by 2025. People blocked slip roads and the M25 carriageway itself in a number of locations. Once again, blue paint was poured onto the road, which will require cleaning, leading to further disruption.” (20 September 2021)¹¹ (118-120)*

20.8 IB’s statement of 21 September 2021 recorded that *“[t]here have been 338 arrests in total during the protests which started over a week ago.”¹² (121-124)*

21. Following the grant of the M25 Injunction, the IB protests moved south east along the SRN, and on 24 September 2021 blocked the A20 in Kent and subsequently the port of Dover¹³ (125-130). An IB press statement of the same day said as follows:¹⁴

“We are sorry for the disruption that we are causing. It seems to be the only way to keep the issue of insulation on the agenda... We are blocking Dover this morning to highlight that fuel poverty is killing people in Dover and across the UK. ... Change at the necessary speed and scale requires economic disruption. We wish it wasn't true, but it is. It's why the 2000 fuel protests got a U-turn in policy and gave Blair his biggest challenge as Prime Minister.” (131-134)

22. On 24 September 2021, the Kent Injunction was granted.

⁹ <https://www.insulatebritain.com/update-insulate-britain-statement-18th-september>

¹⁰ <https://www.insulatebritain.com/update-insulate-britain-statement>

¹¹ <https://www.insulatebritain.com/breaking-insulate-britain-blocks-m25-for-a-fourth-time>

¹² <https://www.insulatebritain.com/38-arrested-as-insulate-britain-blocks-m25-for-fifth-time>

¹³ ‘Port of Dover: Arrests made as Insulate Britain blocks port’, BBC News, <https://www.bbc.co.uk/news/uk-england-kent-58676610>

¹⁴ <https://www.insulatebritain.com/insulate-britain-blocks-the-port-of-dover>

23. On 29 September 2021, protesters blocked, for the second time, Junction 3 of the M25.¹⁵ (135-138)

24. On 30 September 2021, protestors glued their hands to the ground at Junction 30 of the M25 (139-140).¹⁶ On the same day, IB stated:

*“[w]e are raising the tempo this week as, despite the urgency of the situation, there has been no meaningful response from the government to our demands.”*¹⁷
(141-144)

25. Subsequently:

25.1 On the morning of 1 October 2021, IB reported that around 30 protestors from IB blocked Junction 3 of the M4 and Junction 1 of the M1.¹⁸ (145-148)

25.2 On 2 October 2021, the M25 Feeder Injunction was granted.

25.3 On 4 October 2021, IB reported that *“54 people from Insulate Britain have blocked three major routes in the capital”*, with protestors blocking the Blackwall Tunnel, Hanger Lane, Arnos Grove and Wandsworth Bridge (all of which do not fall within the SRN).¹⁹ (149-150)

25.4 On 8 October 2021, protestors from IB blocked the M25 at Junction 25.

25.5 On 13 October 2021, IB protests took place on the M25.

25.6 On 14 October 2021, IB stated that, *“[a]head of COP26, Insulate Britain will suspend its campaign of civil resistance until Monday 25th October.”*²⁰ (151-154)

¹⁵ Police say charging M25 climate protesters ‘difficult’, The Guardian, 29 September 2021, <https://www.theguardian.com/uk-news/2021/sep/29/insulate-britain-activists-block-m25-by-glueing-themselves-to-road>

¹⁶ ‘Insulate Britain protesters glue hands to M25’, BBC News, 30 September 2021, <https://www.bbc.co.uk/news/uk-england-esssex-58721909>

¹⁷ ‘Breaking: Insulate Britain returns to block M25 for Third Day this week’, Insulate Britain website, 30 September 2021, <https://www.insulatebritain.com/breaking-insulate-britain-returns-to-block-m25-for-third-day-this-week>

¹⁸ ‘Insulate Britain Blocks M4 & M1’, Insulate Britain website, 1 October 2021, <https://www.insulatebritain.com/insulate-britain-blocks-m4-m1>

¹⁹ <https://www.insulatebritain.com/confirmed-locations-of-insulate-britain-roadblocks>

²⁰ <https://www.insulatebritain.com/insulate-britain-write-an-open-letter>

26. On 22 October 2021, NHL made its first contempt application, CA1, in relation to breaches of the M25 Injunction by nine Defendants.
27. On 26 October 2021, IB published a statement on its website entitled ‘We declare the M25 a site of nonviolent civil resistance’.²¹ In that statement, IB said “*We are not concerned with endless injunctions. We are not concerned with our fears. We are concerned with fulfilling our duties and responsibilities at this 'period of consequence'. Starting from 7:00 on the morning of Wednesday 27th October the M25 will become a place of nonviolent civil resistance to stop our government committing crimes against humanity.*” The statement also asked that “[p]eople do not use the M25” and that “*police refuse to arrest us*”. (155-156)
28. On 27 October 2021, IB protestors blocked part of the A40 in West London and a roundabout in Dartford. IB’s statement of the same day recorded that it had defied the SRN Injunction “*after declaring the M25 a site of nonviolent civil resistance yesterday*”.²² (157-160)
29. On 29 October 2021, 19 IB protestors disrupted traffic at two locations on the M25. 10 protestors walked between lanes of oncoming traffic between Junction 28 and Junction 29 of the M25, and a further 9 protestors entered onto the motorway between Junction 21 and Junction 22.²³ (163-165). On the same day, IB posted a statement on its website titled “*Insulate Britain’s M25 Walkers Defy Government Injunction*”²⁴ which went on to say that “*Insulate Britain have caused major disruption on the M25 in several locations, by walking on the white lines between the lanes of oncoming traffic*” and “*This is the sixteenth time that Insulate Britain has caused disruption on motorways and A roads as part of our campaign of nonviolent civil resistance over the past six weeks*”. (161-162)
30. On 2 November 2021, around 60 IB protestors disrupted traffic on Junction 23 of the M25 and Junction 6 of the M56 in Manchester, both of which fell within the SRN Injunction. Protests also took place on the A4400 in Birmingham covered by the SRN

²¹ <https://www.insulatebritain.com/breaking-we-declare-the-m25-a-site>

²² <https://www.insulatebritain.com/insulate-britain-defies-super-injunction>

²³ <https://www.theguardian.com/environment/2021/oct/29/insulate-britain-protesters-arrested-walking-on-to-m25>

²⁴ <https://www.insulatebritain.com/insulate-britain-s-m25-walkers-defy-gove>

Injunction. IB's statement of the same day said: *"This is the seventeenth time that Insulate Britain has caused disruption on motorways and A roads as part of our campaign of nonviolent civil resistance over the past seven weeks. So far, 161 people have taken part in the campaign and there have been 770 arrests."*²⁵ (166-167)

31. On 4 November 2021, IB protestors blocked roads around Parliament Square. IB's report of that protest states *"62 people from Insulate Britain have blocked two roads around Parliament Square in Westminster this morning."*²⁶ (168-171)
32. On 17 November 2021, the Divisional Court gave judgment in relation to CA1, finding that all nine Defendants were in contempt of court and committing all of those Defendants for immediate imprisonment for varying periods of between 3 and 6 months.
33. On 19 November 2021, NHL made its second contempt application, CA2, in relation to nine Defendants for breaches of the M25 Injunction.
34. On 20 November 2021, approximately 400 people took part in a protest which involved blocking Lambeth Bridge. IB published a statement on its website describing the protest as *"inspired by the jailing of nine peaceful individuals and Insulate Britain's campaign of repeatedly blocking key road infrastructure."*²⁷ (172-174)
35. On 15 December 2021, the Divisional Court gave judgment in relation to CA2, finding that all nine Defendants were in contempt of court, and committing all of those Defendants for imprisonment for varying periods of between 3 months and 30 days, with six of those Defendants having their periods of imprisonment suspended.
36. NHL made its third contempt application, CA3, on 17 December 2021 in relation to 19 Defendants for breaches of the M25 Order. On 1 February 2022, the first day of the hearing of CA3, four of the Defendants to CA3 refused to attend the hearing and instead protested by gluing themselves to the steps of the Royal Courts of Justice, where CA3 was being heard (see further below). The Divisional Court gave judgment in relation to CA3 on 2 February 2022, finding that 16 of the Defendants were in contempt of court,

²⁵ <https://www.insulatebritain.com/insulate-britain-defies-multiple-injunct>

²⁶ <https://www.insulatebritain.com/breaking-insulate-britain-blocks-parliament-square>

²⁷ <https://www.insulatebritain.com/insulate-britain-response-to-the-solidarity-rally>

and committing all of those 16 Defendants for varying periods of imprisonment of between 24 and 60 days, with 11 of those Defendants having their periods of imprisonment suspended. The application to commit the 3 remaining Defendants in CA3 was dismissed as the Court was not satisfied that there had been a breach of the M25 Order by those Defendants.

The IB Protests: the attitudes of those protesting

37. IB's publications and the statements of those protesting make clear that the protestors are committed to their programme of action and have a strong belief that any negative effects of their actions are outweighed by their justification. A flavour of the attitude of protestors can be given by the following examples:

37.1 An IB press statement of 27 October 2021 quotes a protestor intercepted by Kent police during protests on the A40 on 27 October 2021 as saying *"I'm here through anger, fear and determination. Forgive us this disruption but please understand the reasons why we are doing it, for the disruption today will be nothing compared to what we get in the future of climate catastrophe."*²⁸ (175-178)

37.2 That same press statement concludes as follows: *"Insulate Britain will return to the roads at the earliest opportunity to continue our campaign of nonviolent civil resistance until Boris Johnson gets on with the job of protecting the people of this country. Insulate Britain has a duty to continue our campaign and we will not be bystanders whilst the Government condemns this country to death."*²⁹ (175-178)

37.3 An IB press statement of 27 October 2021³⁰ quotes protestors as follows: *"If going to prison and losing my home is what it takes to get the government to do the right thing and cut our carbon emissions then it's a price worth paying. I can't be a bystander while this government betrays the public, our children and future generations by failing to defend our country from the climate crisis....will*

²⁸ <https://www.insulatebritain.com/breaking-kent-police-keep-insulate-brit>

²⁹ <https://www.insulatebritain.com/breaking-kent-police-keep-insulate-brit>

³⁰ <https://www.insulatebritain.com/insulate-britain-defies-super-injunction>

you join us on the motorway to demand action now? I'm here through anger, fear and determination.” (175-178)

37.4 An IB statement of 28 October 2021 says: *“So take us to court, we stand by our actions and are ready to defend them. We have a right of necessity to cause disruption, to prevent the far greater destruction of our economy and way of life.”*³¹ (179-182)

38. The timeline above indicates that NHL’s actions through the court process, and particularly the Contempt Applications, led to a pause or slowdown in IB’s direct action protests on the SRN. Against that instinct towards pausing or reflecting on the overall strategy, however, is a strong theme in IB’s statements of bravado in the face of the imposition of legal sanctions:

38.1 In a statement addressed to the Home Secretary of 22 September 2021, an IB statement said as follows: *“if you believe, as you say, that our acts are outrageous and illegal, and if you believe there is no right of necessity for citizens to cause disruption to prevent the infinitely greater threat of destruction to our economy and way of life, then you have a duty to act decisively. The offence of creating a public nuisance is already there to be used, you didn’t need an injunction. Take us to court, charge us, and put us in prison.”*³² (183-187)

38.2 *“We are more scared of the destruction of our country than we are of breaking an injunction. There are times when we have to step up and do what is right.”* (27 September 2021)³³ (188-191)

38.3 *“Yesterday, 52 people blocked the M25, in breach of the terms of an injunction granted to the Highways Agency on 22nd September.”* (28 September 2021)³⁴ (192-195)

38.4 *“This morning, Insulate Britain has blocked the M25, breaking last week’s High Court injunction for the second time, despite the threat of unlimited fines and lengthy prison sentences... We are going nowhere. You can raid our savings.*

³¹ <https://www.insulatebritain.com/statement-from-insulate-britain>

³² <https://www.insulatebritain.com/insulate-britain-campaigners-hold-home-office-press-conference>

³³ <https://www.insulatebritain.com/insulate-britain-defies-injunction-to-block-m25-for-the-sixth-time>

³⁴ <https://www.insulatebritain.com/injunction-what-injunction>

You can confiscate our property. You can deny us our liberty and put us behind bars.” (29 September 2021)³⁵ (196-199)

- 38.5 *“This is the tenth time that Insulate Britain has caused disruption on motorways and A roads over the past three weeks. Eight people were released from custody on Thursday after blocking the M25 at Junction 30 and they have returned, with others arrested earlier in the week.” (1 October 2021)³⁶ (145-148)*
- 38.6 *“We’re more scared of what will happen when the climate crisis causes the breakdown of law and order, than we are of injunctions and prison.” (4 October 2021)³⁷ (200-203)*
- 38.7 *“...if our government believes that our acts are outrageous and illegal, that there is no right of necessity to cause disruption, to prevent the far greater destruction of our economy and way of life, then it has a duty to act decisively. Take us to court, charge us, and put us in prison. We are more fearful of the loss of our country than we are of the courts. Throw injunctions at us, but we are going nowhere, there is nowhere to go.” (5 October 2021)³⁸ (204-208)*
- 38.8 IB’s press statement of 22 November 2021, in relation to the protest two days earlier at Lambeth Bridge, linked the protest and in particular its scale with the statement of Ben Taylor, one of the Defendants to CA1, in Court:³⁹

“On Saturday, 20th November, approximately 400 people showed their disgust at the government’s cowardice and treason against the British people by joining a day of nonviolent civil resistance in defiance of the Transport for London injunction barring people from causing disruption on key roads in London.

Ben Taylor, one of the first group of nine Insulate Britain supporters imprisoned last week, said to the judge before his sentencing on Thursday 17th November: “If you send us away, a hundred more will step forward to take our place.”

³⁵ <https://www.insulatebritain.com/insulate-britain-defies-injunction-to-block-m25-for-the-seventh-time>

³⁶ <https://www.insulatebritain.com/insulate-britain-blocks-m4-m1>

³⁷ <https://www.insulatebritain.com/3-major-roads-blocked-as-insulate-britain-turns-its-attention-to-london>

³⁸ <https://www.insulatebritain.com/the-reality-of-our-situation-has-to-be-faced>

³⁹ <https://www.insulatebritain.com/124-arrests-say-met>

Three days later his words were vindicated, as the Metropolitan Police have now confirmed that a total of 124 people were arrested on Saturday for blocking Lambeth Bridge and Vauxhall Junction.

The majority of those arrested have never participated in an Insulate Britain roadblock. They were moved to take action by the criminal inaction of this government, with speakers referring to the nine people imprisoned last week as ‘political prisoners’.

People from a variety of groups joined Saturday’s action to knowingly break the injunctions, which we understand was in an act of solidarity with the nine Insulate Britain members jailed on Wednesday, with the partially sighted Paralympian, James Brown who is currently serving a one year sentence for disruption caused at City Airport in October 2019 and with the other 25 people who are likely to be imprisoned in the coming months as a result of their actions with Insulate Britain.

It is clear that Saturday’s actions were inspired by Insulate Britain’s campaign of nonviolent civil resistance and that the flood gates are now open for those who refuse to be bystanders and complicit in genocide. As we have previously stated, the motorways are a site of nonviolent civil resistance and our campaign will continue until the government issues a meaningful statement to get on with the job of insulating Britain’s leaky homes.

If you want to protect your pensions, get out on the streets. If you want to ensure our NHLS workers are protected, get on the roads. If you want to ensure this government upholds its duty to defend the people in this country from climate breakdown then get on the motorways.” (209-212)

38.9 On 26 November 2021, IB’s website issued a press release recording the following statement from Emma Smart from HMP Bronzefield following her committal for breach of the M25 Injunction:⁴⁰ *“Imprisoning all those who disagree with you is the mark of a bully and we all know that at heart, bullies are cowards. So to the government we say carry on, bring down the combined might of your best lawyers and all the vast machinery of the state. We will not be cowed. Our numbers are growing because the general public knows we are on the right side of history”.* (213-215)

38.10 On 17 December 2021, following the Court’s rulings in relation to CA2, IB posted the following statement on its website:⁴¹

⁴⁰ <https://www.insulatebritain.com/we-won-t-be-builled-by-this-cowardly-gov>

⁴¹ <https://www.insulatebritain.com/high-court>

“Yes, it's true we breached those injunctions. 174 ordinary people spent seven weeks blocking motorways and making a complete nuisance of ourselves as we put our demands to the British government. Our basic no-brainer demands, supported by the majority of the UK public: that the government should fully fund and take responsibility for a national programme to insulate all homes, starting with social housing, as the most basic first step to avert the horror of climate breakdown and eliminate fuel poverty.” (216-220)

- 38.11 On 14 January 2022, the IB website published a statement that was to be read by Emma Smart, a protestor, on behalf of the IB protestors who were to be released from imprisonment that day.⁴²

“Over 9 weeks last year, 174 people from Insulate Britain held the government to account, asking that they protect the British people, the economy and the very fabric of our society. Instead, our government chose to imprison ordinary people for daring to make this request. We could not stand by whilst the government betrays children, pensioners, those who are disabled and infirm, the poorest and most vulnerable in our society.

Insulate Britain will continue to demand our government get on with the job of cutting carbon emissions, insulating cold and leaky houses and protecting the people of this country from climate collapse. The lives of our children and those of all future generations hang in the balance.” (221-225)

Future protest action by IB and others with whom they are affiliated

39. On 7 February 2022, IB published a press release on its website summarising its intentions as to the future as follows:⁴³

“We did not take part in this campaign to start an insulation brand. We did not cause you disruption to make history as Britain's quickest growing advertising campaign. We took part to force our government to stop failing its people.

We will continue our campaign of civil resistance because we only have the next two to three years to sort it out and prevent us completely failing our children and hitting climate tipping points we cannot control.

⁴² <https://www.insulatebritain.com/a-letter-to-the-british-public-from-the>

⁴³ <https://www.insulatebritain.com/we-must-acknowledge-we-have-failed>

Now we must accept that we have lost another year, so our next campaign of civil resistance against the betrayal of this country must be even more ambitious. More of us must take a stand. More of you need to join us. We don't get to be bystanders. We either act against evil or we participate in it.

We haven't gone away. We're just getting started." (226-230)

40. IB's strategy appears to be developing with a view to broadening its protest activities and coordinating with other groups for larger-impact protests.
41. IB publicised an event originally scheduled for 19 February 2022 but now postponed until 2 April 2022 called 'Rave on the M25' on Facebook. The event is indicated as beginning at 12pm on 2 April 2022 and ending at 4am on 3 April 2022.⁴⁴ Media reports, exhibited at pages 232 to 242, described "*plans for a series of 16-hour raves around Britain's busiest motorway this weekend*", described by Gabriella Ditton, an IB protestor who was committed to imprisonment in CA3 (committal order suspended), as "*the biggest party of 2022*" (231).⁴⁵ Perhaps as a consequence of the legal difficulties that NHL's proceedings and criminal proceedings have created for protestors, IB appears to be taking a more circumspect approach to describing its involvement in this event. Its statement of 15 February 2022 (when this event was originally planned for 19 February 2022) contains the following footnote:

"Insulate Britain understands that there will be a day of civil resistance on the M25 on Saturday 19th February at midday inspired by our campaign. The event named 'RAVE ON THE M25' has been arranged in response to public outrage at the Cost of Living Crisis and our government's seeming inability to lead with integrity and responsibility in times of crisis. We are aware some Insulate Britain Supporters will be in attendance."

42. On 15 February 2022, IB announced via a press release on its website that it had joined 'Just Stop Oil' ("**JSO**"), described as "*a coalition of groups working together to demand that the government immediately halt all future licensing and consents for the*

44

[https://www.facebook.com/events/295793089201119/?acontext=%7B%22ref%22%3A%2252%22%2C%22action_history%22%3A%22\[%7B%5C%22surface%5C%22%3A%5C%22share_link%5C%22%2C%5C%22mechanism%5C%22%3A%5C%22share_link%5C%22%2C%5C%22extra_data%5C%22%3A%7B%5C%22invite_link_id%5C%22%3A297195179058513%7D%7D\]%22%7D](https://www.facebook.com/events/295793089201119/?acontext=%7B%22ref%22%3A%2252%22%2C%22action_history%22%3A%22[%7B%5C%22surface%5C%22%3A%5C%22share_link%5C%22%2C%5C%22mechanism%5C%22%3A%5C%22share_link%5C%22%2C%5C%22extra_data%5C%22%3A%7B%5C%22invite_link_id%5C%22%3A297195179058513%7D%7D]%22%7D)

⁴⁵ <https://metro.co.uk/2022/02/16/insulate-britain-plans-to-hold-four-raves-on-the-m25-over-the-weekend-16113960/>; <https://www.kentlive.news/news/kent-news/dartford-crossing-protesters-planning-16-66690891> ; <https://www.express.co.uk/news/uk/1566824/Insulate-Britain-M25-protest-oil-gas-motorway-chaos-traffic-drivers-rave-queue-delay>

exploration, development and production of fossil fuels in the UK”.⁴⁶ The press release continues as follows:

“We cannot transition away from oil towards clean energy as rapidly as we should unless the government Insulates Britain and starts to make reducing energy demand and improving energy efficiency a focus for the entire nation. It is for that reason that we are entering into this coalition. If we do not work together, we will die together.

We need to Just Stop Oil. We need to Insulate Britain. We need free transport. So let’s get on with the job and Just Do It!” (243-246)

43. I exhibit at 247 a screenshot of part of the homepage of JSO’s website, which describes it as a “new campaign [that] will mobilise 1000+ people from all walks of life to oppose the plans for new UK Oil fields during 2022”.⁴⁷ I exhibit at 248-249 a timestamped note of a presentation given by Roger Hallam, a leading figure within both IB and JSO, at a community centre in south-east London on 7 February 2022,⁴⁸ in which Mr Hallam said as follows in relation to the planned future protests (emphasis added):

“Okay so there is a specific project. This is the project which is at the end of March in this country and ten of the western democracies. Thousands of people will be going onto the streets and onto the motorways to the oil refineries and they will be sitting down. The precise ask tonight is do you sign up for a full 36-hour commitment right? [...] You join a non-violence training session in three weeks’ time and then you join with other people in this locality, with other people in this room, you go to an oil refinery in an oil depot with hundreds or thousands of other people. Priti Patel will ensure you are arrested, don’t worry about that. You’ll spend about 5 hours in a police station with other people and around midnight you’ll be released probably under investigation” (51:21-52:18)

“This is what civil resistance looks like. It’s not about everyone getting on, it’s not about everyone being the same. It’s about going, there’s a date, there’s a place, turn up and don’t move. [...]. That’s what we need to do, and we need 3,000 people to do it and we’ve got about 500.” (53:26-53:40)

“I can 100% guarantee those of you that act on this knowledge and go on the roads will live happier lives” (1:00:00-1:00:04)

⁴⁶ <https://www.insulatebritain.com/insulatebritain-join-the-just-stop-oil-coalition>

⁴⁷ <https://juststopoil.org/>

⁴⁸ Full video available here: <https://www.youtube.com/watch?v=vRWemR1YQ00>

44. I exhibit at 250 to 257 news reports and JSO’s website home page⁴⁹ showing that, on 14 February 2022, JSO campaigners delivered an ‘ultimatum’ to the Prime Minister as follows:

“Just Stop Oil is demanding that: The UK government makes a statement that it will immediately halt all future licensing and consents for the exploration, development and production of fossil fuels in the UK.

If you do not provide such assurance by March 14th 2022 it will be our duty to intervene – to prevent the ultimate crime against our country, humanity and life on earth.

We will not be bystanders.”

45. News reports indicate that supporters of the campaign, including Roger Hallam, “*have been touring universities calling on students to sign up*” (258-264).⁵⁰ One of the persons who delivered JSO’s ultimatum was Louis McKechnie, a Defendant to CA1.
46. In a talk given by Dr Larch Maxey in Cornwall on 28 February 2022 entitled ‘Start acting like life depends on it: civil resistance in 2022’,⁵¹ Dr Maxey noted at (55:53) that JSO “*have a whole Youth Climate Swarm Group within our coalition that are ... giving talks up and down the country in a hundred universities between now and March.*” I exhibit at 265 to 269 news reports indicating that ‘Youth Climate Swarm activities are planning a “*month of action*” in March 2021,⁵² and a screen grab of the twitter page of a group called ‘Bristol Youth Strike 4 Climate’ showing that, on 12 February 2022, the group blocked roads in central Bristol demanding, inter alia, ‘Just Stop Oil’ and ‘Insulate Britain’.
47. The JSO campaign appears to have started. On 13 March 2022, activists from JSO sought to disrupt the BAFTA film awards.⁵³ On 16, 17, 18 and 20 March 2022, JSO

⁴⁹ <https://juststopoil.org/>

⁵⁰ The Guardian, ‘Climate activists plan direct action against UK oil infrastructure’, 14 February 2022, <https://www.theguardian.com/environment/2022/feb/14/just-stop-oil-activist-direct-action-against-uk-oil-infrastructure-target-petrol-stations-depots-refineries> ; The Times, ‘Pressure group Just Stop Oil will target fossil fuel production’, 15 February 2022, <https://www.thetimes.co.uk/article/pressure-group-just-stop-oil-will-target-fossil-fuel-production-df2lqs7ts>.

⁵¹ Available here: <https://juststopoil.org/video/>

⁵² Big Issue, ‘Youth Climate Swarm: Who are the environmental activists blocking roads?’, 10 February 2022, <https://www.bigissue.com/news/activism/youth-climate-swarm-who-are-the-environmental-activists-blocking-roads/>

⁵³ The Independent, ‘Just Stop Oil campaigners stage noisy protest at Baftas’, 13 March 2022, <https://www.independent.co.uk/news/uk/baftas-government-tom-hiddleston-royal-albert-hall-london-b2034903.html>

activists invaded the pitches during Premier League football games⁵⁴. Their activities included gluing and zip-locking (by their necks) themselves to goalposts. (632-634)

The Defendants

48. Each of the Interim Injunctions were initially made only against persons unknown, but included an obligation for the Claimant to identify and add named Defendants.
49. The Court has made a number of Orders under CPR 31.17 providing for disclosure by the police to the Claimant of (i) names and addresses of individuals arrested for participating in the IB Protests and (ii) evidence of contraventions by individuals of the Interim Injunctions provided by the relevant police forces in the form of arrest notes, body camera imagery and custody photos. The Claimant has discharged its obligation to date to identify and add named Defendants by adding named Defendants to the proceedings, as and when notified by the police of arrests of those participating in an IB protest (“**the Named Defendants**”). Information relating to the offences for which the Named Defendants were arrested on suspicion of is summarised below. The Claimant has periodically sought the permission of the Court to amend the Interim Injunctions by adding Named Defendants to them by reference to updated schedules of Named Defendants DLA Piper have collated from information received from the police. The most recent version of such schedule is annexed to the form of draft SJ Order sought by the Claimant in the SJ Application.
50. I am aware from information supplied to the Claimant by the police, that I have personally reviewed, that the offences for which the Named Defendants to the Interim Injunctions have been arrested on suspicion of, are offences that arise from the IB Protests themselves: wilful obstruction of the highway, causing danger to road users, causing a public nuisance, and causing obstruction on a special road as a pedestrian. Therefore, each of the Named Defendants has been arrested on suspicion of conduct which constitutes a trespass and/or nuisance on the roads subject to the Interim Injunctions. Where the IB Protest in question is on a road area that an Interim Injunction relates to, every person who has been arrested on information provided by the police

⁵⁴ Videos available here: <https://juststopoil.org/>

forces is a person who has, or would have been, contravening an Interim Injunction had they been served with it prior to their offence.

51. I do not append to this witness statement on GDPR grounds the information that has been provided to the Claimant by the police which I have reviewed, concerning the basis for arrests made by the police given its personal nature, but merely summarise in broad terms the same to assist the Court and to inform it of the basis for arrests. In summary:

51.1 On 13 September 2021, 18 of the Named Defendants were arrested by Hertfordshire Constabulary in connection with a protest which took place under the banner of IB. Of those arrested, all were arrested under suspicion of wilful obstruction of the highway, and 6 under suspicion of conspiracy to cause a public nuisance. I am not personally presently aware of the current status of any prosecutions.

51.2 On 13 September 2021, 10 of the Named Defendants were arrested by Kent Police in connection with an IB protest. Each of the 10 individuals were arrested under suspicion of wilful obstruction of the highway and conspiracy to cause a public nuisance. All have been charged with conspiracy to cause a public nuisance.

51.3 On 13 September 2021, 13 of the Named Defendants were arrested by the Metropolitan Police Service in connection with an IB protest. 12 of the individuals were arrested in connection with causing a public nuisance and all have been subsequently charged.

51.4 On 13 September 2021, 35 of the Named Defendants were arrested by Surrey Police in connection with an IB protest. All were arrested under suspicion of wilful obstruction of a highway. 20 of the individuals were also held under suspicion of conspiracy to cause a public nuisance, and 1 individual held also for causing danger to road users. All have been charged with wilful obstruction of the highway.

51.5 On 13 September 2021, 12 of the Named Defendants were arrested by Kent Police under suspicion of wilful obstruction of the highway. Of those arrested, 9 have been charged with causing a public nuisance, and no further action is being taken in respect of 1 individual. I am not personally presently aware of how any prosecution against the remaining individual is progressing.

51.6 On 15 September 2021, 18 of the Named Defendants were arrested by Hertfordshire Constabulary in connection with an IB protest under suspicion of wilful obstruction of

a highway and conspiracy to cause a public nuisance. I am not personally presently aware of the status of any prosecutions.

- 51.7 On 15 September 2021, 22 of the Named Defendants were arrested by Kent Police in connection with an IB protest under suspicion of wilful obstruction of the highway. All have since been charged with the offence.
- 51.8 On 15 September 2021, 31 of the Named Defendants were arrested by Surrey Police in connection with an IB protest for wilful obstruction of the highway. 25 of those individuals were also arrested under suspicion of causing danger to road users. All have since been charged with wilful obstruction of the highway.
- 51.9 On 15 September 2021, 14 of the Named Defendants were arrested by the Metropolitan Police Service under suspicion of causing a public nuisance in connection with an IB protest. All have since been charged with the offence.
- 51.10 On 17 September 2021, 12 of the Named Defendants were arrested by the Hertfordshire Constabulary in connection with an IB protest under suspicion of conspiracy to cause a public nuisance. I am not personally presently aware of the status of any prosecutions.
- 51.11 On 17 September 2021, 17 of the Named Defendants were arrested by Essex Police under suspicion of wilful obstruction of the highway during the course of an IB protest. I am aware that no further action is being taken in respect of 16 of those arrested. I am not personally presently aware of the status of any prosecution in relation to the remaining individual.
- 51.12 On 17 September 2021, 10 of the Named Defendants were arrested by Kent Police in connection with an IB protest. Of those arrested, all were held under suspicion of wilful obstruction of the highway and conspiracy to cause a public nuisance, and 3 were also held for the possession of an article with intent to destroy or damage property. The Kent police force has secured one conviction for criminal damage and has confirmed that no further action is being taken in respect of the remaining 9 individuals.
- 51.13 On 17 September 2021, 15 of the Named Defendants were arrested by Surrey Police during the course of an IB protest. Of those individuals, all were held under suspicion of wilful obstruction of a highway and conspiracy to cause a public nuisance, 14 were held under suspicion of causing danger to road users and 2 under suspicion of causing criminal damage. Of those arrested, 6 have been charged with wilful obstruction of the

highway and 1 for causing criminal damage. No further action is being taken in relation to the remaining offences.

- 51.14 On 20 September 2021, 27 of the Named Defendants were arrested by Hertfordshire Constabulary in connection with an IB protest. All of those arrested were held under suspicion of wilful obstruction of a highway, with 17 also being held for conspiracy to cause a public nuisance and 23 for causing criminal damage. I am not personally presently aware of the status of any prosecutions against these individuals.
- 51.15 On 20 September 2021, 7 of the Named Defendants were arrested by Kent Police under suspicion of conspiracy to cause a public nuisance during the course of an IB protest. Of those arrested, 1 has been charged with wilful obstruction of the public highway and 1 has been charged for conspiracy to cause a public nuisance. No further action is being taken in respect of the remaining offences.
- 51.16 On 21 September 2021, 32 of the Named Defendants were arrested by Surrey Police under suspicion of wilful obstruction of a highway and conspiracy to cause public nuisance during the course of an IB protest. Of those arrested, 31 have been charged with wilful obstruction of the highway, 1 has been charged with the offence of being a pedestrian on a special road, and 2 have been charged with causing criminal damage.
- 51.17 On 24 September 2021, 40 of the Named Defendants were arrested by Kent Police under suspicion of wilful obstruction of a highway and conspiracy to cause public nuisance during the course of an IB protest. 39 of those individuals have since been charged with conspiracy to cause a public nuisance.
- 51.18 On 27 September 2021, 49 of the Named Defendants were arrested by the Metropolitan Police Service under suspicion of causing a public nuisance during the course of an IB protest. All have since been charged with the offence.
- 51.19 On 29 September 2021, 27 of the Named Defendants were arrested by Kent Police under suspicion of the wilful obstruction of the highway and conspiracy to cause public nuisance during the course of an IB protest. 9 of those individuals were also held under suspicion of causing criminal damage. Of those arrested, 24 have since been charged for wilful obstruction of the highway, 2 have been charged with conspiracy to cause a public nuisance and 1 has been charged with causing criminal damage.
- 51.20 On 30 September 2021, 9 of the Named Defendants were arrested by Essex Police in connection with an IB protest under suspicion of wilful obstruction of a highway and

breach of a community protection notice. All 9 individuals have been charged with wilful obstruction of the highway and no further action is being taken in respect of the alleged breach of a community protection notice.

- 51.21 On 1 October 2021, 39 of the Named Defendants were arrested by the Metropolitan Police Service under suspicion of causing a public nuisance during the course of an IB protest. All remain under investigation.
- 51.22 On 4 October 2021, 29 of the Named Defendants were arrested by the Metropolitan Police Service under suspicion of causing a public nuisance during the course of an IB protest. All remain under investigation.
- 51.23 On 8 October 2021, 29 of the Named Defendants were arrested by the Metropolitan Police Service under suspicion of causing a public nuisance during the course of an IB protest. All remain under investigation.
- 51.24 On 13 October 2021, 32 of the Named Defendants were arrested by the Essex Police in connection with an IB protest. Of those arrested, 16 were held under suspicion of wilful obstruction of a highway, and 18 were held under suspicion of conspiracy to cause a public nuisance. 21 individuals have since been charged with wilful obstruction of the highway, 7 have been charged with conspiracy to cause a public nuisance and 1 has been released under investigation. I am not personally presently aware of the status of any prosecutions against the remaining individuals.
- 51.25 On 27 October 2021, 37 of the Named Defendants were arrested by Kent Police in connection with an IB protest. All were arrested under suspicion of conspiracy to cause a public nuisance, and 26 of those individuals were also held under suspicion of wilful obstruction of a highway. 2 individuals have since been charged with wilful obstruction of the highway and no further action is being taken in relation to the remaining offences.
- 51.26 On 29 October 2021, 9 of the Named Defendants were arrested by Hertfordshire Constabulary during the course of an IB protest. All were arrested under suspicion of conspiracy to cause a public nuisance, with 2 also being held under suspicion of being in possession of an article with intent to destroy or damage property, and 5 being held under suspicion of being a pedestrian on a special road. I am not personally presently aware of the status of any prosecutions.

51.27 On 29 October 2021, 10 of the Named Defendants were arrested by Essex Police under suspicion of wilful obstruction of the highway during the course of an IB protest. No further action is being taken by Essex Police in relation to these offences.

51.28 On 2 November 2021, 17 of the Named Defendants were arrested by Hertfordshire Constabulary during the course of an IB protest. All were arrested under suspicion of conspiracy to cause a public nuisance, with 1 also being held under suspicion of causing criminal damage, 4 also being held under suspicion of possession of an article with intent to destroy or damage property, and 1 also being held for common assault of an emergency worker. I am not personally presently aware of the status of these prosecutions.

The contempt of court of the Named Defendants

52. I set out below a list of all the Named Defendants who have been the subject of a contempt application (“**the Contempt Defendants**”), with the second column showing which of the three applications they were Named Defendants to, and the third column showing the outcome of the respective applications for contempt:

<i>Name of defendant</i>	<i>Contempt application</i>	<i>Outcome/custodial sentence</i>
Ana Heyatawin	CA1	3 months
Arne Springorum	CA3	No contravention of the M25 Injunction found on the facts.
Ben Taylor	CA1, CA3	6 months (CA1) 48 days reduced to 32 days on basis of plea (CA3)
Benjamin Buse	CA1, CA2, CA3	4 months (CA1) 30 days consecutive (CA2) 3 months days reduced to 40 days on basis of plea/totally and suspended for 2 years (CA3)
Biff Whipster	CA2, CA3	2 months and 30 days, suspended for 2 years (CA2)

		36 days reduced to 24 days on basis of plea and suspended for 2 years (CA3)
Christian Rowe	CA3	3 months reduced to 60 days on basis of plea (CA3)
David Nixon	CA3	63 days reduced to 42 days on basis of plea and suspended for 2 years (CA3)
Diana Warner	CA2, CA3	4 months, reduced to 2 months on basis of plea and conditions in custody (CA2) 3 months reduced to 30 days on basis of plea/totally (CA3)
Ellie Litten	CA3	63 days reduced to 42 days on basis of plea (CA3)
Emma Smart	CA1	4 months
Gabriella Ditton	CA3	63 days reduced to 42 days on basis of plea and suspended for 2 years (CA3)
Indigo Rumbelow	CA3	63 days reduced to 42 days on basis of plea and suspended for 2 years (CA3)
James Thomas	CA1	4 months
Jessica Causby	CA3	No contravention of the M25 Injunction found on the facts.
Liam Norton	CA3	No contravention of the M25 Injunction found on the facts.
Louis McKechnie	CA1	3 months
Oliver Rock	CA1	4 months
Paul Sheeky	CA2, CA3	4 months, reduced to 2 months on basis of plea and conditions in custody and suspended for 2 years (CA2) 36 days reduced to 24 days on basis of plea and suspended for 2 years (CA3)
Richard Ramsden	CA2	4 months, reduced to 2 months on basis of plea and conditions in custody and suspended for 2 years (CA2)
Roman Paluch-	CA1	4 months

Machnik		
Ruth Jarman	CA2, CA3	4 months, reduced to 2 months on basis of plea and conditions in custody and suspended for 2 years (CA2) 3 months reduced to 30 days on basis of plea/totality and suspended for 2 years (CA3)
Stephanie Aylett	CA3	63 days reduced to 42 days on basis of plea and suspended for 2 years (CA3)
Stephen Gower	CA2, CA3	4 months, reduced to 2 months on basis of plea and conditions in custody and suspended for 2 years (CA2) 36 days reduced to 24 days on basis of plea and suspended for 2 years (CA3)
Stephen Pritchard	CA2, CA3	4 months, reduced to 2 months on basis of plea and conditions in custody and suspended for 2 years (CA2) 36 days reduced to 24 days on basis of plea (CA3)
Sue Parfitt	CA2, CA3	4 months, reduced to 2 months on basis of plea and conditions in custody and suspended for 2 years (CA2) 3 months reduced to 30 days on basis of plea/totality and suspended for 2 years (CA3)
Theresa Norton	CA3	63 days reduced to 28 days on basis of plea and caring responsibilities (CA3)
Tim Speers	CA1	4 months

53. Therefore, as can be seen from the table, the Court found that some 24 Named Defendants (out of a total of 27 Named Defendants) were found to be in contempt of Court, all of whom were committed for imprisonment, with 12 Named Defendants

having their period of imprisonment suspended. Nine of the Contempt Defendants were found in contempt of Court on more than one occasion.

54. In relation to the Contempt Defendants, in more detail:

54.1 Ben Taylor, at the hearing of CA1, made the following statement to the Court, which was published on IB's website:⁵⁵ *"I want to invite you now to think very carefully about what you do next. And to particularly consider the gravity of the situation that you are currently in control of because if you do send me away to prison, ten people, or more, will step forward and take my place. And if you go ahead, and put all nine of us away, a hundred people, or more, will step forward and take our place. And if you send a hundred of us away, a thousand people will step forward and take our place."* The Court in CA1 described the comments as "inflammatory" and committed Ben Taylor to custody for 6 months. (270-272)

54.2 Biff Whipster:

54.2.1 An IB statement of 2 November 2021 entitled 'Insulate Britain defies multiple injunctions in 3 major cities'⁵⁶ quoted Biff Whipster as follows: *"I too have broken the High Court Injunctions several times and I will continue to do so until this treasonous government, supported by heartless and scared journalists, starts to take credible action to safeguard its citizens' lives."* (166-167)

54.2.2 On determination of CA3, Biff Whipster was committed to custody for a term of 24 days suspended. In advance of the hearing of CA3, Mr Whipster made the following statement: *"It's my second time in this court for breaching injunctions. Last time I asked the prosecution team to do the moral thing and close their laptops and bin their papers and walk away. 50 days have passed since then. What a waste of intellect,*

⁵⁵ <https://www.insulatebritain.com/breaking-emma-smart> ; see judgment in CA1 at §39: *"Ben Taylor expressed himself in strong and defiant language. He described the injunction as counter-productive and irrelevant. He said if non-violent civil disobedience did not achieve the result that Insulate Britain wanted, things would turn violent. If he was not imprisoned he would go back out to block the motorway at the earliest opportunity and continue doing so until the Government acts."*

⁵⁶ <https://www.insulatebritain.com/insulate-britain-defies-multiple-injunct>

*skills and resources. Just imagine if that prosecution team were instead focussed on helping dig us out of this self-inflicted hole of climate and environmental collapse? It's very sad. I've made a moral choice. It's a case of watching this slow-burn genocide and destruction of our natural world unfurl, or resist. I am a parent. I have no choice but to sacrifice my liberty and my future for the next generation.”*⁵⁷ (273-277)

54.3 Diana Warner:

54.3.1 Dr Warner did not attend the first day of the hearing of CA2 because she “*had decided to defy the court summons by not appearing in court this morning. She has instead taken part in action in Yorkshire to disrupt a train headed for the Drax power station*”: CA2 at [8]. The Court subsequently issued an arrest warrant for Dr Warner.

54.3.2 Dr Warner, with three other IB protestors, did not attend the afternoon of the first day of the hearing of CA3, instead gluing herself to the steps outside the Royal Courts of Justice: see CA3 at [42] and [64]. The IB website records Dr Warner as making the following statement: “*I was in prison for one month and was released just two weeks ago. To go back to prison will be very hard for me. I am acting for nothing less than to protect our right to life, for all of us. We need to use every nonviolent means available.*”⁵⁸ The protest outside the Royal Courts was described on the IB website as “*a powerful show of resistance*”.⁵⁹ (278-282)

54.4 Ellie Litten, with three other IB protestors, did not attend the afternoon of the first day of the hearing of CA3, instead gluing herself to the steps outside the Royal Courts of Justice: see CA3 at [54] and [64]. The protest outside the Royal Courts was described on the IB website as “*a powerful show of resistance*”.⁶⁰ (278-282)

⁵⁷ <https://www.insulatebritain.com/19-ordinary-people-in-court>

⁵⁸ <https://www.insulatebritain.com/four-outside-court>

⁵⁹ <https://www.insulatebritain.com/four-outside-court>

⁶⁰ <https://www.insulatebritain.com/four-outside-court>

- 54.5 Ruth Jarman read the same statement in court during the CA2 and CA3 hearings, in which she stated: *“I admit that I broke the injunction – it was a choice I made because I answer to a higher authority, that of love and life. I felt that not joining the Insulate Britain protests would make me a bystander to violence and complicit in the breakdown of abundant and civilised life. I am sorry for the impact of our protests on the people who were affected. I hate disrupting people and my actions were aiming to prevent the greater disruption of climate breakdown. So I do not regret breaking the injunction and I cannot promise not to do it again.”*⁶¹ (283-288 and 289-293)
- 54.6 Stephanie Aylett, at the hearing of CA3, said the following as part of her mitigation: *“We focused on insulation, as our housing energy is responsible for around 16% of total emissions. Unfortunately, it was only by causing some disruption that we succeeded in prompting the media to focus on the issue of fuel poverty in the UK.”*⁶² (283-288)
- 54.7 Stephen Pritchard, with three other IB protestors, did not attend the afternoon of the first day of the hearing of CA3, instead gluing himself to the steps outside the Royal Courts of Justice: see CA3 at [64]. The IB website records Mr Pritchard as making the following statement: *“Does this court possess the combination of moral courage and imagination required now of each and everyone of us at this point in history? I like to think this court will use it's agency to fight climate breakdown and fuel poverty. However I expect an irresponsible ruling in support of business as usual.”*⁶³ The protest outside the Royal Courts was described on the IB website as *“a powerful show of resistance”*.⁶⁴ (278-282)
- 54.8 Theresa Norton said the following as part of her mitigation at the hearing of CA3: *“I joined the Insulate Britain campaign because I've had enough. And until this government makes good on its own climate commitments I will*

⁶¹ <https://www.insulatebritain.com/5-protestors-jailed> (in relation to CA3) and <https://www.insulatebritain.com/sentencinggroup2> (in relation to CA2).

⁶² <https://www.insulatebritain.com/5-protestors-jailed>

⁶³ <https://www.insulatebritain.com/four-outside-court>

⁶⁴ <https://www.insulatebritain.com/four-outside-court>

continue to fight for climate and social justice for as long as I have the breath inside me."⁶⁵ (283-288). Ms Norton did not attend the afternoon of the first day of the hearing of CA3, instead gluing herself to the steps outside the Royal Courts of Justice alongside three other IB protestors: see CA3 at §§42 and 64. This was described on the IB website as "*a powerful show of resistance*".⁶⁶ (278-282)

Basis for the final injunction sought

55. Since 4 November 2021, there has been no further direct protest action on the roads described in the Interim Injunctions. The Claimant considers this to be as a result of various factors including:

55.1 While the Interim Injunctions have not extinguished the desire of IB protestors to take part in the IB Protests, and public statements by IB have throughout emphasised the desire of protestors to continue protesting despite the risk of legal sanctions, the timeline of the IB Protests, as shown above, indicates that the Interim Injunctions are having some deterrent effect. In particular, the Contempt Applications, which have made clear to the Defendants the Claimant's willingness to enforce breaches of the Interim Injunctions appear to have coincided with a pause in continuous direct-action protests on the SRN itself.

55.2 The deterioration in the weather during the winter months.

56. Thus, whilst the Interim Injunctions have not wholly prevented unlawful disruption, they have been broadly successful and remain of great assistance to the Claimant's activities and its ability to ensure that the roads it is responsible for as highways authority can be safely and properly used by other road users .

57. As is clear from the timeline set out above, despite the lack of direct action protest on the roads the subject of the Interim Injunctions themselves, since November 2021:

⁶⁵ <https://www.insulatebritain.com/5-protestors-jailed>

⁶⁶ <https://www.insulatebritain.com/four-outside-court>

- 57.1 There has been some protest action of the type experienced by the Claimant, albeit on roads that are not covered by the Interim Injunctions and for which the Claimant is not Highways Authority or responsible for, being the protests in London later in November 2021.
- 57.2 IB has joined forces with Just Stop Oil (“**JSO**”), a protest group concerned with preventing the licencing for exploration, development and production of fossil fuels in the United Kingdom. Together, both groups have been actively recruiting members to engage in civil resistance and attend protests to demand that the Government halt future oil licencing. There are multiple references to protest action taking place from late March 2022, including in the ultimatum delivered to the Prime Minister by two individuals associated with JSO, one of whom, Louis McKechnie (D55), was a Contempt Defendant in these proceedings.
- 57.3 Known members of IB and JSO have made repeated references to entering onto the roads again and undertaking other forms of direct protest action.
58. As also addressed in Nicola Bell’s witness statement dated 22 March 2022 which I have read, the IB Protests, as well as being unlawful, are extremely disruptive (and thus expensive) and dangerous for the protestors, police, the Claimant’s staff and members of the public. In outline:
- 58.1 The land covered by the Interim Injunctions includes active roads; some of which are amongst the busiest in England.
- 58.2 The mere presence of unauthorised protestors on the land covered by the Interim Injunctions is unsafe at any time of the day and has often required parts of the roads to be closed whilst the police remove the protestors from the road. The IB Protests carry obvious and serious risk of life to road users and also to the protestors themselves in their sitting or lying, standing on the edge of or attempting to enter a live carriageway. There is also a heightened risk to life of the emergency services in responding to the actions and behaviour of the protestors on a highspeed road network.

58.3 Incidents reported in the news have shown that the behaviour of those participating in the IB Protests may lead to breaches of the peace due to the anxiety and frustration understandably caused to members of the public using the roads which have been blocked. I exhibit at 294 to 321 news articles reporting incidents where the behaviour of those participating in the IB Protests has led to tension and the risk of confrontation with members of the public using the roads which have been blocked:

58.3.1 A BBC News report of 4 October 2021 reported drivers clashing with IB Protestors near the Blackwell Tunnel during a protest that had been timed to take place during the morning rush hour, quoting a road user whose mother was in an ambulance on the way to hospital.⁶⁷ A video posted on the Express' website shows a van driver attempting to run over an IB Protestor.⁶⁸ (294-296)

58.3.2 A news report of 13 October 2021 recorded, in relation to an IB Protest on the M25 that day, tense scenes between road users and IB protestors, including, *"a female protester was almost run over after stopping in front of a blue Hyundai car"* and *"a mother getting out of her black Range Rover and arguing with those gathered around her car. "Move out of the f***** way, my son needs to get to school," she told demonstrators."*⁶⁹ (297-311)

58.3.3 A news report of 19 October 2021 records an incident where *"two grey-haired protesters on their backsides [were] being pulled off the road by two men - presumably drivers frustrated at the blockage"*.⁷⁰ (312-314)

58.3.4 A news report of 27 October 2021 records that an IB protestor had ink thrown in their face during a protest on the M25.⁷¹ (316-321)

⁶⁷ <https://www.bbc.co.uk/news/uk-england-london-58787144>

⁶⁸ <https://www.express.co.uk/news/uk/1500509/Insulate-Britain-blackwall-tunnel-van-driver-runs-over-protesters-london-climate-change-vn>

⁶⁹ <https://news.sky.com/story/insulate-britain-blocks-m25-to-demand-insulation-of-uk-homes-despite-injunction-12432747> ' and <https://inews.co.uk/news/insulate-britain-protest-drivers-drag-activists-off-road-block-route-m25-dartford-crossing-1246441>

⁷⁰ <https://www.mirror.co.uk/news/uk-news/fuming-driver-ties-insulate-britain-25250363>

⁷¹ <https://www.indy100.com/news/insulate-britain-m25-protest-b1946096>

- 58.4 Very considerable police resources have been required to assist with incidents on the land covered by the Interim Injunctions. Between 13 September 2021 and 20 November 2021 the police are reported to have spent £4.3 million policing IB's road blocking protests (322-325).⁷² The Claimant has also had to divert significant resources and incur additional costs to deal with the protestors. Its legal costs alone (I am advised by the Claimant) are considerably more than £800,000. All of these costs are ultimately borne by the public purse.
- 58.5 The broader economic impacts of the IB Protests and potential for economic disruption in terms of the disruption caused to commuters and other persons being unable to go about their daily business are significant.
- 58.6 The IB Protests entail significant disruption to the SRN. A consistent, and intended, feature of the IB Protests is that they make it impossible, while they are effective, for traffic to proceed.
59. The prospect of a renewed and strengthened further round of disruptive protests, apparently including a wider group of protestors and campaigners, is therefore of significant concern to NHL.
60. The Claimant believes that the evidence before the Court shows that:
- 60.1 those parts of the SRN covered by the Interim Injunctions are important national infrastructure;
- 60.2 the IB Protests have proven dangerous and very disruptive and have required the dedication of very considerable public resources (and expenditure) to address them, not only from NHL, but also from the police;
- 60.3 a serious, ambitious continuation of IB's campaign is planned by those behind the campaign and the expressed intention is for the next phase of the campaign to commence in mid to late March 2022. However, the Claimant notes that the IB Protests are often delayed from the dates expressed in IB comments. Whether that is a purposeful tactic or a symptom of disorganisation is not known;

⁷² <https://www.gbnews.uk/news/insulate-britain-protests-cost-police-43-million/192906>

- 60.4 the IB Protests are threatened to continue for the next 2-3 years. According to the recent public statement by IB of 7 February 2022, “*we will continue our campaign of civil resistance because we only have the next two to three years to sort it out*”;
- 60.5 taking into account the way in which the IB Protests have been carried out, the consistent position of IB that their campaign is justified and necessary combined with the clearly evidenced willingness to carry it out, IB’s statements regarding future intentions should be taken seriously;
- 60.6 thus, should the effect of the Interim Injunctions not be continued, there is likely to be an increase in incidents of this type which would adversely impact the roads;
- 60.7 the effect of future protests would be very serious, even if they were no more ambitious than those which have occurred already; and
- 60.8 each of the Named Defendants to the Claims has taken part in IB Protests, many of those Defendants have explicitly expressed themselves to be at one with IB’s stated position and overall campaign; and all Defendants have, by taking part in the IB Protests, at least implicitly done so.
61. On that basis, the Claimant considers that there is a real and imminent risk of further unlawful acts of trespass or nuisance on those parts of the SRN covered by the Interim Injunctions, and that this risk is unlikely to abate in the near or medium future. The Claimant is, accordingly, inviting the Court to accede to the SJ Application and to make an Order in the form of the draft SJ Order.
62. In relation to the majority of the Named Defendants who have not filed a Defence (all except 2) or not filed an Acknowledgment of Service (none were filed), NHL has chosen to bring the SJ Application instead of an application for default judgment for the following reasons:
- 62.1 The summary judgment procedure will allow for a substantive adjudication of the Claims, and thereby allow any Defendant who wishes to engage with the merits of the Claims an opportunity to do so.

62.2 Relatedly, from the Claimant's perspective, the summary judgment procedure, by providing for a forum where the merits of the Claims can be adjudicated provides greater finality for the Claimant, and more certainty as to its ability to deal with future contraventions of its legal rights and the attendant consequences set out above.

Alternative service

63. The Claimant also seeks an Order under CPR 6.27 permitting alternative service of (i) the SJ Application and notice of hearing and (ii) the proposed SJ Order if the Court is minded to grant it.

64. The Claimant seeks such an Order because, throughout the Claims, it has not proved possible in many cases to effect personal service on all of the Named Defendants:

64.1 In relation to service of the Claims, see the Witness Statement of Laura Higson of 3 November 2021, exhibited at pages 326 to 401. Addresses of the Named Defendants have been redacted on GDPR grounds.

64.2 In relation to service of the applications for contempt of court, see the Witness Statement(s) of Laura Higson of 3 November 2021, 19 November 2021 and 17 December 2021, exhibited at 326 to 589. Addresses of the Named Defendants have been redacted on GDPR grounds.

65. In respect of service of the SJ Application, supporting witness evidence, draft SJ Order and any notice of hearing, the Claimant will, carry out the following to effect service:

65.1 Service in accordance with CPR 6.20 (1) (b) under cover of a letter by first class post (and separately and additionally so that service may be tracked by special delivery post, although this is not a CPR service requirement) to each Named Defendant at the addresses they gave to the police on their arrest, the Court having made no Order to the contrary;

65.2 Save for, in accordance with the comments made by the Honourable Mr Justice Chamberlain on 17 March 2022, assuming the same is made available by the Court, the letter will also enclose a copy of the transcript of the hearing of 17 March 2022, a copy of which has been requested from the Court by myself.

Given the need to serve the SJ Application and supporting evidence by 4 pm on 5 April 2022 on the Named Defendants if the transcript is not available in time a copy of it will be sent to the Named Defendants when made available by the Court in advance of the hearing on 4 and 5 May 2022; and

- 65.3 In addition, electronic service by sending the SJ Application, supporting witness evidence, draft SJ Order, any notice of hearing and transcript to Insulate Britain's email addresses: Insulate Britain ring2021@protonmail.com and insulatebritainlegal@protonmail.com.
66. As the evidence set out in support of the SJ Application demonstrates, the IB Protests are organised and it is plain that the Named Defendants have been and are in communication with each other. The date of the SJ hearing (4 and 5 May 2022) is known to the Claimant as it was stipulated in the Order made by the Honourable Mr. Justice Chamberlain at the hearing on 17 March 2022 dealing with the Claimant's application to extend the longstop dates of the Interim Injunctions (see paragraph 9 above). The Order of 17 March 2022 has now been served on the great majority of the Named Defendants in accordance with the provisions for service set out within it. It has also been emailed to IB at their email addresses and posted on the Claimant's web site. The Claimant expects (as has been the case with all previous hearings) that there will be extensive discussion of the SJ hearing on social media and online. For that reason, although service of the SJ Application as summarised at paragraph 65 on all Named Defendants is not likely to be possible as there are a handful of addresses missing, the Claimant considers that service of the sealed SJ Application on IB by email to the email address which is indicated on both the IB website and on IB press releases will suffice to draw the SJ Application to the attention of the Named Defendants and to effect service of it.

Third-Party Disclosure by the Police

67. The Claimant also seeks a continuation of the Court's Orders providing for the relevant police forces to disclose information relating to arrests of individuals participating in the IB Protests and evidence of breaches of injunctions because while the injunctions remain in force:

- 67.1 The Claimant needs the police to continue to disclose the name and address details of any protestors who are arrested;
- 67.2 the police will continue to be the primary source of evidence of any breaches of any injunctions.
68. Therefore, an extension of the disclosure obligations upon the police forces which they consent to will assist the Claimant in:
- 68.1 applying to add any new protestors who are arrested as Named Defendants to the proceedings; and
- 68.2 bringing contempt of Court applications to enforce any injunctions granted by the Court, should there be any further breaches.
69. I exhibit at pages 590-592 a true copy of an email exchange dated 23 March 2022 between my colleague Petra Billing, Assistant Chief Constable Owen Weatherill M.St (Cantab) and Stephen Bramley (CBE) a Barrister and Director of Legal Services at the Directorate of Legal Services, Metropolitan Police Service. A true copy of the draft SJ Order that is referred to within this email exchange is exhibited at pages 593 to 631. Mr. Weatherill has confirmed on behalf of and with the full authority of each of the Chief Constables of Police for those forces listed in Schedule 2 to the draft SJ Order that they consent to an order in the terms of the draft SJ Order being sought by the Claimant in the SJ Application.

Conclusion

70. The Claimant accordingly seeks an Order in the form of the draft SJ Order.

Statement of Truth

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

Dated 24 March 2022


.....

On behalf of: The Claimant
By: L Higson
No: 2
Exhibit: LH1
Date: 25 April 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No: QB-2021-003576

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY FOR THE PURPOSE OF PROTESTING

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003626

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND 2070 TRUNK ROADS AND M2 AND M20 MOTORWAY FOR THE PURPOSE OF PROTESTING

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003737

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING

(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

**SECOND WITNESS STATEMENT OF
LAURA HIGSON**

I, LAURA HIGSON, of DLA Piper UK LLP WILL SAY AS FOLLOWS:-

1. I am a solicitor of the Senior Courts of England and Wales and an Associate at DLA Piper UK LLP ("**DLA**") with shared day-to-day conduct of this matter under the supervision of my partners. I am authorised to make this Witness Statement on behalf of the Claimant in these claims.
2. I make this statement in support of the Claimant's application dated 24 March 2022 for summary judgment ("**the SJ Application**") in respect of these three sets of proceedings and from matters that are within my own knowledge, whether directly or resulting from matters reported to me – both orally and in writing. Where matters are based upon information received from a third party I identify the third party source. There is now shown to me a paginated bundle of documents which I exhibit hereto as LH1. Page numbers without qualification refer to that exhibit.
3. The purpose of this statement is to update the Court on:
 - 3.1 The steps taken by the Claimant to serve the SJ Application (and supporting documents) on the Defendants;
 - 3.2 The statements made by the Defendants, Insulate Britain and Just Stop Oil in relation to their protest activity and continuing intentions to protest; and
 - 3.3 The further information provided to the Claimant by the police in relation to Named Defendants who have filed a Defence/ responded to the Claims.

Extension of the Interim Injunctions and service upon the Defendants

4. At a hearing before Mr. Justice Chamberlain on 17 March 2022, it was ordered that the interim injunctions granted by: Mr. Justice Lavender on 21 September 2021 in relation to the M25 (the "**M25 Injunction**"); Mr. Justice Cavanagh on 24 September 2021 in relation to parts of the Strategic Road Network in Kent (the "**Kent Injunction**"); and Mr. Justice Holgate on 2 October 2021 in relation to certain M25 'feeder roads' (the "**M25 Feeder Injunction**") (the "**Interim Injunctions**") be extended to 9 May 2022 or further order (the "**Extension Order**").
5. At 16:32 on 21 March 2022, my colleague Mary Barraclough contacted Vicky Davies-Short of High Court Enforcement Group Limited ("**HCE**") by email to instruct HCE to effect service of the Extension Order on the Defendants.
6. HCE have been instructed to effect service of all papers pertinent to these proceedings since the outset of these proceedings. HCE have previously made DLA aware that the HCE agents

based across the country who would effect service do not have the ability to print the documents for service. DLA therefore arranged for copies of the Extension Order to be printed out ready for service on each of the Defendants. Copies of the Extension Order were then couriered to HCE agents at various locations around the country (based on their proximity to the addresses of the Defendants) for delivery on 22 March 2022 in order that either personal service, or service by alternative means (as permitted by paragraph 8 of the Extension Order) could be attempted.

7. As of 7 April 2022, HCE have confirmed to DLA that all of the Defendants (save for those referred to in paragraphs 21 and 22 below for the reasons set out therein) have been successfully served with the Extension Order, either personally or by alternative means. The Claimant has filed certificates of service with the Court via CE-File in respect of service of the Extension Order on the Defendants.
8. A number of the Defendants have provided their email addresses for the purpose of service of documents relating to these proceedings. Those Defendants have also been served with the Extension Order by email in addition to service by HCE.
9. On 18 March 2022, Ms. Barraclough served the Extension Order on Insulate Britain by email at the following email addresses: ring2021@protonmail.com and insulatebritainlegal@protonmail.com.

Issue and service of the SJ Application and Supporting Documents

10. The SJ Application was lodged with the Court on 24 March 2022 using CE-File.
11. The SJ Application was accepted by the Court clerk and sealed at 11:18 on 25 March 2022.
12. The Claimant was already aware at this time that the hearing of the SJ Application had been listed on 4 and 5 May 2022 with a time estimate of 2 days with 3 May 2022 set aside as a judicial reading day pursuant to paragraph 20 of the Extension Order. A copy of the Extension Order is exhibited at pages 1 to 25.
13. The Claimant may, pursuant to Rule 6.20(1)(b) of the Civil Procedure Rules ("CPR") and Practice Direction 6A, serve the SJ Application upon the Defendants by first class post, document exchange or other service which provides for delivery on the next business day.
14. On 28 March 2022, I arranged for the SJ Application and supporting documents to be served on the Defendants by both first class and special delivery post at those addresses provided by the Defendants to the police when the Defendants were arrested as part of the Insulate Britain

protests. Exhibited at pages 26 to 28 is an example covering letter which was sent to each Defendant in identical terms enclosing the SJ Application and supporting documents and confirming the date of the hearing.

15. At the hearing of the Claimant's application to extend the Interim Injunctions on 17 March 2022, Mr. Justice Chamberlain commented that he would like the Claimant to provide to the Defendants a copy of the transcript of his judgment when serving the SJ Application. On 18 March 2022 I contacted the Court to arrange for a transcript of the hearing to be produced on an expedited basis, but the transcript was not received prior to the deadline for service of the SJ Application on 5 April 2022 (as set out at paragraph 17 of the Extension Order). As can be seen from the covering letter serving the SJ Application and related documentation at pages 26 to 28, DLA enclosed a copy of Benjamin Buse's written submissions and set out a summary of the Judge's comments made during the hearing, stating that a copy of the transcript would be provided to the Defendants once it had been made available by the Court. DLA has been frequently chasing the Court by telephone and by email to obtain a copy of the transcript. The clerk to Mr. Justice Chamberlain confirmed by email on 21 April 2022 that the transcript would be available shortly. True copies of these emails are exhibited at pages 165 to 169 of LH1. A copy of the transcript was provided to the Defendants on 25 April 2022.
16. Following service of the SJ Application and supporting documents, DLA checked the tracking numbers of the documents which were served on the Defendants by special delivery. Exhibited at pages 29 to 43 is a schedule setting out the status of the special delivery letters enclosing the SJ Application and supporting documents. The schedule sets out whether the special delivery letters have been delivered to each Defendant or returned to sender, and the date upon which the special delivery letters were delivered if they were successfully delivered. As at the date of this witness statement:
 - 16.1 129 of the special delivery letters have been successfully delivered and signed for;
 - 16.2 The status of 2 of the special delivery letters remains marked as "pending", meaning that the Claimant cannot confirm at this time whether those particular special delivery letters have yet been delivered to the Defendants; and
 - 16.3 10 of the special delivery letters have been refused and/ or returned to sender; and
 - 16.4 1 special delivery letter is recorded as missing
17. On 31 March 2022, the letter sent by first class post enclosing the SJ Application and supporting documents addressed to Emily Brocklebank (D31) was returned to sender. The letter sent by

special delivery to Ms. Brocklebank enclosing the SJ Application was also returned to sender. To ensure that Ms. Brocklebank received the SJ Application and supporting documents before the hearing, on 14 April 2022, Ms. Barraclough instructed HCE to serve Ms. Brocklebank with the SJ Application and supporting documents by hand. HCE was not able to personally serve Ms. Brocklebank as she was not present at her address for service on the two occasions that HCE attended it. On 20 April 2022, Ms. Barraclough instructed HCE to post the SJ Application and supporting documents through the letterbox (or if there is no letterbox, securely affix the documents to the front door) with a notice attached to the papers stating that they are for the attention of Ms. Brocklebank and concern ongoing Court proceedings for which there is a hearing listed on 4 and 5 May 2022. The Claimant is aware from the media that Ms. Brocklebank is due to attend a hearing at Stratford Magistrates Court on 29 April 2022 in relation to criminal proceedings brought against her for a protest on the M25 on 27 September 2021. DLA has therefore instructed HCE to attend Stratford Magistrates Court on 29 April 2022 to personally serve Ms. Brocklebank with the SJ Application.

18. With the exception of the letter to Ms. Brocklebank referred to at paragraph 17, no other letters sent to the Named Defendants by first class post have been returned to sender. Service of the SJ Application and supporting documents has therefore been effected upon all Named Defendants in accordance with Rule 6.20(1) of the CPR (save for those referred to at paragraphs 21 and 22 for the reasons set out therein and Ms. Brocklebank upon whom personal service will be attempted on 29 April 2022).
19. In respect of those Defendants who have provided an email address for service, the SJ Application has been served by both first class post and by special delivery and also by email to those email addresses that the Defendants have notified DLA of.
20. On 7 April 2022, I arranged for the SJ Application to be served on Insulate Britain by a secure file transfer via email at the following email addresses: ring2021@protonmail.com and insulatebritainlegal@protonmail.com. I have since received confirmation that on 15 April 2022 insulatebritainlegal@protonmail.com downloaded the SJ Application and supporting documents.
21. The Claimant has not been able to serve the SJ Application and supporting documents on the following Defendants: Tam Millar (D102); Hannah Shafer (D129); Jesse Long (D130); Thomas Franke (D137); and William Wright (D142). This is because these Defendants either did not provide details of their addresses to the police upon their arrest during the course of an Insulate Britain Protest, or because the Claimant has been made aware by the occupants of the addresses

provided by the Defendants that the Defendants have either never resided at the address in question, or that the Defendants were formerly resident at the address but have since moved.

22. The Claimant has not been able to serve the SJ Application and supporting documents on Arne Springorum (D8). The only address that the Claimant holds for Mr. Springorum is one in the Czech Republic. The Claimant made an application to serve Mr. Springorum out of the jurisdiction, but this was refused by Mrs. Justice Stacey on 29 March 2022.
23. The Claimant has taken steps to attempt to establish the correct addresses for service for those Defendants listed in paragraphs 21 and 22 above by instructing HCE to conduct a trace on each of the Defendants. HCE were unable to trace an address for any of the Defendants.
24. DLA has received correspondence dated 31 March 2022 from one Named Defendant, Ben Horton (D124), following service of the letter enclosing the SJ Application on him, in which Mr. Horton alleges that he had been served with the Extension Order (and presumably also the SJ Application) in error as he believed himself to no longer be a Named Defendant to the Interim Injunctions. This assertion was on the basis that Mr. Horton had received a letter from DLA dated 9 February 2022 notifying him that the Claimant would be discontinuing Claim Numbers QB-2021-003985 and QB-2021-003977 (being the claims relating to the interim injunction granted to the Claimant by Mr. Justice Lavender on 11 November 2021 in relation to the Strategic Road Network ("**SRN Injunction**") against him. DLA responded on 14 April 2022 confirming to Mr. Horton that the Interim Injunctions remain in place and that it was only the claims relating to the SRN Injunction that had been discontinued by the Claimant. True copies of this correspondence are exhibited at pages 44 to 52.
25. No other correspondence has been received by DLA from any other Named Defendant in response to the letter of 28 March 2022 serving the SJ Application.

Protest Activity and the Defendants' Continuing Intentions to Protest

26. I exhibit at pages 53 to 133 of LH1 press releases posted by Insulate Britain and by Just Stop Oil on their website.
27. The press releases acknowledge breaches of court orders and set out the intentions of Insulate Britain and Just Stop Oil as to protest activity. By way of example:
 - 27.1 30 March 2022 Insulate Britain press release:

"117 people have so far been charged by Kent and Essex police for blocking the M25 motorway, the port of Dover and other highways between September and November last year during Insulate Britain's campaign of civil resistance."

"Insulate Britain's campaign of civil resistance to end fuel poverty saw 174 people arrested 857 times, with some supporters returning to the roads and being arrested between 10-15 times during 18 days of roadblocks across multiple locations last year".

Cameron Ford (D13) is quoted in the press release as saying:

"I am more scared of societal collapse than I am of government intimidation and threats. We will face the consequences of our peaceful actions with pride and we will join with our fellow campaigners in the upcoming Just Stop Oil campaign to unite our two demands: we need to Insulate Britain and we need to Just Stop Oil".

Nicolas Till (D74) is also quoted:

"civil disobedience is now the only way of getting the truth out there. I am guided by the Insulate Britain motto, taken from the greatest mind of the 20th century, Albert Einstein, who said "Those who have the privilege to know have the duty to act." I do not regret my actions. Even though I regret the inconvenience caused to many of my fellow citizens by my actions, it is nothing compared to what is coming down the line for those same people and their loved ones if we fail to do anything."

27.2 4 April 2022 Insulate Britain press release:

"A high proportion of Insulate Britain supporters are also taking part in Just Stop Oil, an ongoing coalition campaign of civil resistance. We may see non-cooperation with the legal system as an extension to both the Insulate Britain and Just Stop Oil campaigns. Just Stop Oil is demanding that the government make a meaningful commitment to immediately halt all new licences and consents for oil extraction, exploration and development in the UK."

27.3 16 March 2022 Just Stop Oil press release following a Just Stop Oil member locking themselves onto a goal post at a Premier League football match that evening:

"I just want to get on with my life. But people need to know what our government is risking and that civil resistance can actually get the change we need to guarantee our safety".

"Last month Just Stop Oil supporters delivered a letter to Downing Street asking the Prime Minister to bring an end to investment in new fossil fuel supply projects and warning that the group will take direct action if its demands are not met."

- 27.4 20 March 2022 Just Stop Oil press release, published after four members of the group ran onto the pitch of a Premier League football game for the fourth time in that week, in which "Nathan, 22 from Coventry" is quoted as saying:

"We don't have to stand by and watch this happen. Ordinary people can say no, not in my name. We can join in mass civil resistance against this genocidal government".

- 27.5 24 March 2022 Just Stop Oil press release:

"Hundreds of meetings are happening now and actions aimed at highlighting the campaign are taking place (the BAFTAs and the football Premier League). This is how we are going to win – by people putting aside their differences and working together with a single achievable goal. And when we win, we know we will galvanise thousands of people into action.

We need to face the facts and do what is needed. Don't be a bystander – attend one of our online or in-person talks to join us in resistance."

- 27.6 1 April 2022 Just Stop Oil press release:

"Early this morning hundreds of supporters of the Just Stop Oil coalition blocked ten critical oil terminals near London, Birmingham and Southampton to demand that the UK government stops new oil and gas projects in the UK."

"Scores of people sat in the road to block oil tankers from leaving each site, while others climbed on top of oil tankers, including over 30 young people at the Navigator Oil Terminal in Thurrock."

One protestor, Jack Johnson, who is not a Named Defendant in these proceedings, is quoted as saying:

"We all face a choice – stand by and do nothing while the government destroys your future or take action. Nonviolent civil resistance works. It's our best hope of forcing the government to take responsibility. Now is the time for action, thousands of us are taking to the streets. We will go home when the government makes a meaningful statement to end new fossil fuel production in the UK".

Louis McKechnie (D55) is also stated as having been present at the protest and is quoted:

"I don't want to be doing this but our genocidal government gives me no choice [...] This is the future for my generation, I stop when oil stops."

27.7 2 April 2022 Just Stop Oil press release:

"Early this morning supporters of Just Stop Oil blocked access to the Titan Truck Park and revealed a secret underground network of tunnels at the Navigator and Grays oil terminals. They are demanding that the UK government stops new oil and gas projects in the UK."

"Just Stop Oil supporters currently occupying tunnels have taken inspiration from the tunnels that halted HS2's work at Euston Square Gardens one year ago – when activists spent 31 days living underground- and say that they are in for the long haul."

"The Just Stop Oil Coalition is calling on all of those whose futures are being destroyed, who are facing poverty and who are outraged at the prospect of continuing our dependence on fossil fuels to step up and take action."

One of the occupants of the tunnel is stated in the press release as being Ben Taylor (D10).

27.8 2 April 2022 Just Stop Oil press release:

"Just Stop Oil supporters who dug a secret network of tunnels near the Navigator and Grays oil terminals yesterday remain underground after 32 hours. They are demanding that the UK government stops new oil and gas projects in the UK."

"One of the tunnel occupants, Ben Taylor 27 (an environmental volunteer) said

"The government needs to get a grip. We need an emergency response to get off oil and gas now, paid for by fossil fuel companies and the rich, not ordinary people. Stop new oil and gas and we will leave the road.""

27.9 3 April 2022 Just Stop Oil press release:

"For the third day in a row, supporters of Just Stop Oil have disrupted oil supplies from 7 critical oil facilities near London and Birmingham in support of their demand to the UK government to end new oil and gas projects in the UK."

"At Kingsbury, Midlands and Esso terminals in Birmingham oil tankers have been prevented from leaving by people sitting in the road. At Thames Oilport in Essex, 17 people have climbed or locked onto a tanker to prevent it from leaving.

The tunnellers who have disrupted the entrances to Navigator and Grays terminals in Thurrock, Essex since Friday remain in situ."

"There have been over 200 arrests since Friday."

27.10 4 April 2022 Just Stop Oil press release:

"Just Stop Oil is demanding that the government stop all new oil and gas projects in the UK. The actions, which have affected 11 critical oil terminals across the 4 days, have included roadblocks, tanker surfing and people tunnelling underneath access roads to prevent oil trucks leaving sites."

27.11 5 April 2022 Just Stop Oil press release:

"For the fifth day in a row, supporters of Just Stop Oil have disrupted oil supplies from critical oil facilities in support of their demand that the UK government end new oil and gas projects in the UK.

A group of approximately 20 people sat down in the road with banners at the gate to the Kingsbury Oil terminal in Warwickshire, causing tankers to be turned away. So far 5 people have been arrested, while those remaining are either glued or locked on.

A roadblock has also been established on a key tanker route to and from the Kingsbury Oil terminal near Junction 9 on the M42. Two people have climbed on top of a tanker to prevent it from moving."

27.12 5 April 2022 Just Stop Oil press release, titled "A Statement from the Just Stop Oil Coalition":

"We have no choice but to enter into civil resistance until the government announces an end to new oil and gas projects in the UK."

27.13 6 April 2022 Just Stop Oil press release:

"For the sixth day in a row, 43 supporters of Just Stop Oil have disrupted oil supplies from critical oil facilities in support of their demand that the UK government end new oil and gas projects in the UK.

Around 25 young people have entered the Navigator terminal and climbed on top of tankers and the loading bay, and are locked on and displaying Just Stop Oil banners.

Elsewhere, 7 supporters of Just Stop Oil have established a roadblock on Stoneness roundabout on West Thurrock Way, while another 11 attempted to block Stonehouse Corner roundabout on London Road before they were intercepted by police. These are on key tanker routes to and from the Grays, Navigator and Purfleet terminals. The group at Stonehouse Corner roundabout are sitting down in the road with banners."

One protestor, Hannah, 23, from Brighton, is quoted:

"They can take away my liberty, they can take away my freedom and they can choose to ignore the alarm we are sounding on the climate crisis. But they can't take away my courage to put my body on the line for every young person that is suffering from extreme heat in the global south or freezing to death in fuel poverty in the UK and having to choose between heating and eating.

We are not going to die quietly. Please don't be a bystander. Say no to new oil."

27.14 7 April 2022 Just Stop Oil press release:

"For the seventh day in a row, supporters of Just Stop Oil have disrupted oil supplies from critical oil facilities in support of their demand that the UK government end new oil and gas projects in the UK."

"Elsewhere, at the nearby BP Oil Depot entrance, supporters of Just Stop Oil established a roadblock halting tanker routes to and from the terminal, while at the massive Navigator terminal in Essex operations are still suspended due to the ongoing occupation."

"The Just Stop Oil Coalition is calling on all of those whose futures are being destroyed, who are facing poverty, and who are outraged at yet another betrayal by this continuing dependence on oil and gas, to step up and take action."

27.15 8 April 2022 Just Stop Oil press release:

"At 7:30am, 70 people carrying Just Stop Oil banners marched along a key tanker route towards the Navigator terminal, at London Road, Thurrock. They were met by police and forced to sit in the road, effectively halting tanker movements to and from

the terminal. Some have glued themselves to the road and say they intend to stay for as long as possible."

"So far during the 8 days of nonviolent disruptive action there have been over 400 arrests, with at least 70 more expected today."

"Just Stop Oil will continue to block oil terminals until the government makes a statement that it will end new oil and gas projects in the UK."

In the press release, Louis McKechnie (D55) and Claudia Penna Rojas who is not a Named Defendant give statements about government environmental policy.

27.16 10 April 2022 Just Stop Oil press release:

"Cat, 19 speaking from Grays Terminal this morning said "I'm terrified and I hate heights but I've come here anyway because I'm more terrified of my future with fossil fuels. We need to ensure that the government gives out no new oil and gas licences. I will keep going until that happens.""

"So far during the 10 days of nonviolent disruptive action there have been over 800 arrests, with at least 80 more expected today. The supporters of Just Stop Oil will continue to block oil terminals until the government makes a statement that it will end new oil and gas projects in the UK."

Tim Hewes (D106) is identified as being one of the protestors who was taking part in the digging and the occupation of a tunnel under "a key tanker route" in Warwickshire.

27.17 11 April 2022 Just Stop Oil press release:

"Today the Just Stop Oil coalition demands that the Government gets a grip, that they stop lying, that they stop recklessly destroying the future of life on earth and that they start by ending new oil and gas. There is no rational, human or moral justification to continue. The supporters of Just Stop Oil will continue to disrupt until the government makes a statement that it will end new oil and gas projects in the UK."

27.18 12 April 2022 Just Stop Oil press release:

"Ministers have a choice: they can arrest and imprison Just Stop Oil supporters or agree to no new oil and gas. While Just Stop Oil supporters have their liberty the disruption will continue. Now is the moment to come and meet with the coalition".

27.19 13 April 2022 Just Stop Oil press release:

"At around 8 am today, 20 people sat down in the road at a roundabout near the Purfleet Oil Terminal and climbed on top of a tanker, stopping it from moving."

"Since April 1st when supporters of Just Stop Oil first began blocking oil terminals there have been 915 arrests. The supporters of Just Stop Oil will continue the disruption until the government makes a statement that it will end new oil and gas projects in the UK."

Louis McKechnie (D55) is quoted: *"Our politicians are betraying us with every new oil and gas field they allow and there is no effective opposition to them. This corruption has to stop and until we have a statement from the government that it will end new oil and gas, the disruption will continue."*

27.20 15 April 2022 Just Stop Oil press release:

"In Essex the actions involved roadblocks and "tanker surfing" by groups of Just Stop Oil supporters on major tanker routes to and from the Inter and Navigator terminals including the Stonehouse Corner and Stoneness roundabouts."

27.21 18 April 2022 Just Stop Oil press release:

"Five supporters of Just Stop Oil were remanded in custody over the Easter weekend and are due to appear in court this week on charges related to actions at oil terminals in support of the demand that the UK government end new oil and gas projects in the UK."

One of the five protestors is stated to be Stephanie Aylett (D94) who *"appeared at Chelmsford magistrates on Saturday charged with aggravated trespass and breach of bail conditions"*. Ms. Aylett received a suspended custodial sentence in the third set of contempt of Court proceedings brought by the Claimant in respect of her breach of the M25 Injunction.

27.22 19 April 2022 Just Stop Oil press release:

"Two young supporters of Just Stop Oil will deliver a letter to 10 Downing Street this morning."

"The letter will announce that the Just Stop Oil coalition has taken the decision to suspend activities until 25 April, to give the Prime Minister the opportunity to make a

statement on behalf of the Government that it will immediately halt all future licensing and consents for the exploration, development and production of fossil fuels in the UK."

Social Media Activity

28. I exhibit at pages 134 to 142 of LHI extracts of tweets posted on Twitter by Insulate Britain (@InsulateLove) and by Just Stop Oil (@JustStop_Oil). These tweets further show the Insulate Britain/Just Stop Oil Coalition's intentions to continue their campaign of civil resistance. Examples include:

28.1 On 21 March 2022 at 09:00, Insulate Britain posted an article by The Guardian titled "Heatwaves at both of Earth's poles alarm climate scientists" with the following tweet:

"Mass nonviolent civil resistance campaigns are needed immediately in order to give ourselves a chance of survival.

Join us as part of the #JustStopOil campaign".

28.2 On 1 April 2022 at 06:26, Just Stop Oil tweeted:

"Fed up with a government burning your future – Join us on the road

Navigator – Essex

Grays – Essex

Buncefield – Hemel Hempstead

Esso terminal – Birmingham"

28.3 On 1 April 2022 at 07:12, Just Stop Oil posted a picture of its members sitting on the ground holding Just Stop Oil banners. The tweet states that *"hundreds of supporters of Just Stop Oil have blocked 8 key oil terminals across the UK. They are calling for the UK Government to stop all funding of new oil licenses and exploration. Follow the link in our bio to find out more and get involved"*.

28.4 On 1 April 2022 at 07:48, Just Stop Oil posted a picture of a protestor being brought down from the top of an oil truck at Navigator Terminal. The tweet reads:

"If it really mattered would you join them? Well its 2022 and its time to step up"

28.5 On 1 April 2022 at 08:06, Just Stop Oil posted a video of Cameron Ford (D13) (see: https://twitter.com/JustStop_Oil/status/1509789211800612867) in which he states that

he has locked his neck to an oil tanker and that he is willing to risk his civil liberty for the Just Stop Oil cause.

28.6 On 1 April 2022 at 09:29, Insulate Britain retweeted a video posted by @RealMediaGB in which Louis McKechnie (D55) can be seen sitting on top of an oil tanker at 00:00 to 00:07 and at 01:06 to 01:10. I am aware that the individual is Louis McKechnie as a result of his previous involvement with Insulate Britain protests and subsequent contempt proceedings brought against him by the Claimant in respect of his breach of the M25 Injunction. Mr. McKechnie explains in the video that the protestors are at Navigator Fuel Terminal in order to blockade it. Another protestor states at 01:22: *"The only thing we can do now to make people listen is direct action."* The full video can be viewed here: <https://twitter.com/RealMediaGB/status/1509810108578074626>.

28.7 On 1 April 2022 at 15:30, Insulate Britain reposted a tweet from Anais Tilquin that stated:

"New campaign @JustStop_Oil shut down 10 oil terminals today, with help from @XRebellionUK.

They demand the Gov't stop all new fossil fuel exploration & production projects.

They're going to cause proper chaos in the next couple of weeks."

28.8 On 1 April 2022 at 18:00, Just Stop Oil tweeted that:

"500 supporters of Just Stop Oil remain at all 10 oil terminals"

"This is what we all must do if we wish to secure a liveable future and #JustStopOil".

28.9 On 2 April 2022 at 14:00, a video of a Just Stop Oil protestor, Dickie Crane, was posted showing him glued to the tarmac of a road outside of Navigator Terminal with a Just Stop Oil banner laid in the road in front of him (see: https://twitter.com/JustStop_Oil/status/1510240734422646792).

28.10 On 2 April 2022 at 14:04, a video of Liam Norton (D54) was posted (see: <https://twitter.com/InsulateLove/status/1510347516138643462>) in which he states: *"the Just Stop Oil coalition are currently succeeding in their aim to block supplies of petrol and oil in the UK and this can stop immediately if the government give us a meaningful statement that they are going to get on with the job of doing what's right at*

this point in history and stop all future fossil fuel licences here in the UK.". "Get on with the job and the disruption will stop immediately".

- 28.11 On 6 April 2022 at 07:14, a video of a Just Stop Oil protestor who has locked herself to the pipework of a loading bay of Navigator Fuel Station at height was posted (see: https://twitter.com/JustStop_Oil/status/1511588089671696384) in which she makes a statement which is set out at paragraph 27.13 of this witness statement.
- 28.12 On 6 April 2022 at 08:56, Insulate Britain retweeted a video posted by Emma Smart (D32) calling on people to attend an event hosted by Extinction Rebellion at 10 am on 9 April 2022 (see: <https://twitter.com/smartyfish/status/1511613850025697282>). In the video she states: "*We have to come together and act. It's now or never. Please. Now is not the time to be sitting back; now is the time to be stepping up*". Ms. Smart received an immediate custodial sentence in the first set of contempt of Court proceedings brought by the Claimant in respect of her breach of the M25 Injunction. I am aware from looking at the Extinction Rebellion website that the event planned on 9 April 2022 is stated to be a "*Mass Rebellion*" whereby they "*need everyone to flood the streets of London from April 9th*" and that "*Longstanding rebels will step up into mentorship, guiding tactically smart, highly disruptive mass participation action designed to disrupt, engage and recruit new rebels in Central London, with built-in options for level of risk. We'll be easy to find, easy to join, disruptive and impossible to ignore. We will create the most roadblocks we ever have with a new action design*" (their emphasis added). A screenshot of the website is exhibited at pages 143 to 147.
- 28.13 On 6 April 2022 at 09:30, Insulate Britain tweeted about 5 Defendants (Jessica Causby (D45), Catherine Eastburn (D15), Cameron Ford (D13), Oliver Rock (D75) and Priyadaka Conway (D81)) who refused to attend a hearing at Crawley Magistrates Court in relation to criminal proceedings being brought against them for taking part in protests on the M25 and in Dover in September 2021:
- "We will never stop taking action to do what is right – even if the system criminalises us."*
- 28.14 On 6 April 2022 at 11:52, Insulate Britain posted a video of Cameron Ford (D13) which can be viewed here: <https://twitter.com/InsulateLove/status/1511658015233089539>. The tweet states:
- "We ain't got time for court. It's now or never. Join us. Join the @JustStop_Oil Coalition, join @XRRebellionUK.*

Join something.

Because it's now or never."

28.15 On 6 April 2022 at 13:20, a video of Jessica Causby (D45) is posted (and can be viewed here: <https://twitter.com/InsulateLove/status/1511680134708924417>) where she speaks about her decision not to attend the Court hearing "*in regards to the Insulate Britain protests which I took part in last year.*" She further states in relation to the charges being brought against her that: "*I have to do something about it and if that means breaking the law [...] then that is what I will do*".

28.16 On 6 April 2022 at 14:20, a video of Catherine Eastburn (D15) was posted (and can be viewed here: <https://twitter.com/InsulateLove/status/1511700315480940545>) where she speaks about her decision not to attend Court and states:

"I sat in a road in September last year calling on the government to insulate Britain's homes"

28.17 On 1 April 2022, Gabriella Ditton (D33) posted a video to her Instagram account (@gabrielladitton) showing her being arrested "*for blocking vehicle movement at an oil refinery on the East coast of England*". The full video can be viewed here: <https://www.instagram.com/p/CbzGpj1gWrB/>. Ms. Ditton received a suspended custodial sentence in the third set of contempt of Court proceedings brought by the Claimant in respect of her breach of the M25 Injunction.

28.18 On 9 April 2022 at 23:39, Just Stop Oil posted a video of Stephen Pritchard (D96) digging a tunnel under a road as part of a protest action at Kingsbury Terminal (see: https://mobile.twitter.com/JustStop_Oil/status/1512923155215573000). Mr. Pritchard was found to be in contempt of Court in the second and third set of proceedings brought by the Claimant in respect of his breaches of the M25 Injunction and was given a suspended custodial sentence in respect of each breach.

28.19 On 10 April 2022 at 06:57, Just Stop Oil tweeted:

"I won't be stopped, and I won't back down until our government stops trading our lives for profit".

28.20 On 11 April 2022 at 12:44, Just Stop Oil posted an article from The Mirror about fuel prices, with the following Tweet:

"The group have agreed to continue the protests until the government promises it will no longer invest in fossil fuels'."

- 28.21 On 12 April 2022 at 15:27, Just Stop Oil posted an article from The Guardian which sets out some of the protest actions taking place by Just Stop Oil and Extinction Rebellion, including blockading the Lloyds headquarters and creating roadblocks in central London, with the following tweet:

"We are in civil resistance.

#JustStopOil protestors vow to continue until 'all are jailed'

Anti-fossil fuel activists have vowed to continue blockading oil terminals until they are jailed, as they approached 1,000 arrests for their actions so far."

- 28.22 On 13 April 2022 at 08:50, Just Stop Oil posted a picture of some of its members blocking the road and climbing on top of an oil tanker:

"We are in civil resistance. This morning we occupied a tanker on the roads near Purfleet terminal to stop the flow of oil".

- 28.23 On 14 April 2022 at 17:29, Just Stop Oil posted an article from the Evening Standard which reported on a protest action by "five eco-warriors" who climbed atop and glued themselves to a fuel transporter lorry on the Chiswick Highroad roundabout that morning. The article is exhibited at pages 158 to 161.

- 28.24 On 15 April 2022 at 08:28, Just Stop Oil posted a picture of Louise Lancaster (D56) with her hand glued to the road during a protest action. She is quoted:

"I will not be a bystander while this government squanders its opportunity to shape a sustainable future, fobbing us off with lies."

- 28.25 On 15 April 2022 at 12:45, Just Stop Oil posted a video of a protestor at Kingsbury Terminal (see: https://mobile.twitter.com/JustStop_Oil/status/1514932866244878341) in which the individual states that *"we intend to stay here for as long as we can or until the government decides to stop all new oil and gas projects."*

- 28.26 On 15 April 2022 at 15:30, Just Stop Oil retweeted:

"@JustStop_Oil told Sky News in a statement: "The only announcement that will change our plans is a statement from the government that they will halt new oil and gas."

28.27 On 16 April 2022, Just Stop Oil reposted a video of Cameron Ford (D13) (see: <https://mobile.twitter.com/civilresistorCF/status/1515248814663385091>) in which he states:

"Ordinary people like you viewers watching at home have decided to join a movement of civil resistance and join up in direct action which basically means stopping the fuel industry from going about its business. We feel it is now our only way to get the government to take it seriously."

28.28 On 19 April 2022 at 15:09, Stephen Gower (D95) posted a video on Twitter (@steve040167) titled *"In solidarity with our brothers and comrades at RMT Dover Branch"* in which he can be seen holding an Insulate Britain banner and walking down the carriage way of a main road and obstructing the traffic (see: <https://twitter.com/steve040167/status/1516418788584996876?s=20&t=bqyZL3OclOaT7C52CCMBHQ>). The Claimant has confirmed to me that the road that Mr. Gower was protesting on is the A20, which is subject to the Kent Injunction. Mr. Gower received suspended custodial sentences at both the second and third contempt of Court hearings in respect of his breaches of the M25 Injunction.

Activity in the Press by the Defendants, Insulate Britain and Just Stop Oil

29. On 21 March 2022, Louis McKechnie (D55) gave an interview to GB News in which he is quoted to have *"vowed to cause more chaos across the country in the coming weeks"*. The interview took place after Mr. McKechnie zip-tied his neck to a goal post in a Premier League football match that week and he said *"that he was happy with how the action turned out, before confirming that he and hundreds of others of campaigners are planning to "grind infrastructure to a halt"*. He goes on to state: *"We're going to be doing a lot more. At the start of April we are going to be grinding fossil fuel infrastructure to a halt. Hundreds and hundreds of people will be going out and locking these pieces of infrastructure with their bodies and getting arrested"* and that *"We won't stop until the Government agree to stop new fossil fuel licensing"*. The article is exhibited at pages 148 to 151.

30. On 1 April 2022, The Guardian published an article titled *"Inside Just Stop Oil, the Youth Climate Group Blocking Oil Refineries"* in which a Just Stop Oil activist is quoted as having told the newspaper: *"We are mobilising upwards of 1,000 people", "This is going to be a fusion*

of other large-scale blockade-style actions you have seen in the past". The article later refers to "a recent recruitment meeting in Camden, where Larch Maxey, a veteran eco-campaigner, said the aim was "to build a community of civil resistance in response to the climate change science"". The article finishes by stating that "Their next plan is to tackle a much bigger target" although that target is not specified. The article is exhibited at pages 152 to 157.

31. On 11 April 2022, a Just Stop Oil member who is not a Named Defendant gave an interview on Good Morning Britain. In the interview, she states in relation to the group's preferred method of protesting that *"this is the level of action that needs to be taken"*. The full interview can be viewed here: <https://www.youtube.com/watch?v=-M0jRaOOKT8>.
32. Recent criminal prosecutions by the police have illustrated the wider effect and disruption of the IB campaign to the general public. A true copy of a press report exhibited at pages 169 to 171 of LH1 suggests that 3 Named Defendants, Sue Spencer Longhurst (D99), Michelle Charlesworth (D69) and Meredith Williams (D66) admitted 2 counts of causing a public nuisance in Stratford Magistrates Court earlier this month; the Court having heard evidence, including that an ambulance was 55 minutes late to a chest pain call out, a funeral director was 30 minutes late for a funeral, a woman was 2 hours late to visit her 95 year old mother who had had a fall and a pilot missed a flight leading to it having to be rescheduled. The court was told according to the press report that a blockage was caused to 43,952 cars with a loss of 5644 vehicle hours at a financial cost of over £80,000.

Further information provided by the police in relation to Named Defendants who have filed a Defence/responded to the claims

33. Following a request made by the Claimant to the relevant police forces for information relating to the four Named Defendants who have either filed a Defence or otherwise responded to the claims, the Claimant was, on 11 April 2022, provided by the police with information in relation to Matthew Tulley (D66), Ben Horton (D126), Marc Sabitsky (D135) and Nicholas Till (D75).
34. Having personally reviewed that information, I am aware that:
 - 34.1 On 24 September 2021, Matthew Tulley (D66) was arrested for participating in an IB Protest at the A2 junction with the Port of Dover by gluing his hands to the road. On 27 September 2021, Mr Tulley was arrested for participating in an IB Protest by gluing himself to the crash barrier off the slip road at junction 14 of the M25. The arresting officer's video footage records Mr Tulley informing the officer that *"this is the fourth time I've been stuck on"*. The arrest notes of the arresting officer record that, while in custody, Mr Tulley made the following statement: *"I Matthew Tulley have been*

arrested for obstructing the highway as part of the Insulate Britain Campaign. A letter has been sent 10 Downing Street [t]his August demanding that HMG, take Immediate Steps to decarbonise Britain's housing stock, as part of the transition to a zero fossil fuel economy. They have failed to meet demand, so we have begun our campaign of civil disobedience. HMG has a legal duty under the Paris Agreement to keep warming below 2 degrees Celsius. The science is clear that on the current trajectory the movement will fail us, and break the law. My sitting on the road is necessary to make sure that HGM fulfils its legal obligation that were implemented to stop people suffering and deaths of million if not billions of people around the world". The arrest notes are exhibited at pages 167 to 168 of LH1.

- 34.2 On 27 October 2021, Ben Horton (D126) was arrested for participating in an IB Protest by sitting on and blocking the carriageway of the A206 Crossways Boulevard in Dartford. On being informed that he was to be arrested, Mr Horton, together with another protestor, lay down on the floor to make their arrest more difficult. At the time of his arrest, Mr Horton refused to indicate his identity. During the same protest, Marc Sabitsky (D135) was arrested for participating by sitting in a row of protestors who were blocking the carriageway.
- 34.3 On 20 September 2021, Nicholas Till (D75) was arrested for participating in an IB Protest at junction 1A of the M25. On his arrest, Mr Till informed his arresting office that he was very likely to keep protesting on behalf of IB until late October. On 24 September 2021, Mr Till was arrested for participating in an IB Protest at the A2 junction with the Port of Dover.
35. In each of the above cases, the above Named Defendants were arrested on suspicion of offences which would, if they took place on land covered by the Interim Injunctions, constitute a contravention thereof. Those arrests were made on the basis of actual participation by the above Named Defendants in IB Protests either on parts of the SRN that were, at that time, covered by the Interim Injunctions or on other roads and which involved the obstruction of traffic for the purposes of protesting.

Statement of Truth

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

Dated 25 April 2022

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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No: QB-2021-003576

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

- (1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING
THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25
MOTORWAY FOR THE PURPOSE OF PROTESTING**
(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003626

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

- (1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING
DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE
FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A2, A20 AND
2070 TRUNK ROADS AND M2 AND M20 MOTORWAY FOR THE
PURPOSE OF PROTESTING**
(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

Claim No: QB-2021-003737

AND B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

- (1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING
DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE
FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3, A12,
A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1,
M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE
PURPOSE OF PROTESTING**
(2) MR ALEXANDER RODGER AND 142 OTHERS

Defendants

**SKELETON ARGUMENT OF THE CLAIMANT/APPLICANT IN SUPPORT OF
APPLICATION FOR SUMMARY JUDGMENT**

References in the format:

[Higson/§--] are to paragraph numbers in the witness statement of Laura Higson of 24 March 2022

[Bell/§--] are to paragraph numbers in the witness statement of Nicola Bell of 22 March 2022

[Higson2/§--] are to paragraph numbers in the Second Witness Statement of Laura Higson of 25 April 2022

- I. This Skeleton Argument is structured as follows:
 - (1) Background – the claims §§2-10
 - (2) The application for summary judgment §§11-15
 - (3) Relevant principles §§16-37
 - (4) Factual background §§38-39
 - (5) Submissions §§40-62
 - (6) Conclusion §63

Background - the claims

2. The Claimant (“**NHL**”) is the highways authority for the Strategic Road Network (“**the SRN**”) pursuant to s.1A of the Highways Act 1980, and, as highways authority, has the physical extent of the highway vested in it pursuant to s.263 of the Highways Act 1980. These proceedings were brought by NHL in response to a series of protests that commenced on 13 September 2021 on the SRN in and around London and the south-east of England under the banner of Insulate Britain (“**IB**”, “**the IB Protests**”). The IB Protests involve protestors blocking highways comprising parts of the SRN with their physical presence, normally by sitting down on the road or gluing themselves to the road surface. The IB Protests have taken place principally in and around London (including the M25) and in Kent. The IB Protests create a serious risk of danger and have caused serious disruption both to ordinary users of the SRN and more broadly.
3. The three sets of proceedings have arisen, in each case, following urgent applications made by NHL for interim injunctions restraining conduct arising from the IB Protests. Each of these applications was successful:
 - (1) On 21 September 2021, Lavender J granted an interim injunction in relation to the M25 (“**the M25 Injunction**”) (claim no. QB-2021-003576) [1003-1006];

- (2) On 24 September 2021, Cavanagh J granted an interim injunction in relation to parts of the SRN in Kent (claim No. QB-2021-3626) (“**the Kent Injunction**”) [1007-1014];
 - (3) On 2 October 2021, Holgate J granted an interim injunction in relation to certain M25 ‘feeder roads’ (“**the M25 Feeder Injunction**”) (claim No. QB-2021-3737) [**1049-1069**] (collectively, “**the Interim Injunctions**”, “**the Claims**”).
4. On 17 March 2022, Chamberlain J extended the Interim Injunctions until 9 May 2022 (or further order) pending the determination of this summary judgment application (“**the Extension Order**”) [1110-1134].
5. By an Order of 12 October 2021, Lavender J ordered that the three proceedings proceed and be heard together [1072-1083]. On 25 October 2021, NHL obtained an interim injunction in relation to the entire SRN excluding those parts covered by the Interim Injunctions (“**the SRN Injunction**”). That SRN Injunction expired on 31 December 2021, no extension was sought and the relevant proceedings have now been discontinued since no specific breaches of that injunction were identified which also did not fall within one of the other orders.
6. The Interim Injunctions were originally made against persons unknown only, but each contained an obligation on NHL to identify and add named defendants. A number of Orders have been made by the Court providing for disclosure by Chief Constables of the relevant police forces to NHL of (i) “*names and addresses of any person who has been arrested by one of their officers in the course of, or as a result of, protests on the highway referred to in these proceedings*” and (ii) “*arrest notes, body camera footage and/or all other photographic material relating to possible breaches*” (“**the disclosure obligations**”, “**the Disclosure Orders**”). Specifically:
 - (1) On 1 October 2021, May J granted two disclosure orders imposing disclosure obligations on the Commissioner of Police of the Metropolis of London, The Chief Constables of Hertfordshire, Essex, Kent, Surrey and Thames Valley in relation to the M25 Injunction and the Kent Injunction [1015-1048];

- (2) On 12 October 2021, Lavender J ordered that the disclosure obligations apply to all of the Interim Injunctions, thus extending the disclosure obligations to the M25 Feeder Injunction [1049-1069];
 - (3) On 19 October 2021, Lavender J made a further order extending the disclosure obligations to the forces of Hampshire, Sussex and Bedfordshire and their respective Chief Constables [1084-1094];¹
 - (4) On 24 November 2021, Thornton J made an order extending the disclosure obligations in relation to the Interim Injunctions to a longer list of police forces/chief constables to which disclosure obligations had been extended under the SRN Injunction [1098-1101];
 - (5) On 17 March 2022, Chamberlain J by the Extension Order extended both the duration of the Interim Injunctions and the disclosure obligations [1117].
7. NHL has discharged its obligation to add and name defendants by periodically filing a schedule of named defendants (“**the Named Defendants**”) as and when notified by the relevant police forces of the details of those arrested for participation in the IB Protests pursuant to the Disclosure Orders. As the Witness Statement of Laura Higson confirms, the offences for which those individuals are arrested are offences which would constitute a contravention of the Interim Injunctions: see Higson/§50 [112-113]. The most recent version of the schedule of Named Defendants is appended to the draft Order provided with this application.
8. NHL has made three contempt applications in relation to breaches of the M25 Injunction (“**the Contempt Applications**”) on 22 October 2021 (determined on 17 November 2021) (“**CA1**”) [1095-1097],² 19 November 2021 (determined on 15 December 2021) (“**CA2**”) [1102-1105]³ and 17 December 2021 (determined on 2 February 2022) (“**CA3**”) [1106-1109].⁴ The evidence used to support the Contempt Applications has been that provided by the police in accordance with the Disclosure Orders.

¹ Orders were made by Lavender J on 29 October 2021 and 12 November 2021 extending the disclosure obligations to a longer list of police forces.

² *National Highways Limited v Ana Heyatawin and others* [2021] EWHC 3078 (QB).

³ *National Highways Limited v Benjamin Buse and others* [2021] EWHC 3404 (QB).

⁴ *National Highways Limited v Arne Springorum and others* [2022] EWHC 205 (QB).

9. As set out in NHL’s Consolidated Particulars of Claim of 22 October 2021 [1141-1160], NHL’s claim is put on the basis that the conduct of the defendants in participating in the IB Protests constitutes: (1) trespass; (2) private nuisance; and/or (3) public nuisance.

10. Three defences have been received by NHL thus far:

(1) Matthew Tulley (defendant no 66) has provided a Defence dated 23 November 2021 expressed as being in response to the SRN Claim.⁵ In that Defence, he states:

“1) I was involved in IB Protests on M25 on 13, 15, 17 Sep 2021

2) I was not involved in the IB Protest covered by Injunctions

3) I was involved in IB Protests not covered by Injunctions

4) I consider that the Claimant Claims section (1), (2) apply but section (3), (4), (5) should not apply”

Thus, Mr Tulley denies being involved in any of the protests covered by the SRN Claim but does admit to being involved in three earlier protests on the M25.

(2) Marc Sabitsky (defendant no 135) has provided a Defence dated 23 November 2021 in response to the Claims stating:

“I have never trespassed or caused a nuisance on any of the roads mentioned in the claim, or any roads owned by the claimant, including any roads in the Strategic Roads Network; nor do I intend to do in the future. I therefore deny each and every allegation in the particulars of claim.”

(3) Ben Horton's Defence (defendant no 126) dated 23 November 2021 is in identical terms to that of Marc Sabitsky and likewise in response to the Claims.

(4) Nicholas Till (defendant no 75) has not filed a defence or Acknowledgment of Service, but has sent a letter stating that he received a document pack dated 9 Nov 2021 but that it did not contain the Claim Form. That correspondence appears to relate to the SRN Claim rather than the Interim Injunctions. In any event, Mr Till has been served with the relevant documents in relation to the Claims, and a Certificate of Service dated has been filed with the Court.

The present application for summary judgment

11. NHL applies for summary judgment (“**the SJ Application**”) in respect of the Claims

⁵ The Defence is marked as being in “reference to the ‘Particulars of Claim’ dated 9 Nov 2021”.

and seeks the following relief from the Court as per its Consolidated Particulars of Claim:

- (1) A final injunction in substantially the same form as the Interim Injunctions, covering substantially the same parts of the SRN, for a duration of 2 years (subject to review after 1 year). Certain minor changes are proposed to the geographical extent of the M25 Feeder Injunction; see §46(4)(iii) below.
 - (2) A declaration to the effect “*that the use of the SRN by the Defendants for the purposes of protest which causes an obstruction of the public highway is unlawful and a trespass in that it exceeds the lawful right of the public to use the highway and interferes unreasonably with the use of the highway by other members of the public entitled to use it*”.
12. With the exception of six of the Named Defendants,⁶ the SJ Application has been served on the Named Defendants: see Higson2/§§21-23 [773-774]. NHL will not be pursuing injunctive relief against those six Named Defendants in relation to whom difficulties arose in effecting service of the SJ Application: see §45 below.
13. A draft Order (“**the draft SJ Order**”) has been provided with the SJ Application, including the proposed form of the final injunction sought (“**the Final Injunction**”) [964-1002]. The SJ Application is supported by the witness statements of Nicola Bell of 22 March 2022 [6-21], First Statement of Laura Higson of 24 March 2022 [93-131] and the Second Witness Statement of Laura Higson of 25 April 2022 [769-790].
14. NHL also seeks an Order:
- (1) granting permission for NHL pursuant to CPR 24.4(1) to pursue the SJ Application against those Defendants who have not filed a Defence or an Acknowledgement of Service;
 - (2) an Order consolidating the Claims so that the injunctive relief sought by NHL be in the form of a single injunction;
 - (3) an Order continuing the disclosure obligations imposed by the Disclosure Orders; and

⁶ Arne Springorum (Defendant 8), Tam Millar (Defendant 102); Hannah Shafer (Defendant 129); Jesse Long (Defendant 130); Thomas Franke (Defendant 137) and William Wright (Defendant 142).

(4) an Order permitting service of the final Order by alternative means.

15. As set out above, by the Extension Order of 17 March 2022, Chamberlain J ordered that the longstop dates of the Interim Injunctions be extended to 9 May 2022 or further order, made directions in relation to the hearing of the SJ Application and listed the hearing of the SJ Application for 4 to 5 May 2022.

Relevant principles

Summary judgment

16. CPR 24.2 provides that:

“The court may give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if –

(a) it considers that –

(i) that claimant has no real prospect of succeeding on the claim or issue; or

(ii) that defendant has no real prospect of successfully defending the claim or issue;
and

(b) there is no other compelling reason why the case or issue should be disposed of at a trial.”

17. The relevant principles on an application for summary judgment are as summarised in ***Easyair Ltd v Opal Telecom Ltd*** [2009] EWHC 339 (Ch):⁷

“i) The court must consider whether the claimant has a “realistic” as opposed to a “fanciful” prospect of success: *Swain v Hillman* [2001] 1 All E.R. 91;

ii) A “realistic” claim is one that carries some degree of conviction. This means a claim that is more than merely arguable: *ED & F Man Liquid Products v Patel* [2003] EWCA Civ 472 at [8];

iii) In reaching its conclusion the court must not conduct a “mini-trial”: *Swain v Hillman*;

iv) This does not mean that the court must take at face value and without analysis everything that a claimant says in his statements before the court. In some cases it may be clear that there is no real substance in factual assertions made, particularly if contradicted by contemporaneous documents: *ED & F Man Liquid Products v Patel* at [10];

v) However, in reaching its conclusion the court must take into account not only the evidence actually placed before it on the application for summary judgment, but also the evidence that can reasonably be expected to be available at trial: *Royal Brompton Hospital NHS Trust v Hammond (No.5)* [2001] EWCA Civ 550;

vi) Although a case may turn out at trial not to be really complicated, it does not follow that it should be decided without the fuller investigation into the facts at trial than is possible or permissible on summary judgment. Thus the court should hesitate about making a final decision without a trial, even where there is no obvious conflict

⁷ Approved by the Court of Appeal in ***AC Ward & Sons Ltd v Catlin (Five) Ltd*** [2010] Lloyd’s Rep. I.R. 301 at [24].

of fact at the time of the application, where reasonable grounds exist for believing that a fuller investigation into the facts of the case would add to or alter the evidence available to a trial judge and so affect the outcome of the case: *Doncaster Pharmaceuticals Group Ltd v Bolton Pharmaceutical Co 100 Ltd* [2007] F.S.R. 3;

vii) On the other hand it is not uncommon for an application under Pt 24 to give rise to a short point of law or construction and, if the court is satisfied that it has before it all the evidence necessary for the proper determination of the question and that the parties have had an adequate opportunity to address it in argument, it should grasp the nettle and decide it. The reason is quite simple: if the respondent's case is bad in law, he will in truth have no real prospect of succeeding on his claim or successfully defending the claim against him, as the case may be. Similarly, if the applicant's case is bad in law, the sooner that is determined, the better. If it is possible to show by evidence that although material in the form of documents or oral evidence that would put the documents in another light is not currently before the court, such material is likely to exist and can be expected to be available at trial, it would be wrong to give summary judgment because there would be a real, as opposed to a fanciful, prospect of success. However, it is not enough simply to argue that the case should be allowed to go to trial because something may turn up which would have a bearing on the question of construction: *ICI Chemicals & Polymers Ltd v TTE Training Ltd* [2007] EWCA Civ 725."

18. CPR 24.4(1) provides as follows:

"A claimant may not apply for summary judgment until the defendant against whom the application is made has filed –
(a) an acknowledgement of service; or
(b) a defence,
unless –
(i) the court gives permission; or
(ii) a practice direction provides otherwise."

19. The relevant principles relating to the exercise of the Court's discretion under CPR 24.4(1) were summarised by Henshaw J in *DVB Bank SE & ors v Vega Marine Ltd & ors* [2020] EWHC 1494 (Comm) as follows:

"57. There is no requirement for a party to obtain permission under CPR 24.4(1) before issuing a summary judgment application: both applications can be made in the same application notice (...).

58. Bryan J summarised the principles relevant to the exercise of the court's discretion under CPR 24.4(1) in *European Union v Syria*:

'(1) The purposes of the rule are to ensure that no application for summary judgment is made before a defendant has had an opportunity to participate in the proceedings and to protect a defendant who wishes to challenge the Court's jurisdiction from having to engage on the merits pending such application.

(2) Generally, permission should be granted only where the Court is satisfied that the claim has been validly served and that the Court has jurisdiction to hear it. Once those conditions are met there is generally no reason why the Court should prevent a claimant with a legitimate claim from seeking summary judgment.

(3) The fact that a summary judgment may be more readily enforced in other jurisdictions than a default judgment is a proper reason for seeking permission under CPR 24.4(1) . ' (§ 61)

I would add, in relation to (3), that it would in my view be sufficient that the claimant has a reasonable belief that a summary judgment may be more readily enforced than a default judgment. There is no justification for the court subjecting any such belief to minute examination, when the permission the claimant is seeking is in reality no more than the opportunity to obtain a reasoned judgment on the merits of its claim.”

Declarations

20. In deciding whether or not to grant a declaration, the Court should take into account “justice to the claimant, justice to the defendant, whether the declaration would serve a useful purpose and whether there are any other special reasons why or why not the court should grant the declaration” - **Financial Services Authority v Rourke (t/a JE Rourke & Co)** [2001] EWHC 704 (Ch) per Neuberger J (as he then was). The Court must be satisfied that all sides of the argument will be fully and properly put – see the summary of principles by Marcus Smith J in **The Bank of New York Mellon v Essar Steel India Ltd** [2018] EWHC 3177 (Ch) at [21].
21. A declaration can be obtained by way of summary judgment. Once it is shown that the defendant had no real prospect of showing that the matters subject of the declaration were wrong, the position is that the Court should exercise its discretion as to whether to make the declaration in the normal way, not by reference to the summary judgment test: **Abaidildinov v Amin** [2020] EWHC 2192 (Ch) per Mr Robin Vos sitting as a Deputy High Court Judge at [30] to [49].

Injunctions: general

22. As to the principles governing the grant of final injunctions:
 - (1) The test for an injunction is whether it is just and proportionate to grant it - s. 37(1) of the Senior Courts Act 1981 (“**the 1981 Act**”). A final injunction may be permanent or for a defined duration of time. *Snell’s Equity, 34th Edition* states at §18-02:

“A perpetual (or final) injunction can only be granted after the court has been able to adjudicate upon the matter. A perpetual injunction is so called because it is granted at the final determination of the parties’ rights and not because it will necessarily operate forever. For instance, a perpetual injunction may be granted so as to continue only during the currency of a lease.”
 - (2) Where the relief sought is a precautionary or *quia timet* injunction, the question is whether there is an imminent and real risk of harm - **Ineos Upstream Ltd v Persons Unknown** [2019] 4 WLR 100 (CA) per Longmore LJ at [34(1)]. A

permanent precautionary injunction can only be granted if the claimant has proved at the trial that there will be an actual infringement of his rights unless the injunction is granted – **London Borough of Islington v Elliott** [2012] EWCA Civ 56 per Patten LJ at [29]. ‘Imminent’ this word is used in the sense that the circumstances must be such that the remedy sought is not premature – **Hooper v Rogers** [1975] Ch 43 (CA) per Russell LJ at 49-50.

- (3) The threshold for obtaining a final injunction is normally lower where wrongs have already been committed by the defendant (as here): see discussion in **Secretary of State for Transport and HS2 Limited v Persons Unknown** [2019] EWHC 1437 (Ch) at [122] to [124]. *Snell’s Equity* states at §18-028:

“In cases where the defendant has already infringed the claimant’s rights, it will normally be appropriate to infer that the infringement will continue unless restrained: a defendant will not avoid an injunction merely by denying any intention of repeating wrongful acts.”

- (4) In the context of trespass, a landowner whose title is not disputed is *prima facie* entitled to an injunction to restrain a threatened or apprehended trespass on his land: *Snell’s Equity* at §18-012. In the context of nuisance, the starting point if not the primary remedy in most cases will be an injunction to bring the nuisance to an end. See **Shelfer v City of London Electric Lighting Co** per A L Smith LJ at 322–323; **Hunter v Canary Wharf** [1997] AC 655 per Lord Goff at 692H; **Lawrence v Fen Tigers** per Lord Neuberger at [120] to [124].

- (5) Entitlement to an injunction is subject to the question of whether damages would be an adequate remedy in substitution for an injunction and falls to be answered by reference to the four questions set out in **Shelfer** per A L Smith LJ at 322 to 323, as modified by **Lawrence v Fen Tigers Ltd**. The questions are whether:

- (i) the injury to the plaintiff’s legal rights is small;
- (ii) that injury is one which is capable of being estimated in money;
- (iii) the injury is one which can be adequately compensated by a small money payment; and
- (iv) the case is one in which it would be oppressive to the defendant to grant an injunction.

That test was modified by Lord Neuberger in **Fen Tigers Ltd** at [123] as follows:

"First, the application of the four tests must not be such as 'to be a fetter on the exercise of the court's discretion'. Secondly, it would, in the absence of additional relevant circumstances pointing the other way, normally be right to refuse an injunction if those four tests were satisfied. Thirdly, the fact that those tests are not

all satisfied does not mean that an injunction should be granted."

Injunctions against persons unknown

23. The following guidelines in relation to the grant of injunctions against persons unknown were set out by the Court of Appeal in **Canada Goose UK Retail Ltd v Persons Unknown and another** [2020] 1 WLR 2802 (CA) at [82]:

"(1) The "persons unknown" defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The "persons unknown" defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also Newcomers, that is to say people who in the future will join the protest and fall within the description of the "persons unknown".

(2) The "persons unknown" must be defined in the originating process by reference to their conduct which is alleged to be unlawful.

(3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify [precautionary] relief.

(4) As in the case of the originating process itself, the defendants subject to the interim injunction must be individually named if known and identified or, if not and described as "persons unknown", must be capable of being identified and served with the order, if necessary by alternative service, the method of which must be set out in the order.

(5) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant's rights.

(6) The terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do. The prohibited acts must not, therefore, be described in terms of a legal cause of action, such as trespass or harassment or nuisance. They may be defined by reference to the defendant's intention if that is strictly necessary to correspond to the threatened tort and done in non-technical language which a defendant is capable of understanding and the intention is capable of proof without undue complexity. It is better practice, however, to formulate the injunction without reference to intention if the prohibited tortious act can be described in ordinary language without doing so.

(7) The interim injunction should have clear geographical and temporal limits. It must be time limited because it is an interim and not a final injunction. We shall elaborate this point when addressing Canada Goose's application for a final injunction on its summary judgment application."

24. The Court of Appeal in **London Borough of Barking and Dagenham and others v Persons Unknown and others** [2022] EWCA Civ 13 recently reviewed the approach to the grant of final injunctions against persons unknown (paragraph references are, unless otherwise stated, to the judgment of Sir Geoffrey Vos MR in **Barking and**

Dagenham):

- (1) The Court undoubtedly has the power under s.37 of the 1981 Act to grant final injunctions that bind non-parties to the proceedings – [71]. The remedy can be fairly described as ‘exceptional’, albeit that formulation should not be used to lay down limitations on the Court’s broad discretion. The categories in which such injunctions can be granted are not closed and they may be appropriate in protest cases - [120].
- (2) There is no real distinction between interim and final injunctions in the context of injunctions granted against persons unknown [89] and [93]. While the guidance regarding identification of persons unknown in **Canada Goose** was given in the context of an application for an interim injunction, the same principles apply in relation to the grant of final injunctions: [89].⁸
- (3) As to the position of a non-party who behaves so as satisfy the definition of persons unknown only after the injunction has been granted (‘newcomers’), such a person becomes a party on knowingly committing an act that brings them within the description of persons unknown set out in the injunction: **South Cambridgeshire District Council v. Gammell** [2006] 1 WLR 658 per Sir Anthony Clarke MR (as he then was) at [32]. There is no need for a claimant to apply to join newcomers as defendants. There is “*no conceptual or legal prohibition on suing persons unknown who are not currently in existence but will come into existence when they commit the prohibited tort*”: **Boyd v Ineos Upstream Ltd** and others [2019] 4 WLR 100 (CA) per Longmore LJ at [30].⁹
- (4) Procedural protections available to ensure a permanent injunction against persons unknown is just and proportionate include the provision of a mechanism for review by the Court - “*Orders need to be kept under review. For as long as the court is concerned with the enforcement of an order, the action is not at end.*” – [89], “*all persons unknown injunctions ought normally to have a fixed end point for review as the injunctions granted to these local authorities actually had in some cases*” – [91], “*It is good practice to provide for a periodic review, even when a final order is made*” – [108]. In the unauthorised encampment cases, the Court of Appeal has suggested that borough-wide injunctions should be limited to one year at a time before a review – **Bromley London Borough Council v Persons Unknown** [2020] PTSR 1043

⁸ See also [102] and [117]. This aspect of **Canada Goose** was not disturbed by the overall conclusion in **Barking and Dagenham** (which was based on criticisms of other aspects of the judgment in **Canada Goose**).

⁹ See **Barking and Dagenham** at [94] to [100], where the Court of Appeal refuses to follow the reasoning in **Canada Goose** drawing a sharp distinction between interim and final injunctions, *inter alia* on the basis of a failure by the Court in **Canada Goose** to consider the propositions cited above from **Gammell** and **Ineos**.

(CA) per Coulson LJ at [106].¹⁰ Furthermore, such a permanent injunction would be reviewable at the instance of newcomers who had made themselves parties to the claims by knowingly breaching the injunctions: [111].

Human rights

25. Articles 10 and 11 of the European Convention on Human Rights (“the ECHR”) provide as follows:

“ARTICLE 10

Freedom of expression

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. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

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 the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 11

Freedom of assembly and association

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. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

26. Articles 10 and 11 are given effect in domestic law via the Human Rights Act 1998 (“the HRA 1998”). Section 6(1) of the HRA 1998 provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. The Court is a public authority - s.6(3)(a).

27. As to how the rights under Articles 10 and 11 arise where a protest takes place on publicly owned land, the comments of Lord Neuberger MR in *City of London Corpn*

¹⁰ Endorsed in *Barking and Dagenham* at [107].

v Samede [2012] PTSR 1624 (CA), a case involving a claim for possession and an injunction in relation to a protest camp set up by the Occupy movement in the churchyard of St Paul's Cathedral (land owned by the local authority) at [39] to [41] were cited with approval by the Supreme Court in **DPP v Ziegler** [2022] AC 408:¹¹

“39. As the judge recognised, the answer to the question which he identified at the start of his judgment [the limits to the right of lawful assembly and protest on the highway] is inevitably fact sensitive, and will normally depend on a number of factors. In our view, those factors include (but are not limited to) the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protesters, the duration of the protest, the degree to which the protesters occupy the land, and the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public.

40. The defendants argue that the importance of the issues with which the Occupy Movement is concerned is also of considerable relevance. That raises a potentially controversial point, because as the judge said, at para 155: ‘it is not for the court to venture views of its own on the substance of the protest itself, or to gauge how effective it has been in bringing the protestors’ views to the fore. The Convention rights in play are neither strengthened nor weakened by a subjective response to the aims of the protest itself or by the level of support it seems to command ... the court cannot—indeed, must not—attempt to adjudicate on the merits of the protest. To do that would go against the very spirit of articles 10 and 11 of the Convention ... the right to protest is the right to protest right or wrong, misguidedly or obviously correctly, for morally dubious aims or for aims that are wholly virtuous.’

41. Having said that, we accept that it can be appropriate to take into account the general character of the views whose expression the Convention is being invoked to protect. For instance, political and economic views are at the top end of the scale, and pornography and vapid tittle-tattle is towards the bottom. In this case the judge accepted that the topics of concern to the Occupy Movement were ‘of very great political importance’: para 155. In our view, that was something which could fairly be taken into account. However, it cannot be a factor which trumps all others, and indeed it is unlikely to be a particularly weighty factor: otherwise judges would find themselves according greater protection to views which they think important, or with which they agree. As the Strasbourg court said in *Kuznetsov v Russia*, para 45: ‘any measures interfering with the freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles—however shocking and unacceptable certain views or words used may appear to the authorities—do a disservice to democracy and often even endanger it. In a democratic society based on the rule of law, the ideas which challenge the existing order must be afforded a proper opportunity of expression through the exercise of the right of assembly as well as by other lawful means ...’ The judge took into account the fact that the defendants were expressing views on very important issues, views which many would see as being of considerable breadth, depth and relevance, and that the defendants strongly believed in the views they were expressing. Any further analysis of those views and issues would have been unhelpful, indeed inappropriate.”

28. As to the approach to protests on the public highway, the House of Lords in **DPP v**

¹¹ See *Ziegler* at [17], [72], [74] to [77], [80] and [152]. For the more restrictive approach where the protest takes place on private land, see *Appleby v United Kingdom* [2003] 27 EHRR 38 at [43] and [47].

Jones [1999] 2 AC 240 considered whether a protest on the highway could ever be lawful in circumstances where it was not incidental or ancillary to the exercise of the right of passage. The majority (Lord Irvine LC, Lords Clyde and Hutton) held that it could, and that protests or processions on a highway could be lawful but only if they did not obstruct the highway. Lord Clyde held at pp. 280-281 (emphasis added):

“In the generality there is no doubt but that there is a public right of assembly. But there are restrictions on the exercise of that right in the public interest. There are limitations at common law and there are express limitations laid down in article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms. I would not be prepared to affirm as a matter of generality that there is a right of assembly at any place on a highway at any time and in any event I am not persuaded that the present case has to be decided by reference to public rights of assembly. If a group of people stand in the street to sing hymns or Christmas carols they are in my view using the street within the legitimate scope of the public right of access to it, provided of course that they do so for a reasonable period and without any unreasonable obstruction to traffic. If there are shops in the street and people gather to stand and view a shop window, or form a queue to enter the shop, that is within the normal and reasonable use which is matter of public right. A road may properly be used for the purposes of a procession. It would still be a perfectly proper use of the road if the procession was intended to serve some particular purpose, such as commemorating some particular event or achievement. And if an individual may properly stop at a point on the road for any lawful purpose, so too should a group of people be entitled to do so. All such activities seem to me to be subsidiary to the use for passage. So I have no difficulty in holding that in principle a gathering of people at the side of a highway within the limits of the restraints which I have noted may be within the scope of the public’s right of access to the highway.

In my view the argument for the defendants, and indeed the reasoning of the Crown Court, went further than it needed to go in suggesting that any reasonable use of the highway, provided that it was peaceful and not obstructive, was lawful, and so a matter of public right. (...)

I am not persuaded that in any case where there is a peaceful non-obstructive assembly it will necessarily exceed the public's right of access to the highway. The question then is, as in this kind of case it may often turn out to be, whether on the facts here the limit was passed and the exceeding of it established. The test then is not one which can be defined in general terms but has to depend upon the circumstances as a matter of degree. It requires a careful assessment of the nature and extent of the activity in question. If the purpose of the activity becomes the predominant purpose of the occupation of the highway, or if the occupation becomes more than reasonably transitional in terms of either time or space, then it may come to exceed the right to use the highway.”

29. Further, the Lord Chancellor held at pp 244-245 (emphasis added):

“The question to which this appeal gives rise is whether the law today should recognise that the public highway is a public place, on which all manner of reasonable activities may go on. For the reasons I set out below in my judgment it should. Provided these activities are reasonable, do not involve the commission of a public or private nuisance, and do not amount to an obstruction of the highway unreasonably impeding the primary right of the general public to pass and repass, they should not constitute a trespass. Subject to these qualifications, therefore, there would be a public

right of peaceful assembly on the public highway.”

30. See also **DPP v Ziegler**, where the Supreme Court highlighted a number of features, consistent with **Samede**, that should be taken into account, being: (i) the place where the obstruction occurs; (ii) the extent of the actual interference the protest causes to the rights of others, including the availability of alternative thoroughfares; (iii) whether the protest is aimed directly at an activity of which protestors disapprove or another activity which had no direct connection with the object of the protest; (iv) the importance of the precise location to the protestors; and (v) the extent to which continuation of the protest breaches domestic law.
31. In relation to point (iv), Lords Hamblen and Stephens in their judgment at [76] cited the following extract from the judgment of the European Court of Human Rights (“**the ECtHR**”) in **Lashmankin v Russia** (2019) 68 E.H.R.R. I (Application No 57818/09) (unreported) 7 February 2017 at [405]:

“the organisers’ autonomy in determining the assembly's location, time and manner of conduct, such as, for example, whether it is static or moving or whether its message is expressed by way of speeches, slogans, banners or by other ways, are important aspects of freedom of assembly. Thus, the purpose of an assembly is often linked to a certain location and/or time, to allow it to take place within sight and sound of its target object and at a time when the message may have the strongest impact.”
32. See also *ibid* at [155] to [156].
33. On the facts of **Ziegler**, the Supreme Court noted that the appellants, protestors against the arms trade, ascribed a particular symbolic force to the location of their protest, being a road outside a centre where an arms fair was taking place – [76]. Contrast with **London Borough of Lambeth v Caul Grant and others** [2021] EWHC 1962 (QB), where the location of the protest was found not to have any special significance to the protestors, and that an Order for possession “*will not prevent them from continuing to express their views and engage with the public*” – per Chamberlain J at [90].
34. The ECtHR in **Kudrevicius v Lithuania** 62 EHRR 34 considered the application of Article 11 in a case where protestors had used tractors to block three main roads as part of a demonstration about agricultural product prices, and said as follows at [97] (emphasis added):¹²

¹² This paragraph was cited and applied by, inter alia, the Supreme Court in **DPP v Ziegler** and the Court of Appeal in **Cuadrilla**. See also **Primov v Russia** (Application No 17391/06) (unreported) 12 June 2014, ECtHR, which concerned the lawfulness of the Russian authorities’ blocking of access to a village in order to prevent a protest; the ECtHR said that, in regulating public assemblies, the authorities must show an appropriate degree of tolerance, taking into account “*the particular circumstances of the case and particularly to the extent of the ‘disruption of ordinary life’*”: [145]

“The Court further observes that, in the present case, the disruption of traffic cannot be described as a side-effect of a meeting held in a public place, but rather as the result of intentional action by the farmers, who wished to attract attention to the problems in the agricultural sector and to push the government to accept their demands. In the Court’s view, although not an uncommon occurrence in the context of the exercise of freedom of assembly in modern societies, physical conduct purposely obstructing traffic and the ordinary course of life in order to seriously disrupt the activities carried out by others is not at the core of that freedom as protected by art.11 of the Convention. This state of affairs might have implications for any assessment of “necessity” to be carried out under the second paragraph of art.11.”

35. As observed by Leggatt LJ (as he then was) in **Cuadrilla Bowland Ltd and others v Persons Unknown and others** [2020] 4 W.L.R. 29 (CA) at [94], given that Articles 10 and 11 are concerned with the protection of rights to persuade others, it is a relevant point of distinction that a protest that aims to cause disruption is ultimately seeking to compel, rather than persuade, others to act in a particular way.¹³

36. S. 12 of the HRA 1998 is also relevant in this context, and provides 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.

(3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.”

37. “Publication” in s.12(3) has been interpreted by the courts as extending beyond the literal meaning of the word to encompass “*any application for prior restraint of any form of communication that falls within Article 10 of the Convention*” – **Birmingham City Council v Afsar** [2019] ELR 373 per Warby J (as he then was) at [60] to [61].

¹³ The same principles have been applied by the courts in concluding that offences criminalising protests that involve serious disruption to ordinary lives or to activities lawfully carried on by others (where the disruption is more significant than that involved in the normal exercise of the right of peaceful assembly in a public place) do not constitute a breach of Articles 10 or 11: see the recent judgment of the Divisional Court in **DPP v Cucurrian** [2022] EWHC 736 at [37] – [38], [45], [62], [76] – [79].

Factual background

38. The background to the IB Protests is set out in detail at [Higson/§§14-38](#) [98-106] and more recent developments are set out in [Higson2/§§26-31](#) [774-788].

39. In summary, the position is as follows:

- (1) The IB Protests involve protestors walking onto the SRN and blocking traffic, normally by physically placing themselves on the road (often while holding an ‘Insulate Britain’ banner) and by gluing themselves to the road surface – see, for example, the description of a typical IB Protest in CA1 at [19] to [20].¹⁴ At times, other actions have been incorporated into the protests, such as pouring paint on the road surface to maximise disruption. While the concern of NHL is protests on the SRN, the IB Protests have also taken part on Transport for London roads within London that do not form part of the SRN.
- (2) The IB Protests are not individualised protests but group activities, involving coordinated action by a group of protestors to maximise disruption. There is every indication that individual protestors subscribe to the broader campaign, both from the coordinated way in which the IB Protests are carried out and the fact that, when given an opportunity, IB protestors invariably adopt or reflect the publicly stated position of IB: see, for example, IB’s statement of 16 September 2021, reproduced at [Higson/§20.3](#) [99]. In essence and for present purposes, IB is its individual protestors – see the comments of the Divisional Court in CA1 at [34].¹⁵ Larger protests have involved some 400 people, such as the protest of 20

¹⁴ “19. On the morning of 8 October 2021, at 8.35am, police were alerted by construction workers that a large group of protestors were running on to the road at the Waltham Cross Interchange roundabout at Junction 25 on the M25. When they arrived they found a group of 15 to 20 protestors sitting or lying in the road wearing high visibility vests, some of whom were holding Insulate Britain banners. Both lanes of the carriageway leading from the M25 slip road to the roundabout were blocked. By the time the police arrived, there was a long line of traffic leading to the protestors’ location.

20. Part of the evidence relied on by the claimant in support of this application is bodycam footage from the police officers who attended. The footage shows a somewhat chaotic scene with the defendants very close to traffic, and in some instances moving traffic, and the police attempting to restrain them from continuing with their protest and re-entering the road. The police cleared one lane relatively quickly, but not because the defendants complied willingly with efforts to remove them. Roman Paluch-Machnik tried to move into the oncoming traffic after being removed. Emma Smart and Ben Buse (who had glued themselves together) ran back into the road from the verge to which they had been removed. James Thomas was removed to the verge and then had to be removed and/or restrained from re-entering the road on two further occasions. The second lane was blocked until 9.55am because two of the defendants, Ben Taylor and Louis McKechnie, had managed to glue themselves to the road.”

¹⁵ “The claimant further referred to a number of statements made by Insulate Britain on its website, which, it was submitted it was safe to infer, clearly reflected the position of the defendants. Although Mr Greenhall invited

November 2021 where Lambeth Bridge (not within the SRN) was blocked (Higson/§34 [103]).

(3) The IB Protests commenced on 13 September 2021 and have focused on the M25 in particular, albeit there have also been protests on roads leading to the port of Dover (and within London). The total number of arrests arising from the IB Protests are, by IB's own account, in the hundreds (see Higson/§§30 and 38.8 [102 and 106]). Following the making of the Contempt Applications, which resulted in 24 of the Named Defendants being found to be in contempt of court and committed to imprisonment (12 of those having their committal suspended), IB has not taken any further direct-action protests on the SRN since November 2021. At the same time, however:

(i) IB has maintained a consistent and forceful public position that it will continue the IB Protests “*until the government issues a meaningful statement*” agreeing to insulate Britain's homes (Higson, §38.8 [106]). In its recent statement of 7 February 2022, IB has said that “*We will continue our campaign of civil resistance because we only have the next two to three years to sort it out and prevent us completely failing our children and hitting climate tipping points we cannot control*” (Higson, §39 [106-107], emphasis added). IB's clearly expressed position is that the protests will continue irrespective of any legal sanctions that may be imposed on protestors and its statements regularly draw attention to the number of arrests or flagrant repeated breaches of the Interim Injunctions entailed by the IB Protests (see Higson/§§37-38 [104-106]) and as the Divisional Court observed in CA2, some of the defendants “*seem to want to be martyrs for their cause*”.¹⁶ The following examples of statements by IB/individual protestors are illustrative (see Higson/§§37-38 [104-106] and Higson2/§§26-31 [774-788]):

(a) On 26 October 2021, IB released a statement declaring that the M25 was “*a site of nonviolent civil resistance*”.

(b) IB statement of 28 October 2021: “*So take us to court, we stand by our actions and are ready to defend them. We have a right of necessity to cause*

us to be cautious about this aspect of the evidence, none of the defendants dissociated themselves from Insulate Britain's position or expressed any contrary view; and we are sure the claimant's inference is a safe one to draw.”

¹⁶ At [63].

disruption, to prevent the far greater destruction of our economy and way of life."

- (c) In CA1, the Court noted that they *"were, without exception, proud of what they had done (protesting on the M25) and each was conscious of the fact that what he or she was doing was in breach of the order of the court."* CA1 at [39]. Ben Taylor, one of the defendants in CA1, said in a statement to the Divisional Court during the hearing of CA1 on 17 November 2021, *"If you send us away, a hundred more will step forward to take our place."* IB's statement of 22 November 2021 in relation to the protests of Lambeth Bridge on 20 November 2021 said, *"his words were vindicated, as the Metropolitan Police have now confirmed that a total of 124 people were arrested on Saturday for blocking Lambeth Bridge and Vauxhall Junction... It is clear that Saturday's actions were inspired by Insulate Britain's campaign of nonviolent civil resistance and that the flood gates are now open for those who refuse to be bystanders and complicit in genocide. As we have previously stated, the motorways are a site of nonviolent civil resistance and our campaign will continue until the government issues a meaningful statement to get on with the job of insulating Britain's leaky homes."*
- (d) IB's statement of 26 November 2021 recorded the statement of Emma Smart following her release from the period of imprisonment imposed by the Court in CA1, in which Ms Smart stated, *"Imprisoning all those who disagree with you is the mark of a bully and we all know that at heart, bullies are cowards. So to the government we say carry on, bring down the combined might of your best lawyers and all the vast machinery of the state. We will not be cowed. Our numbers are growing because the general public knows we are on the right side of history"*.
- (e) On 17 December 2021, IB issued a statement on its website reiterating its commitment to its campaign despite the breaches of the Interim Injunctions.
- (f) On 4 April 2022, IB issued a statement stating *"We may see non-cooperation with the legal system as an extension to both the Insulate Britain*

and Just Stop Oil campaigns.”

- (g) On 6 April 2022 at 09:30, IB tweeted about five Named Defendants who refused to attend a hearing at Crawley Magistrates Court in relation to criminal proceedings being brought against them for taking part in protests on the M25 and in Dover in September 2021, stating *"We will never stop taking action to do what is right - even if the system criminalises us."* See further examples to similar effect at [Higson2/§§28.14 to 28.17 \[784-785\]](#)
- (ii) More recently, on 15 February 2021, IB announced that it was entering into a coalition with another campaigning organisation, Just Stop Oil (“**JSO**”), in which a number of IB participants, including key figures, are involved, and which describes itself as currently *“coordinating thousands of people coming out on the streets and blocking oil refineries this Spring”*. On 14 February 2022, two individuals associated with JSO, including Louis McKechnie, an IB protestor who was imprisoned for 3 months in CAI, delivered a fresh ‘ultimatum’ to the Prime Minister demanding that the UK Government make a statement that it was immediately halting all licensing and consents in relation to oil exploration, development and production by 14 March 2022, otherwise *“it will be our duty to intervene”*. According to Roger Hallam, a key figure within IB and JSO, *“Thousands of people will be going onto the streets and onto the motorways to the oil refineries and they will be sitting down.... This is what civil resistance looks like. It's not about everyone getting on, it's not about everyone being the same. It's about going, there's a date, there's a place, turn up and don't move. [...]. That's what we need to do, and we need 3,000 people to do it and we've got about 500.”*
- (iii) As part of that proposed renewed and expanded campaign, IB appears to be focused on expanding its recruitment: see the statement of 7 February 2022 (*“More of us need to take a stand. More of you need to join us”*); the plans for a ‘day of civil resistance’ and large-scale ‘rave’ on the M25; the extracts from the presentation given by Roger Hallam on 7 February 2022 and reports of targeting of universities to recruit participants: see [Higson/§§41-46 \[109-111\]](#).

- (iv) The JSO campaign now appears to have started: see Higson/§47 [111] and Higson2/§§26-31 [774-788]. It is clear that there is significant cross-over between those participating in the IB Protests and those organised under the banner of JSO, with a number of Named Defendants participating in JSO protests already: see Higson2 as above.
- (4) The evidence therefore strongly points to there being every intention on the part of IB and the individual protesters to continue their protest activities and associated obstructions in a similar vein to those which have been previously carried out and in a manner which will continue to draw maximum attention to their causes. The IB Protests are by their very nature inherently dangerous, obstructive and disruptive, and focus their attention on an important piece of national infrastructure, being the SRN (see further below), which is deliberately targeted to cause serious disruption to the use of the highway.

Submissions

Summary judgment

40. In NHL's submission, the Defendants have no real prospect of successfully defending the Claims, for the following reasons.
41. **First**, given the intentionally and efficaciously obstructive nature of the IB Protests, (which as set out above, involve protestors blocking highways by their physical presence) a trespass, private nuisance and/or public nuisance is made out in each instance of a defendant taking part in an IB Protest, both in the past and in the future. As highways authority and the person in whom the physical extent of the highway is vested, NHL is entitled to vindicate its private law rights in respect of those parts of the SRN where the IB Protests have taken place or where there is an imminent risk of further IB Protests taking place.
42. **Secondly**, there is a real and imminent risk of trespass and/or nuisance arising from future IB Protests justifying the grant of a permanent injunction. Such an injunction would not be premature:
- (1) The Named Defendants and others who participate in the IB Protests have shown themselves to be sufficiently committed to their cause to be willing to take clearly unlawful action and to associate themselves with (and in many cases explicitly

adopt) statements expressing a willingness to continue such action irrespective of the consequences. The strongly expressed desire to carry on the IB Protests no matter what the consequences, even if tempered in reality by NHL's demonstration of its willingness to enforce the Interim Injunctions, is an important feature of the IB Protests.

- (2) Each of the Named Defendants has, against that backdrop, already taken part in at least one IB Protest: see Higson/§§50-51 [112-113].
 - (3) In relation to the Contempt Defendants, the Court found that the custody threshold was passed in relation to all defendants who had contravened the Interim Injunctions - CA1 [59], CA2 [50] and CA3 at [52]. Nine of the Contempt Defendants were found to be in contempt of court on more than one occasion. In each instance, the Court recorded a uniform lack of contrition on the part of the Contempt Defendants – see CA1 at [39],
 - (4) It follows from the nature of the IB Protests, and in particular the fact that the protestors' modus operandi is to obstruct the SRN until physically moved off it, that injunctive relief is necessary to protect NHL's rights. Further, the nature (especially size and varied terrain) of the sites affected and potentially affected are such that traditional security methods such as fencing or guarding are very unlikely, without more, to be successful, practicable or affordable. Given the nature of the contravention of NHL's rights, NHL's function as a public body and the fact that the SRN is an important piece of national infrastructure for use by the general public and of significant importance for the economy, the situation is clearly one where damages would not be an adequate remedy in substitution. As to the scope of the Final Injunction and how it does not restrict lawful protest, see below.
 - (5) IB has clearly expressed an intention to continue with its campaign and to adopt a proposed programme of renewed protest action along similar lines to the IB Protests that have already taken place, in partnership with JSO, an organisation that appears to adopt a similar philosophy of using disruptive behaviour to compel political action and with a view to carrying out protests on a significantly larger scale. There is every reason, given the intensity of and manner in which the IB Protests have previously been carried out, to take seriously those expressed intentions for the future.
43. In relation to the (it is submitted, clearly very real) risk of newcomers participating in future protests, the Final Injunction satisfies the requirements set out in **Canada Goose**

at [82] in relation to the identification of persons unknown:

- (1) The identification of persons is sufficiently precise to identify the relevant defendants: it defines them by reference to the conduct which is unlawful and by reference to clearly defined geographical limits. The course of conduct has been ongoing for a number of months, is very clearly targeted in its form, and is threatened to continue in similar form. The prohibited acts correspond to the threatened torts. The language used is non-technical.
- (2) Those who would be subject to the Final Injunction are those persons knowingly committing the prohibited acts and thus bringing themselves within the definition of persons unknown identified above from time to time. Such persons can be personally served by High Court Enforcement Officers or, where that is not possible, by means of alternative service, in the manner in which the Interim Injunctions have been served thus far.

44. As to the Defences filed so far, see Higson2/§§32-34 [788-789]. In particular:

- (1) Matthew Tulley's (D66) Defence is in relation to the SRN Injunction; however, in it, he admits to having taken part in protests on the M25 on 13, 15 and 17 September 2021. Therefore, by his own admission, he has already committed trespass and probably nuisance on the SRN prior to the grant of the Interim Injunctions on a part of the SRN covered by the M25 Injunction. Further, Mr Tulley was also arrested on 25 October 2021 in relation to IB Protests within London (not on the SRN) – his arrest was publicised in the national media due to his decision to superglue his face to the road surface,¹⁷ and participated in a radio interview on LBC London as a representative of IB on 18 September 2021.¹⁸ Mr Tulley was also arrested for participating in a protests on 24 and 27 September 2021, in both cases gluing his hands to the road or related structures at the A2 junction with the Port of Dover and junction 14 of the M25 respectively. It is clear that Mr Tulley is associated with IB and is an active participant in its activities. Further, the protest on 27 September 2021 took place on a part of the SRN subject to the Interim Injunctions.
- (2) Marc Sabitsky (DI35) and Ben Horton (DI26) deny any participation the IB Protests. However, both were arrested on 27 October 2021 for participating in

¹⁷ See e.g. Daily Mail, 25 October 2021, <https://www.dailymail.co.uk/news/article-10129693/Government-wins-NATIONWIDE-injunction-against-Insulate-Britain-eco-zealots.html>; Metro, 26 October 2021, 'Insulate Britain protester winces in pain as he glues his face to road', <https://metro.co.uk/2021/10/26/insulate-britain-protester-winces-in-pain-as-he-glues-his-face-to-road-15486309/>.

¹⁸ See <https://twitter.com/lbc/status/1439125277574148100>.

an IB Protest by sitting on and blocking the carriageway of the A206 Crossways Boulevard in Dartford. Whilst that carriageway fell outside the area covered by the Interim Injunctions, they were nevertheless active participants in that IB Protest and there is no evidence to show that they have disassociated themselves from that IB movement which has expressed an intention to continue with its campaign and to adopt a proposed programme of renewed protest action as set out above.

- (3) In relation to Nicholas Till (D75), he was arrested on 20 September and 24 September 2021 for participating in IB Protests at junction 1A of the M25 and the A2 junction with the Port of Dover. He has not disassociated himself from the IB Protests and has simply defended the claim on the basis he was not served with the relevant documents in relation to the Claims. That is not the case (see paragraph 10(4) above).
45. Since the filing of the SJ Application, it has become clear to NHL that it will not be possible to effect service on six of the Named Defendants: due to NHL not having addresses for five of them - Tam Millar (D102), Hannah Shafer (D129), Jesse Long (D130), Thomas Franke (D137) and William Wright (D142), and due to one of them (Arne Springorum (D8)) only having a service address in the Czech Republic. NHL applied for permission to serve those six Named Defendants by alternative service but its application was refused by Stacey J on 29 March 2022 [1135-1140]. As it will not therefore be possible to effect service of the SJ Application on these six Named Defendants, NHL no longer proposes to pursue the SJ Application against them as named parties. If the Court were to accede to the SJ Application by granting the order sought and any of those individuals did knowingly breach the Final Injunction, they would bring themselves within the category of Persons Unknown at that point and make themselves subject to the jurisdiction of the Court in any event.
46. **Thirdly**, the human rights dimension does not affect the private law analysis as set out above because any interference with the Defendants' Article 10 or 11 rights is clearly proportionate. The answers given by Lavender J in his judgment in *National Highways Ltd v persons unknown* [2021] EWHC 3081 at [40] to the four sub-questions identified in the Divisional Court's judgment in *DPP v Ziegler* at [64] (as approved by the Supreme Court in its judgment at [58]) as being relevant to the "proportionality" test, have equal application here and are similarly relied on by the Claimant in support of the Final Injunction. NHL makes the following points:
 - (1) In terms of the proportionality analysis, and in light of *Jones, Kudrevicius* and

Ziegler, each of the key features of the IB Protests support the proportionality of the proposed interference with their rights under Articles 10 and 11:

- (i) The IB Protests constitute a series of breaches of domestic law (that is, taking out of account the ECHR), and in particular involve the commission of trespass and nuisance. Per the Supreme Court, “*Of course a person minded to protest about something has such rights [under Article 10]. But the ordinary civil law of trespass constitutes a limitation on the exercise of this right which is according to law and unchallengeably proportionate. Put shortly, article 10 does not confer a licence to trespass on other people’s property in order to give voice to one’s views*”: **Richardson v Director of Public Prosecutions** [2014] AC 635 (SC) per Lord Hughes at [3].¹⁹
- (ii) The IB Protests constitute a significant interference with the rights of others to use the highway – see **Jones**. The duration of the interference is, at least on the protestors’ own terms, ongoing until the UK Government delivers that which they seek.
- (iii) The extent of the actual interference with the rights of others is very significant (see Bell/§§19-20 [19-20] and Higson/§58 [124-126]):
 - (a) The IB Protests have proven dangerous and very disruptive and have required the dedication of very considerable public resources (and expenditure) to address them, not only from NHL but also from the police, whose spending in relation to the IB Protests has been estimated at over £4m. See, by way of example (and in relation to what are typical IB Protests), the findings of the Court in the Contempt Applications: CA1 at [54]; CA2 at [32] to [37]; and CA3 at [31] to [33].
 - (b) Those parts of the SRN covered by the Interim Injunctions, being the M25, key feeder roads into the M25 in all directions, and key roads providing a direct link into the Port of Dover and Eurotunnel, are important national infrastructure. See Bell/§§9-18 [9-19].
- (iv) The protests are (intentionally) aimed at activities (everyday use of the highway) that are remote from their “*target object*” (see **Lashmankin** at

¹⁹ In the context of the question of whether the offence of aggravated trespass under s.68 of the Criminal Justice and Public Order Act 1994 constituted an infringement of Article 10 rights of the defendant to protest on private land.

[405], cited above) and unrelated to the matters of which the protestors disapprove – compare *Lambeth* and cf. *Ziegler*, where the obstruction was of a road leading to an arms fair opposed by the protestors. See also *DPP v Cuciurean* [2022] EWHC 736 (Admin) at [77].²⁰

- (2) Furthermore, it is clear and highly relevant that the IB Protests can be fairly characterised as a form of expression or protest action that seeks to compel rather than persuade others to accept the views being expressed. For example:
- (i) IB’s statement of 13 September 2021: *“Arrested Insulate Britain campaigners vow to cause further disruption until government acts.”*
 - (ii) IB’s statement of 16 September 2021: *“In the early hours of this morning, 89 people were released from several different custody centres across South East England, despite informing officers of their intent to continue taking action until the government gets on with the job of insulating the nation’s leaky homes”.*
 - (iii) IB’s statement of 20 September 2021: *“Early this morning, Insulate Britain blocked the M25 for a fourth time. They say that actions will continue until the government makes a meaningful commitment to insulate all of Britain’s 29 million leaky homes by 2030, and all social housing by 2025.”*
 - (iv) IB’s statement of 24 September 2021, following IB protests blocking the A20 in Kent and the Port of Dover: *“We are sorry for the disruption that we are causing. It seems to be the only way to keep the issue of insulation on the agenda... We are blocking Dover this morning to highlight that fuel poverty is killing people in Dover and across the UK. ...Change at the necessary speed and scale requires economic disruption. We wish it wasn't true, but it is. It's why the 2000 fuel protests got a U-turn in policy and gave Blair his biggest challenge as Prime Minister.”*
 - (v) On 30 September 2021, following IB Protests in which protestors glued their hands to the ground on the M25: *“[w]e are raising the tempo this week as, despite the urgency of the situation, there has been no meaningful response from the government to our demands.”*
 - (vi) IB statement of 28 October 2021: *“So take us to court, we stand by our actions and are ready to defend them. We have a right of necessity to cause disruption, to prevent the far greater destruction of our economy and way of life.”*

²⁰ Per the Lord Chief Justice and Holgate J: *“...articles 10 and 11 do not bestow any “freedom of forum” to justify trespass on private land or publicly owned land which is not accessible by the public.”*

- (vii) IB statement of 7 February 2022 (emphasis added): “We did not take part in this campaign to start an insulation brand. We did not cause you disruption to make history as Britain's quickest growing advertising campaign. We took part to force our government to stop failing its people. We will continue our campaign of civil resistance because we only have the next two to three years to sort it out and prevent us completely failing our children and hitting climate tipping points we cannot control.”
- (viii) IB has announced that it has joined with JSO to plan a series of disruptive protests directed at and around the UK’s oil infrastructure. The tenor of JSO’s communication to the UK Government indicates that, consistently with IB, JSO is seeking to compel others to adopt its views through the threat of disruptive action rather than persuade. This is perhaps unsurprising given that the same individuals appear to be closely involved in both organisations: see Higson/§§43-45, 57.2 [110-111, 124].

This feature of the IB Protests weighs against the defendants to the extent that “physical conduct purposely obstructing traffic and the ordinary course of life in order to seriously disrupt the activities carried out by others is not at the core of that freedom as protected by art. 11 of the Convention”: **Kudrevicius** at [97] (and **Cuadrilla** at [94]). While **Kudrevicius** was concerned with Article 11, the same considerations apply, and thus the same approach should apply in relation to Article 10.

- (3) The views being expressed are political and relating to a matter of broader public importance (and are not e.g. “tittle-tattle”). This is a factor weighing in the defendants’ favour, albeit it is not a particularly weighty factor for the reasons given in **Samede** at [41], and particularly so given that it is open to the defendants to express those very same views in a way that does not breach domestic law or cause such a drastic interference with the rights of others.
- (4) The terms of the proposed order for a Final Injunction have been framed so as to ensure that they are clearly and appropriately circumscribed and do not restrict lawful protest:
 - (i) As noted above, NHL has not sought to revive or continue the broader SRN Injunction. Rather the relief sought is limited to those parts of the SRN where it appears to NHL that there is a real and imminent risk of trespass and/or nuisance.
 - (ii) The Court will note that the Final Injunction describes the prohibited

conduct in a narrower and more precise manner, in particular by focusing the description of the prohibited conduct on unlawful interference with the free flow of traffic and making it clear that the protests activities which are not to be permitted are those done with a view to causing inconvenience and delay to the flow of traffic on the Roads: compare paragraph 4 of the draft SJ Order with, for example, paragraph 4 of the M25 Feeder Injunction. The order does not include any subjective language which might complicate and render uncertain the evaluation of whether or not a breach of the injunction has taken place.

- (iii) The geographical limit reflects that which has been found to be justified in the Interim Injunctions, being the SRN network (i) within and (ii) around and leading onto the M25, which has thus far proven the focal point of the IB Protests, and also those parts of the SRN connecting to Dover, which IB has expressed a willingness to target. The strategic importance of the roads covered is addressed at Bell/§§9-18 [9-19]. Minor changes are proposed to the scope of the M25 Feeder Injunction; the extent of those changes is summarised at Bell/§10-12 [9-10], and the reasons for them is set out at Bell/§§13-14 [10-11] and also in the descriptions of the strategic importance of the roads at Bell/§15 [11-17].
- (iv) The proposed 2-year duration of the Final Injunction reflects the expressed intention of IB to continue its campaign for the next two to three years: see the statement of 7 February 2022, cited above. In view of the scale of the protests that have taken place thus far, and the ambitious nature of the envisaged next stage of protests, there is every reason to take IB's expressed position seriously. While the court has jurisdiction to grant a permanent injunction in the context of disruptive protests in an appropriate case,²¹ NHL's position here is that in the circumstances of this case an injunction for 2 years strikes an appropriate balance between NHL's rights and minimising the risk of a disproportionate interference with the rights of the public to protest generally.
- (v) Significant, it is proposed that the 2 year period be subject to ongoing scrutiny, and tempered by a proposed provision for review of the Final Injunction after one year, consistent with the guidance given in ***Barking and***

²¹ See, for example, *Harlan Laboratories UK Ltd v Stop Huntingdon Animal Cruelty (SHAC)* [2012] EWHC 3408 (QB).

Dagenham at [10] and [108] (see also [107], where the Court approved the guidance given by Coulson LJ in *Bromley London Borough Council v Persons Unknown* [2020] PTSR 1043 (CA) at [106] in relation to the grant of borough-wide encampment injunctions). The review provision provides the Court with an opportunity to consider at an earlier stage whether the Final Injunction continues to be justified, and for submissions to be made by the parties.

47. For all those reasons, it is submitted that the Final Injunction sought by NHL would not constitute a disproportionate interference with the defendants' human rights. In NHL's submission, it bears emphasis that it remains open to the Defendants to express precisely the same political views in a way that does not involve the commission of torts or obstruction of the SRN or serious interference with the rights of others.
48. As to s.12 of the HRA 1998:
 - (1) In relation to those Defendants who do not appear at the determination of the SJ Hearing, no issue arises as to s.12(2)(a) because NHL has taken all practicable steps to notify those Defendants: see below. Where, despite NHL's best endeavours, it has not been possible to serve Named Defendants, the claims against them are not proceeding - as per §45 above.
 - (2) Section 12(3) does not, in NHL's submission, arise, as 'trial' in that provision must include determination by summary judgment – if the SJ Application is successful, there is no further 'trial' that will take place. (Even if the above interpretation were incorrect, the SJ Application will in any event only succeed if NHL actually establishes that 'publication' should not be allowed, and therefore s.12(3) would be otiose.)
49. **Fourthly**, the Claims are appropriately determined by the summary judgment procedure in circumstances where:
 - (1) NHL's claims in relation to the risk of a contravention of its private law rights are clear-cut.
 - (2) None of the Defences received raised an arguable defence to the Claims.
 - (3) There is no need for further inquiry into the factual position such as to require a full trial. The relevant factual questions are (i) whether there have been past unlawful acts and (ii) whether there is a real and imminent risk of future unlawful acts. The Court has before it all the evidence it needs to answer both questions. The proportionality analysis under Articles 10 and 11 ECHR does not require any

further evidence. This is not a case where the defendants could say that documents or oral evidence not before the court could put a different complexion on the main issues - cf. **Easyair Ltd**, cited above.

- (4) The grant of summary judgment in the terms sought by NHL provides an opportunity for a proper resolution of the Claims following the grants of interim relief.
50. Further to that point and the other points raised above more generally, there is no other compelling reason why the Claims should be disposed of at trial rather than through the summary judgment procedure.
51. As to the declaration sought, NHL's submissions are as follows:
- (1) No issue arises in terms of injustice to the Defendants in circumstances where there is no dispute as to NHL's rights.
 - (2) In terms of justice to NHL and whether a declaration would serve a useful purpose, NHL would highlight that its overriding aim, consistent with its public functions, is to protect the ordinary use of the SRN. A declaration by the Court clarifying the extent of NHL's legal rights would assist in that objective, particularly in circumstances where IB's campaign is a high-profile one which generates significant news coverage, and where IB's campaign is heavily focused on communicating its message to the broader public.
 - (3) The terms of the declaration are appropriately circumscribed to "*use of the SRN for the purposes of protest which causes an obstruction of the public highway*". The activity which is the subject of the proposed declaration is therefore limited to the types of protest activity which forms the subject of the Interim Injunctions and the Contempt Applications and which as set out in paragraphs 38 and 39 impedes the primary right of the general public to pass and repass not as a side effect of the protest but as the result of intentional acts in order to attract attention to the IB cause. Physical conduct purposely obstructing traffic and the ordinary course of life "*is not at the core of these Convention Rights*": **DPP v Cuciurean** [2022] EWHC 736 per Lord Burnett of Maldon, CJ at [36]; **Kudrevicius v Lithuania** (see paragraph 34 above) at [97].

Permission to proceed against defendants who have not filed a Defence or Acknowledgment of Service and to serve the S1 Application/hearing notice by alternative means/consolidation

52. By virtue of CPR 24.4(1), NHL requires, and accordingly seeks, the Court's permission to proceed against those defendants who have not filed an Acknowledgment of Service

or Defence. NHL proceeds on the basis that permission is required notwithstanding that the time limit for filing either document has elapsed. NHL would highlight the following points as supporting the grant of permission in this case:

- (1) NHL has validly served the Claims. Certificates of service have been filed in relation to all of the Named Defendants in each of the Claims.
- (2) In light of (i) the fact the Claims have been served on the Defendants and (ii) the publicly stated position of IB and of those protestors who have had the opportunity to express their position (as noted above, it is in practice very difficult to distinguish between those two positions), there can be little doubt that each person who has participated in the IB Protests is fully aware of the Claims, the fact that NHL has obtained the Interim Injunctions and the basis on which NHL has done so.
- (3) The Defendants have had an opportunity to participate in the Claims. However, the overwhelming majority of Defendants have not filed a Defence or Acknowledgment of Service. Where the Defendants have had an opportunity to address the Court, both in hearings relating to the Interim Injunctions and in the Contempt Applications, they have tended not to dispute the merits of NHL's claim²² but rather use the opportunity to set out their political positions.
- (4) Excepting the six Named Defendants discussed above at §45, the Extension Order setting out the listing of the SJ Application and the SJ Application itself have been served on the Named Defendants. NHL would also seek an Order under CPR 6.27 permitting alternative service of any final Order by (i) service on IB by email and (ii) by posting a copy of the final Order through the letterbox of each Named Defendant with a notice affixed to the front door if necessary, or, where there is no letterbox or mailbox, by affixing to the front door. See paragraph 7 of the draft SJ Order.
- (5) As indicated at Higson/§62 [127-128], NHL is pursuing summary rather than default judgment because of its desire to achieve greater finality and certainty as to its ability to protect its legal rights and avoid the aforementioned negative effects of the IB Protests. Further, in terms of the merits of NHL's position, there is no real difference between those Defendants who have or have not filed a

²² One of the Contempt Defendants in CA3 contested the application on the basis that the land on which she was protesting was not technically covered by the M25 Injunction. The Court accepted this, and accordingly found three of the Contempt Defendants not to be in contempt of court, even though two members of that group had dissociated themselves from that submission and asserted that they were in breach of the M25 Injunction: CA3 at [7] and [23] to [24].

Defence.

53. Additionally, NHL seeks an Order consolidating the Claims so as to allow the Court to grant a single injunction.

Order for extension of the Disclosure Orders

54. NHL seeks an extension of the disclosure obligations imposed upon the police forces under s.34 of the Senior Courts Act 1981 (“the **SCA 1981**”) and CPR 31.17.

55. Section 34(2) of the SCA 1981 provides that the High Court shall, in circumstances as specified in rules of court, have power to order a person who is not a party to proceedings and who appears likely to have in their possession, custody or power any documents relevant to an issue arising out of the said claim to disclose and produce documents. Section 34(3) makes further provision as to the Court’s powers.

56. CPR 31.17 provides as follows:

“31.17

(1) This rule applies where an application is made to the court under any Act for disclosure by a person who is not a party to the proceedings.

(2) The application must be supported by evidence.

(3) The court may make an order under this rule only where—

(a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and

(b) disclosure is necessary in order to dispose fairly of the claim or to save costs.

(4) An order under this rule must –

(a) specify the documents or the classes of documents which the respondent must disclose; and

(b) require the respondent, when making disclosure, to specify any of those documents –

(i) which are no longer in his control; or

(ii) in respect of which he claims a right or duty to withhold inspection.

(5) Such an order may –

(a) require the respondent to indicate what has happened to any documents which are no longer in his control; and

(b) specify the time and place for disclosure and inspection.”

57. Thus:

(1) CPR 31.17 covers an order for the provision of information as well as the disclosure and production of documents: see *Kerner v WX* [2015] EWHC 1247 (QB) per Warby J (as he then was) at [25] to [28].

(2) In *Constantin Medien Ag v Ecclestone and others* [2013] EWHC 2674 (Ch)

Vos J (as he then was) set out a structured approach to be adopted by the Court in applications under CPR 31.17 as follows:

- (i) Question 1: Are the documents and classes of documents sufficiently specified to be permissible under CPR 31.17 ?
 - (ii) Question 2: Are those documents likely to support the applicant's case or adversely affect the defendant's case?
 - (iii) Question 3: Is disclosure necessary to dispose fairly of the claim, or to save costs and should it be ordered as a matter of discretion?
- (3) As to CPR 31.17(3)(a), likely means “*may well*” rather than more probable than not – ***Three Rivers District Council v Governor and Company of the Bank of England (No 4)*** [2003] 1 WLR 210 (CA) per Chadwick LJ at [32]. Documents are likely to support the case of the application if they “*have a potentially relevant bearing on one or more of the live issues in the case*” – ***Frankson v Secretary of State for the Home Department*** [2003] 1 WLR 1952 (CA) at [10]. One such issue may be the identity of a party, and an order under CPR 31.17 was granted, for example, against the DVLA to allow an applicant for an injunction to identify the respondents based on the license plate of their car: ***Kerner v WX***.
- (4) In terms of whether CPR 31.17(3)(b) is met, a relevant question is whether there would be another route to obtaining the necessary information – ***Frankson*** at [12].
- (5) Once satisfied of the matters in CPR 31.17(3)(a) and (b), the Court has a discretion as to whether to order disclosure (although that discretion may be said to overlap significantly with the question at 31.17(3)(b)). At this point, the Court may weigh public interest considerations and any human rights issues. An order under CPR 31.17 may engage ECHR Article 8 rights, however any interference may be justified under ECHR art.8(2) as necessary “*for the protection of the rights and freedoms of others*”. In general, such orders are to be the exception rather the rule, albeit the Court’s discretion is wide – see *Civil Procedure 2022* at §31.17.4.
58. Under the Disclosure Orders, the relevant police forces were placed under a duty to provide the following information/documents to NHL:
- (1) names and addresses of any person arrested by one of their officers in the course of, or as a result of, protests on the highway referred to in these proceedings;
 - (2) arrest notes, body camera footage and/or all other photographic material relating to possible breaches of the Interim Injunctions.
59. NHL seeks a continuation of the Disclosure Orders with reference to the Final

Injunction. This is because, in order to be able to enforce and keep under review the Final Injunction, NHL needs (i) to know the identity of those committing breaches of Final Injunction and (ii) the police's arrest notes, footage and other photographic material evidencing breaches of the Final Injunction. Without access to this information and documentation, NHL would be in a position where it would be unable to effectively enforce the Final Injunction, which would in turn undermine the efficacy of the Final Injunction.

60. The Disclosure Orders have been demonstrably effective and there is no objection being made to the proposed extension as the police forces concerned have agreed to it and are prepared to continue to cooperate with the Disclosure Orders as required: see Higson/§69 [130] and [724-732] and [764-765].
61. In NHL's submission:
 - (1) The information/documents sought are clearly relevant to an issue in the proceedings, being the enforcement of the Final Injunction sought, and relatedly the efficacy of the Final Injunction.
 - (2) The information/documents sought are clearly defined and limited to that which is required to enforce the Final Injunction.
 - (3) There is no realistic alternative method by which NHL could obtain the information in question and, without it, NHL would find it difficult to enforce the Final Injunction. Some analogy can be drawn with ***Rugby Football Union v Viagogo Ltd*** [2012] 2 CMLR 3, where the Court of Appeal determined that it had been appropriate to grant the Rugby Football Union a Norwich Pharmacal order requiring a company to identify persons advertising and selling tickets for rugby matches at greater than face value on its website, given that there was no realistic way of discovering the identity of the wrongdoers other than by imposing a disclosure duty on the respondent company, and that the order was proportionate given that it required disclosure only of their names and addresses. See also ***Kerner***, cited above.
 - (4) There are limited, if any, countervailing public interest considerations weighing against disclosure:
 - (i) It is relevant (albeit not decisive) that the relevant police forces do not object.
 - (ii) As to the question of whether any Article 8 ECHR rights of individuals in relation to whom information/documents are disclosed affect the analysis, NHL's submission is that they do not for a number of reasons:

- (a) The information and documents disclosed are for the internal use of NHL and its legal advisers only. The only information that is published is the identify of named defendants, which is derived from the list of names arrested by the relevant police forces. However, the fact of arrest is not published, nor the basis for arrest.²³ The publication of the named defendants cannot be objected to – per the open justice principle, the general position is that the identity of parties be disclosed unless exceptional circumstances justify a derogation from that principle, and no such arguments have been advanced here. The focus of any Article 8 argument would be on the transfer of the information from the police to NHL.
- (b) In any event, “Article 8 cannot be relied on in order to complain of a loss of reputation which is the foreseeable consequence of one’s own actions”, see **Medžlis Islamske Zajednice Brčko v. Bosnia and Herzegovina** (2018) 66 E.H.R.R. I (GC) at [76]. Those individuals in relation to whom the information/documentation above is disclosed will be individuals who have chosen to participate in an IB Protest with knowledge that doing so would constitute a breach of an injunction granted by the Court. Further, this participation has taken place in the context of a campaign which proactively publicises its flouting of the Court’s injunctions, including by including statements by individual protestors on the IB website. Article 8 is either not engaged in that context or, in the alternative, if engaged, the Article 8 rights are to be given little weight.
- (c) Any interference with Article 8 is in any event clearly proportionate given that the extension of the Disclosure Orders is required to allow the Final Injunction to operate effectively, and the Final Injunction is justified by the, it is submitted, weighty factors set out above.

62. For all of those reasons, NHL respectfully seeks a continuation of the Disclosure Orders in the terms of paragraphs 8 to 9 of the draft SJ Order.

Conclusion

²³ As such, the current position can be readily distinguished from the case of Article 8 rights that arise in relation to the disclosure of the fact of an arrest and police investigation in relation to a suspected criminal offence, where a reasonable expectation of privacy arises due to the risk of an assumption that ‘there is no smoke without fire’. See **Bloomberg LP v ZXC** [2022] 2 W.L.R. 424 and the citation from the Court of Appeal’s judgment (which was approved) at [35]; cf **In re JR38** [2016] A.C. 1131 at [100].

63. For the reasons set out above, the Court is respectfully invited to make an Order in the terms of the draft Order provided with the SJ Application or on such other terms as it shall determine.

DAVID ELVIN Q.C.

MYRIAM STACEY Q.C.

ADMAS HABTESLASIE

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MICHAEL FRY

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25 April 2022

IN THE HIGH COURT OF JUSTICE (QBD)

BETWEEN

Claim No: QB-2021-003576

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING
THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY
FOR THE PURPOSE OF PROTESTING**

(2) Mr ALEXANDER RODGER and 142 OTHERS

Defendants

AND BETWEEN:

Claim No: QB-2021-003626

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING,
SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH
THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A2, A20
AND A2070 TRUNK ROADS AND M2 AND M20 MOTORWAY
FOR THE PURPOSE OF PROTESTING**

(2) Mr ALEXANDER RODGER and 142 OTHERS

Defendants

AND BETWEEN:

Claim No: QB-2021-003737

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

**(1) PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN,
OBSTRUCTING OR OTHERWISE INTERFERING WITH
THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE A1(M), A3,
A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS
AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS
FOR THE PURPOSE OF PROTESTING**

(2) Mr ALEXANDER RODGER and 142 OTHERS

Defendants

SKELETON ARGUMENT ON BEHALF OF DEFENDANTS

JESSICA BRANCH AND CASPAR HUGHES

INTRODUCTION

1. This skeleton argument sets out objections to the proposed final injunction sought by the Claimants at the hearing of 4-5 May 2022 relating to the M25 Motorway, M25 Feeder Roads and Kent Roads.
2. These submissions are made on behalf of two persons, Jessica Branch ('JB') and Caspar Hughes ('CH')(collectively 'the Defendants'), who are not currently named defendants and have not breached any terms of the order or participated in demonstrations by Insulate Britain ('IB'), but who are nonetheless affected by the Order.
3. No submissions are made in relation to the applications for summary judgment against named defendants.
4. The Defendants raise the following concerns in relation to the order sought (referred to as 'the Order'/'the Proposed Order' as appropriate) insofar as it relates to persons unknown:
 - i) It is inappropriate to make a final order against Persons Unknown in the present case;
 - ii) There is insufficient evidence to justify a final precautionary (*quia timet*) order against persons unknown in the present case;
 - iii) The definition of persons unknown wrongly covers those who have not committed unlawful acts;
 - iv) The Order disproportionately prohibits otherwise lawful activity and impacts on the right to Freedom of Expression and Association protected under Articles 10 and 11 ECHR;
 - v) The Order lacks sufficient clarity;
 - vi) The Order wrongly confers excessive powers on police constables, NHL Officers and HCEOs.

BACKGROUND

5. On various dates between 21.09.21 and 26.10.21 National Highways Limited ('NHL') obtained a series of injunctions from the High Court seeking to prohibit demonstrations which interfere with traffic on major roads. The orders contained a variety of prohibitions on conduct which interfered with the flow of traffic. The Orders included those in the present case which may be usefully referred to as the 'M25', 'Kent Roads' and 'M25 Feeder Roads' claims.
6. Such orders culminated in an injunction that was granted by Lavender J on a short term basis which covered the entire Strategic Road Network ('SRN'). This order expired on 31.12.21 and has not been renewed. Not only was the duration of the SRN Order of a limited period, significant amendments were made to the terms of the order and service provisions. Not all these amendments are reflected in the current proposed order.
7. The Defendants have not participated in any of the demonstrations giving rise to the present injunctions.
 - i) Jessica Branch ('JB') is a mother of two young children who attends demonstrations organised by Extinction Rebellion. She is concerned that any demonstration which caused even a minor impact on the flow of traffic on the Roads might be prohibited under the Proposed Order.
 - ii) Caspar Hughes ('CH') attends demonstrations organised by Stop Killing Cyclists a group which holds short duration protests when cyclists are killed in road traffic accidents. Such protests usually involve a group of people quietly entering a road and staging a "die-in", where they lie in the road with signs to show the purpose of the protest. Sometimes there are speeches, often by the family of the victim. The location is determined according to what is likely to bring attention to the event. Often it is the site where the person was killed. This can be anywhere in the country. Tragically, it is highly likely the group would want to hold future protests on a road on or near those roads covered by the proposed order in the present case (including overbridges or slip roads). Many of those roads are

single lane and/or permit cycling and are likely to include sites where cyclists are killed.

CHRONOLOGY

8. The following chronology has been extracted from the papers to assist the Court:

- | | |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21.09.21 | Lavender J grants Injunction relating to M25 ('the M25 Order') |
| 24.09.21 | Cavanagh J grants injunction relating to A2, A20, A2070, M2 and M20 ('the Kent Order') |
| 02.10.21 | Holgate J grants injunction order relating to M25 Feeder Roads ('the M25 Feeder Roads Order') |
| 04.10.21 | May J grants Disclosure and Alternative Service Order permitting service of M25 injunction by posting documents at addresses disclosed by police. |
| 08.10.21 | May J grants injunction order to TFL prohibiting protests at 14 sites across London. |
| 12.10.21 | Lavender J grants order combining M25, Kent and M25 Feeder claims and orders disclosure from Chief Constables of names and other details of persons arrested. |
| 19.10.21 | Lavender J grants order adding TFL claim to the NHL claims and extending disclosure and granting alternative service relating to the order. |
| 25.10.21 | NHL apply for injunction relating to entire SRN. |
| 28.10.21 | Return date for SRN injunction. Hearing adjourned to 11.11.21 to allow Defendants to obtain legal advice. |
| 05.11.21 | Jay J grants order extending TFL order of 08.10.21 to 20 locations across London and adding further named defendants. |

- 11.11.21 Return date for SRN injunction. Lavender J significantly restricts scope of the interim order and varies service provisions.
- 31.12.21 SRN Order expired and not renewed.
- 17.03.22 Interim orders in M25, Kent and M25 Feeder claims extended until 09.05.22 by Chamberlain J.

SCOPE OF INJUNCTION

- 9. The proposed order is made against ‘Persons Unknown and 142 named defendants. In relation to ‘Persons Unknown’ these are defined in the Interim Injunction Order as:

“PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE [ROADS SPECIFIED] FOR THE PURPOSE OF PROTESTING”¹

- 10. The definition of ‘persons unknown’ is limited to those who interfere with the flow of traffic for the purposes of protesting. However, there is no restriction on the specific protest group or type of protest activity. It is not limited to Insulate Britain and affiliated groups. It includes any group, or individual, who protests anywhere on the Roads by interfering with traffic. It would include a single driver who deliberately drove at a slow speed on the Roads in order to protest about road safety. It would include a convoy of cyclists who rode on any part of the Roads in a manner that interfered with the flow of traffic to demonstrate against the prioritisation of cars on the roads. The definition is therefore extremely wide.
- 11. The Roads are defined through the combination a description naming the roads and an Appendix to the order together with an interpretation clause. The description of the roads. The definition reads:

2. For the purposes of this Order, “the Roads” shall mean all of the following:

¹ The M25 order contains the word ‘endangering’ in the definition of Persons Unknown which is omitted from the other orders which conversely include the words ‘otherwise interfering with’.

- 2.1 The M25, meaning the London Orbital Motorway and meaning the roads identified by the descriptions in paragraphs 2.1 and 2.4 of this Order and shown in red on the plans at Appendix 1 annexed to this Order.
- 2.2 The A2, A20, A2070, M2 and M20, meaning the roads identified by the descriptions in paragraphs 2.2 and 2.4 of this Order and shown in blue and green on the plans at Appendix 2 annexed to this Order;
- 2.3 The A1(M) (Junction 1 to Junction 6), A1 (from A1M to Rowley Lane and from Fiveways Corner roundabout to Hilltop Gardens), M11 (Junction 4 to Junction 7), A12 (M25 Junction 28 to A12 Junction 12), A1023 (Brook Street) (from M25 Junction 28 roundabout to Brook Street Shell Petrol Station access), A13 (M25 Junction 30 to A1089), A13 (from junction with A1306 for Wennington to M25 Junction 30), A1089 (from junction with A13 to Port of Tilbury entrance), M26 (whole motorway from M25 to M20), A21 (M25 to B2042), A23 (M23 to Star Shaw), M23 (Junction 7 to Junction 10 (including M23 Gatwick Spur)), A23 (between North and South Terminal Roundabouts), A3 (A309 to B2039 Ripley Junction), M3 (Junction 1 to Junction 4), A316 (from M3 Junction 1 to Felthamhill Brook), A30 (M25 Junction 13 to Harrow Road, Stanwell, Feltham), A3113 (M25 Junction 14 to A3044), M4 (Junction 1 to Junction 7), M4 Spur (whole of spur from M4 Junction 4 to M4 Junction 4a), M40 (Junction 7 to A40 at Fray's River Bridge), M1 (Junction 1 to Junction 8), A405 (from M25 Junction 21A to M1 Junction 6), A1 (from Fiveways Corner roundabout to Hilltop Gardens), and A414 (M1 Junction 8 to A405), meaning the roads identified by the descriptions in paragraphs 2.3 and 2.4 of this Order and shown in red on the plan at Appendix 3 annexed to this Order;
- 2.4 In the case of each of the Roads, the reference to the Roads shall include but not be limited to all carriageways, hard shoulders, verges, central reservation, slip roads, side roads, access roads, roundabouts including those at junctions providing access to and from the Roads, gantries, tunnels, bridges including overbridges and underbridges including in the case of the M25 the Dartford Crossing and Queen Elizabeth II Bridge and other highway structures whether over, under or adjacent to the motorway/trunk road, together with all supporting infrastructure including but not limited to all fences and barriers, footways, cycleways, road traffic signs, road traffic signals, road lighting, communications installations, technology systems, lay-bys, police observation points/park up points, emergency refuge areas, embankments and cuttings.
12. The Appendix to the Order contains a series of large-scale maps giving an overview of the roads covered. It does not extend to street level.
13. The area covered by the order remains unclear, as the maps appended to the order are small and low resolution. The roads highlighted in every one of the maps at Appendix 1 save for the first one, in the map entitled "Kent & Surrounding areas SRN" at Appendix 2 and in the map at Appendix 3, all go over the edge of the maps so the end of the area covered is not defined. Such lack of clarity has a chilling effect on the exercise of the right of protest as it is not clear what roads are covered by the order.

14. It should be noted that the Roads are not limited to motorways or even to dual carriageways. They covers a vast number of roads right across London and the South-East. Whilst many are high-speed roads away from urban centres, not all are. The precise scope of the Roads is difficult to discern from the largescale map provided by the Claimants, but it is clear that:
- i) Some of the Roads are open to all motor vehicles (not simply motorway traffic).
 - ii) Some of the Roads are open to bikes and pedestrians etc.
 - iii) Some of the Roads have footpaths running adjacent to them or pedestrian crossings.
 - iv) Some of the Roads pass through urban areas.
 - v) Some of the Roads have reduced speed limits below the national speed limit.
 - vi) Some of the Roads do not have any minimum speed limit.
 - vii) Some of the Roads have a single lane of traffic in either direction.
15. Moreover, the definition of the of the Roads for the purpose of the Order includes overbridges and underbridges as well as slip roads, side roads and access roads, gantries, tunnels, bridges (including overbridges and underbridges). It also includes any structures over, under or adjacent to the Roads including fences, barriers, lay-bys, embankments and cuttings. Footways and cycleways adjacent to the roads are specifically included. It is clear that the Order covers a wide area and is not limited to motorways/trunk roads conveying large volumes of high-speed traffic.
16. When combined with the wide definition of 'persons unknown' it is clear that the impact of the Order is not simply limited to protests which stop traffic on motorways and other roads conveying large volumes of high-speed traffic. It covers protests which interfere with the flow of traffic on bridges over the Roads and on slip-roads and other access roads within urban areas.
17. In relation to the current defendants:

- i) The definition of Persons Unknown would include persons, such as JB, who attend an Extinction Rebellion protest which interfered, even to a small degree, with the flow of traffic on the Roads (including traffic on overbridges and slip roads).
- ii) The definition of Persons Unknown would include persons, such as CH, who participate in demonstrations organised by Stop Killing Cyclists. Were Stop Killing Cyclists to hold a demonstration on the a road within the Order on which cycling is permitted, such as part of the Roads which passes through urban areas or an overbridge over the Roads, and to deliberately obstruct traffic for a short duration as a protest to mark the death of a cyclist then this would bring them within the definition of Persons Unknown. The sites for such protests cannot be known in advance but may occur nationwide reflecting the sad fact that cyclists are continuing to die on roads all over the country.

GENERAL LEGAL FRAMEWORK:

18. The general legal framework in relation to both injunctions and Articles 10 and 11 ECHR is set out below.

Injunctions

19. At paragraph 82 of *Canada Goose Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303, [2020] 1 WLR 2802, building on *Cameron v Liverpool Victoria Insurance Co Ltd* [2019] 1 WLR 1471 and *Ineos Upstream Ltd v Persons Unknown* [2019] 4 WLR 100, the Court of Appeal laid down a series of “procedural guidelines applicable for proceedings for interim relief against “persons unknown” in protestor cases like the present case”. These were as follows (emphasis added):

(1) The “persons unknown” defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The “persons unknown” defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the

proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also Newcomers, that is to say people who in the future will join the protest and fall within the description of the “persons unknown”.

(2) The “persons unknown” must be defined in the originating process by reference to their conduct which is alleged to be unlawful.

(3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify quia timet relief.

(4) As in the case of the originating process itself, the defendants subject to the interim injunction must be individually named if known and identified or, if not and described as “persons unknown”, must be capable of being identified and served with the order, if necessary by alternative service, the method of which must be set out in the order.

(5) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant’s rights.

(6) The terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do. The prohibited acts must not, therefore, be described in terms of a legal cause of action, such as trespass or harassment or nuisance. They may be defined by reference to the defendant’s intention if that is strictly necessary to correspond to the threatened tort and done in non-technical language which a defendant is capable of understanding and the intention is capable of proof without undue complexity. It is better practice, however, to formulate the injunction without reference to intention if the prohibited tortious act can be described in ordinary language without doing so.

(7) The interim injunction should have clear geographical and temporal limits. It must be time limited because it is an interim and not a final injunction. We shall elaborate this point when addressing Canada Goose’s application for a final injunction on its summary judgment application.

20. The circumstances in which an interim injunction may be granted against unnamed Defendants was considered further by the High Court in *London Borough of Barking and Dagenham v Persons Unknown* [2021] EWHC 1201 (QB).

21. Nicklin J held that claims brought against Persons Unknown should be “*subject to the following safeguards*” (at [248], emphasis added):

(1) The “Persons Unknown” must be described in the Claim Form (or other originating process) (a) with sufficient certainty to identify those who are defendants to the claim and those who are not; and (b) by reference to conduct which is alleged to be unlawful...

(2) Where they apply, the Claim Form must comply with the requirements of CPR 8.2A(1) and Practice Direction 8A.

(3) The “Persons Unknown” defendants identified in the Claim Form are, by definition, people who have not been identified at the time of commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. “Persons Unknown”, against whom relief is sought, must be people who have not been identified but are capable of being identified and served with the

proceedings, if necessary, by alternative service of the Claim Form: Canada Goose principle (1).

(4) Any application for permission to serve the Claim Form on “Persons Unknown” must comply with CPR 6.15(3) and the claimant must demonstrate, by evidence, that the proposed method of alternative service is such as can reasonably be expected to bring the proceedings to the attention to all of those in the category of “Persons Unknown” sought to be made defendants to the proceedings: Cameron principle (4); and any order under CPR 6.15 must comply with CPR 6.15(4).

(5) Applications for interim injunctions against “Persons Unknown” must comply with the requirements of Practice Direction 25A ... and, unless justified by urgency, must be fixed for hearing and a skeleton argument provided.

(6) At the hearing of an application for an interim injunction against “Persons Unknown” the applicant should be expected to explain why it has not been possible to name individual defendants to the claim in the Claim Form and why proceedings need to be pursued against “Persons Unknown”.

(7) An interim injunction will only be granted quia timet if the applicant demonstrates, by evidence, that there is a sufficiently real and imminent risk of a tort being committed by the respondents: Canada Goose principle (3).

(8) If an interim injunction is granted:

a) the claimant should provide an undertaking to the Court to use its best endeavours to identify the “Persons Unknown” whether by name or other identifying information (e.g. photograph) and serve them personally with the Claim Form;

b) the terms of the injunction must comply with Canada Goose principles (5) to (7);

c) the Court must be satisfied that the inclusion of any power of arrest is justified by evidence demonstrating that the relevant statutory test is met; and

d) the Court in its order should fix a date on which the Court will consider the claim and injunction application further (“the Further Hearing”). What period is allowed before the Further Hearing is fixed will depend on the particular circumstances, but I would suggest it should not be more than 1 month from the date of the interim order, and in many cases a shorter period would be appropriate.

Articles 10 and 11 ECHR

22. Articles 10 and 11 of the European Convention on Human Rights state:

Article 10 – Freedom of expression

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. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

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.

Article 11 – Freedom of assembly and association

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. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

23. Articles 10 and 11 together protect the right to protest.
24. The Supreme Court recently considered the application of Articles 10 and 11 ECHR in relation to obstructive protests on the highway in the case of *DPP v Ziegler* [2021] UKSC 23. Of particular note are the Supreme Court’s findings that:
- i) “intentional action by protesters to disrupt by obstructing others enjoys the guarantees of articles 10 and 11” [70];
 - ii) no restrictions may be placed on the enjoyment of Articles 10 and 11 rights “except “such as are prescribed by law and are necessary in a democratic society”” [57];
 - iii) “[a]rrest, prosecution, conviction, and sentence are all “restrictions” within both articles” (ibid.) and there is “a separate evaluation of proportionality in respect of each restriction” (para 67);
 - iv) each of those restrictions will only be “necessary in a democratic society” if it is proportionate ([57]);
 - v) the “determination of the proportionality of an interference with ECHR rights is a fact-specific enquiry which requires the evaluation of the circumstances in the individual case” [59];
 - vi) “deliberate obstructive conduct which has a more than de minimis impact on others still requires careful evaluation in determining proportionality” [67];

- vii) “both disruption and whether it is intentional are relevant factors in relation to an evaluation of proportionality” [70];
 - viii) however, “there should be a certain degree of tolerance to disruption to ordinary life, including disruption of traffic, caused by the exercise of the right to freedom of expression or freedom of peaceful assembly” [68];
25. The Supreme Court in *Ziegler* set out “*various factors applicable to the evaluation of proportionality*” at [72-78]. However, the Court underscored that “*it is important to recognise that not all of them will be relevant to every conceivable situation*” and that, moreover, “*the examination of the factors must be open textured without being given any pre-ordained weight*” [71].
26. The non-exhaustive list of factors “*normally to be taken into account in an evaluation of proportionality*” [72], include:
- i) the extent to which the continuation of the protest would breach domestic law [72] and [77];
 - ii) the importance of the precise location to the protesters [72], it being recognised that “*the right to freedom of assembly includes the right to choose the time, place and modalities of the assembly, within the limits established in paragraph 2 of article 11*” (*Sáska v Hungary* (Application No 58050/08) at [21], as cited in *Ziegler* at [76];
 - iii) the duration of the protest [72];
 - iv) the degree to which the protesters occupy the land [72];
 - v) the “*extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public*” (*ibid.*);
 - vi) whether the views giving rise to the protest relate to “*very important issues*” and whether they are “*views which many would see as being of considerable breadth, depth and relevance*” (*ibid.*);
 - vii) whether the protesters “*believed in the views they were expressing*” (*ibid.*);

- viii) the availability of alternative routes to that obstructed [74];
 - ix) whether the obstruction was targeted at the object of the protest [75];
27. The present claim clearly engages the Article 10 and 11 rights of any person planning a protest that is subject to the injunction even if such a protest is deliberately disruptive to traffic to some degree.

BASIS OF CLAIMS

28. The Claimants rely on claims in Trespass and both Public and Private Nuisance².
29. It should be noted that *all* of these torts require a defendant's use of the highway to be unreasonable.
30. The public have a right of reasonable use of the highway which may include protest (*DPP v Jones* [1999] 2 AC 240). This is so even when protests deliberately obstruct other road users. Ultimately, the issue is one of the proportionality of interference with rights protected under ECHR 10 and 11 when prohibiting such protest (see the High Court decision in *DPP v Ziegler* [2019] EWHC 71 (Admin)). The Supreme Court in *DPP v Ziegler* [2021] UKSC 23 emphasised the fact specific nature of the assessment of proportionality. Similarly, the Court of Appeal in *INEOS* stated:

“the concept of ‘unreasonably’ obstructing the highway is not susceptible of advance definition... that is a question of fact and degree that can only be assessed in an actual situation and not in advance” (at 40)].

31. Clearly it cannot be asserted any form of obstructive protest on the highway will constitute a trespass without regard to the degree and impact of the obstruction.
32. Similarly protests which do not cause undue interference with the rights of others do not fall within the definition of nuisance. Private nuisance is defined as: “any continuous activity or state of affairs causing a substantial and unreasonable interference with a [claimant's] land or his use or enjoyment of

² Other purported bases of claims in the claim form do not feature as heads of claim in the Particulars of Claim dated 09.11.21.

that land” (*Bamford v Turnley* (122 ER 25) emphasis added). Public nuisance includes an act which obstructs the public in the exercise of rights common to all citizens (*R v Goldstein* [2003] EWCA Crim 3450). Where this is based on obstructing the public’s right to pass on the highway the issue clearly falls back on the assessment of what constitutes an unreasonable obstruction.

33. The important point is that the claims relied on by the Claimant all rest on an assessment of disruptive protest on the highway as unreasonable. It is far from clear that protests which disrupt minor roads passing over the Roads, or where the extent of the interference with more major roads is not a total and extended halting of traffic, will lead to a viable civil claim.
34. Insofar as the order covers activity on access roads adjacent to the Roads which are not managed by the Claimant it is unclear that the Claimant has a sufficient interest in the land in question to found a claim in trespass or to otherwise bring a civil claim.

WRONG IN PRINCIPLE TO MAKE FINAL ORDER AGAINST PERSONS UNKNOWN

35. As stated by the Court of Appeal in *Canada Goose v Persons Unknown*:

“89 A final injunction cannot be granted in a protestor case against ‘persons unknown’ who are not parties at the date of the final order, that is to say Newcomers who have not by that time committed the prohibited acts and so do not fall within the description of the “persons unknown” and who have not been served with the claim form. There are some very limited circumstances, such as in *Venables v News Group Newspapers Ltd* [2001] Fam 430, in which a final injunction may be granted against the whole world. Protestor actions, like the present proceedings, do not fall within that exceptional category.”

36. Notwithstanding the decision of the Court of Appeal in *LB Barking and Dagenham v Persons Unknown* [2022] EWCA Civ 13 that final injunctions may in principle be made against persons unknown, they remain inappropriate in protest cases in which the Article 10 and 11 rights of the individual must be finely balanced against the rights of the claimant. As the Court of Appeal stated in *Canada Goose* (which was not criticised in *LB Barking and Dagenham*):

“93 As Nicklin J correctly identified, *Canada Goose*’s problem is that it seeks to invoke the civil jurisdiction of the courts as a means of permanently controlling ongoing public demonstrations by a continually fluctuating body of protestors. It wishes to use remedies

in private litigation in effect to prevent what it sees as public disorder. Private law remedies are not well suited to such a task. As the present case shows, what are appropriate permanent controls on such demonstrations involve complex considerations of private rights, civil liberties, public expectations and local authority policies. Those affected are not confined to Canada Goose, its customers and suppliers and protestors. They include, most graphically in the case of an exclusion zone, the impact on neighbouring properties and businesses, local residents, workers and shoppers. It is notable that the powers conferred by Parliament on local authorities, for example to make a public spaces protection order under the Anti-social Behaviour, Crime and Policing Act 2014, require the local authority to take into account various matters, including rights of freedom of assembly and expression, and to carry out extensive consultation: see, for example, *Dulgheriu v Ealing London Borough Council* [2020] 1 WLR 609. The civil justice process is a far blunter instrument intended to resolve disputes between parties to litigation, who have had a fair opportunity to participate in it.” (at [93])

37. A final injunction against persons unknown is therefore inappropriate in the present case.

INSUFFICIENT EVIDENCE FOR PRECAUTIONARY INJUNCTION AGAINST PERSONS

UNKNOWN

38. Insofar as the present injunction seeks to restrain conduct by persons unknown who have not to date committed tortious acts, it remains a precautionary (*quia timet*) injunction notwithstanding that it is a final order. Regarding injunctions granted on a precautionary basis, as stated in *Elliot v Islington LBC* [2012] 7 EG 90 (Ch):

“the practice of the court has necessarily been to proceed with caution and to require to be satisfied that the risk of actual damage occurring is both imminent and real”.

39. There have been no breaches of the existing injunctions or attempted actions by Insulate Britain in 2022. No evidence of substance has been presented of a further risk of persons undertaking direct action protest on the roads concerned. There have been many months in which to identify and add named defendants to this claim (and disclosure provisions provided to enable information to be obtained from the police). There is hence no basis in law for a final precautionary order to be made against persons unknown where this includes newcomers who have not previously breached the order.

40. In any event, there is no evidence of groups other than Insulate Britain with a history or plans for protests on the Roads such as to justify injunctive relief against them on a precautionary basis either as named or unnamed defendants.

DEFINITION OF PERSONS UNKNOWN

41. The Claimants seek an interim injunction against four categories of persons unknown and 143 named defendants. The categories of persons unknown are defined as:

“PERSONS UNKNOWN CAUSING THE BLOCKING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE INTERFERING WITH THE FLOW OF TRAFFIC ONTO OR OFF OR ALONG THE [ROADS SPECIFIED] FOR THE PURPOSE OF PROTESTING”³

Need for unlawful conduct

42. The definition of Persons Unknown in the present claims fails to be defined in relation to conduct which is alleged to be unlawful and does not meet the requirements set out in *Canada Goose*. There are a wide number of roads covered by the order. Clearly, given the guidance in *Ziegler*, not every protest which (even deliberately) causes interferes with traffic for a short period will be unlawful. The definition therefore covers lawful conduct as well as unlawful conduct.

Legal requirements:

43. There is an important distinction between the requirements applicable to the definition of persons unknown in an interim injunction and the terms which may be applied. The definition of persons unknown must be “defined by reference to conduct which is alleged to be unlawful”; whereas the terms that may be included in an injunction which “may include lawful conduct if and only if there is no other proportionate means of protecting the claimant’s rights”.

³ The M25 order contains the word ‘endangering’ in the definition of Persons Unknown which is omitted from the other orders.

44. This distinction is captured in the requirements set out in *Canada Goose (CA)* where the Court of Appeal stated:

82. Building on *Cameron* and the *Ineos* requirements, it is now possible to set out the following procedural guidelines applicable to proceedings for interim relief against "persons unknown" in protester cases like the present one:

(1) The "persons unknown" defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The "persons unknown" defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also Newcomers, that is to say people who in the future will join the protest and fall within the description of the "persons unknown".

(2) The "persons unknown" must be defined in the originating process by reference to their conduct which is alleged to be unlawful.

(3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief.

...

(5) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant's rights.

...

45. It is clear from Clause (2) that the definition of persons unknown (when seeking to capture newcomers) must capture those who have committed tortious acts. When someone falls within that definition then, by virtue of Clause (5), they may be restrained from both tortious and lawful conduct (if the latter is necessary to protect the claimant's rights). What the definition of persons unknown must not do is prohibit those who do nothing unlawful from acts which are similarly not unlawful. That is prohibited on principle.

Clause (2)

46. The requirements on the definition of persons unknown in (1) and (2) above come from *Cameron*. The issuing and service of a claim form is a pre-requisite of making any person subject to the Court's jurisdiction. Without a valid

underlying claim against a defendant no injunction can be granted. This applies as much to persons unknown as to named defendants.

47. An injunction against a named defendant can only be granted either to prevent a tort that has already been committed or, on a precautionary (*quia timet*) basis, to prevent a tort that is threatened. The same applies to persons unknown. It is therefore necessary to establish a viable claim (or threatened tort) against such persons in order to obtain injunctive relief. As Nicklin J states in *LB Barking and Dagenham*:

“In cases where a claimant wishes to bring a claim against defendants who are (or include) ‘Persons Unknown’, then an interim injunction can be granted where the evidence demonstrates actual or threatened commission of a tort or other civil wrong by the ‘Persons Unknown’.” (at [189])

48. When persons unknown are defined by reference to unlawful activity then no issue arises because by definition all those falling within the scope of persons unknown will have committed a tort. The same does not hold if the definition of persons unknown covers entirely lawful activity unrelated to any torts threatened by others.
49. The way clause (2) in *Canada Goose* has been phrased is therefore not accidental. Persons unknown must be defined by reference to unlawful conduct.

Clause (5)

50. That “the prohibited acts” in (5) refers to the terms of the injunction and not the definition of persons unknown is supported by the genesis of this principle in the recent caselaw.
51. In *Ineos (CA)* the Court of Appeal set out the following requirements on persons unknown injunctions (at 34, emphasis added):

(1) there must be a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief;

(2) it is impossible to name the persons who are likely to commit the tort unless restrained;

(3) it is possible to give effective notice of the injunction and for the method of such notice to be set out in the order;

(4) the terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit lawful conduct;

(5) the terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do; and (6) the injunction should have clear geographical and temporal limits."

52. The fourth *Ineos* requirement clearly relates to the terms of the injunction and not the definition of persons unknown.
53. In *Cuadrilla*, the Court of Appeal said the following regarding clause (4) relating to terms not prohibiting lawful conduct:

"78. It is open to us, as suggested by the Court of Appeal in *Cuadrilla* , to qualify the fourth *Ineos* requirement in the light of *Hubbard* and *Burris* , as neither of those cases was cited in *Ineos*. Although neither of those cases concerned a claim against "persons unknown", or section 12(3) of the HRA or Articles 10 and 11 of the ECHR , *Hubbard* did concern competing considerations of the right of the defendants to peaceful assembly and protest, on the one hand, and the private property rights of the plaintiffs, on the other hand. We consider that, since an interim injunction can be granted in appropriate circumstances against "persons unknown" who are Newcomers and wish to join an ongoing protest, it is in principle open to the court in appropriate circumstances to limit even lawful activity. We have had the benefit of submissions from Ms Wilkinson on this issue. She submits that a potential gloss to the fourth *Ineos* requirement might be that the court may prohibit lawful conduct where there is no other proportionate means of protecting the claimant's rights. We agree with that submission, and hold that the fourth *Ineos* requirement should be qualified in that way."

54. It is therefore clear that in *Cuadrilla* the court was amending the requirement that the terms of an injunction prohibit unlawful conduct and not the conditions applicable to the definition of persons unknown.
55. This interpretation is adopted by Nicklin J in *London Borough of Barking and Dagenham v Persons Unknown* [2021] EWHC 1201 (QB) where he refers to the "terms" of the injunction satisfying the Canada Goose requirements (5) to (7) (at [248]).
56. This requirement again accords with principle. A person who has committed an unlawful act, or who threatens to do so, can be restrained from lawful conduct if that is necessary to protect the Claimant. The commission or threat of the unlawful act can justify the proportionate restriction on that individual's rights. There is no corresponding justification for a restriction on the rights of a person who neither does an unlawful act, nor threatens to do so.

Conclusion

57. There is hence a distinction in principle between the definition of persons unknown -which must correspond to the conduct which is alleged to be unlawful- and the terms of the injunction -which can prohibit lawful and unlawful conduct. A person who commits or threatens an unlawful act may be prohibited from future lawful as well as unlawful conduct. However, an injunction cannot be used to prevent those who have neither done anything wrong, nor threatened to do so, from carrying out entirely lawful conduct.

Submissions

58. It is submitted that the definition of Persons Unknown in the present case fails to meet the requirements from *Canada Goose* and related cases in that it is not defined by reference to the allegedly unlawful conduct.

59. In any event, it is clear that the definition of persons unknown in the present injunction is so wide that it covers persons entirely unrelated to the previous Insulate Britain protests who have not previously protested in an unlawful manner and who do not threaten to do so. Nevertheless the present injunction prevents such persons from what would otherwise be entirely lawful conduct. The present injunction is therefore flawed in its approach to persons unknown.

SERVICE

Legal framework

60. CPR 6.27 states:

Service by an alternative method or at an alternative place

6.27 Rule 6.15 applies to any document in the proceedings as it applies to a claim form and reference to the defendant in that rule is modified accordingly.

61. CPR 6.15 states:

6.15— Service of the claim form by an alternative method or at an alternative place

(1) Where it appears to the court that there is a good reason to authorise service by a method or at a place not otherwise permitted by this Part, the court may make an order permitting service by an alternative method or at an alternative place.

62. In relation to possession claims brought in trespass against persons unknown, CPR 55.6 states:

55.6 Service of claims against trespassers

Where, in a possession claim against trespassers, the claim has been issued against “persons unknown”, the claim form, particulars of claim and any witness statements must be served on those persons by—

- (a) (i) attaching copies of the claim form, particulars of claim and any witness statements to the main door or some other part of the land so that they are clearly visible; and
 - (ii) if practicable, inserting copies of those documents in a sealed transparent envelope addressed to “the occupiers” through the letter box; or
 - (b) placing stakes in the land in places where they are clearly visible and attaching to each stake copies of the claim form, particulars of claim and any witness statements in a sealed transparent envelope addressed to “the occupiers”.
63. Whilst service of a final injunction is distinct from service of a claim form the principles underlying each step have the common element of requiring that those affected by litigation are given sufficient notice of proceedings at a stage by which they can regulate their conduct appropriately.
64. In *Cameron v Liverpool Victoria Insurance Co Ltd* [2019] 1 WLR 1471 Lord Sumption stated:

“... Justice in legal proceedings must be available to both sides. It is a fundamental principle of justice that a person cannot be made subject to the jurisdiction of the court without having such notice of the proceedings as will enable him to be heard. The principle is perhaps self-evident.” (at [17])

“In my opinion, subject to any statutory provision to the contrary, it is an essential requirement for any form of alternative service that the mode of service should be such as can reasonably be expected to bring the proceedings to the attention of the defendant.” (at [21], emphasis added)

65. Similar requirements were included in the Court of Appeal judgment in *Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303:

“(1) The “persons unknown” defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The “persons unknown” defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also Newcomers, that is to say people who in the future will join the protest and fall within the description of the “persons unknown”.

66. In *Barking and Dagenham LBC v Persons Unknown* [2021] EWHC 1201 (QB)

Nicklin J stated:

“45. I recognise that the method of service he [the claimant local authority in a Traveller injunction case] proposed reflected the well-established regime for possession claims against unknown trespassers (CPR 55.6). And there can be no real doubt that, in a claim against alleged trespassers in present occupation whose names are not known, displaying prominently the Claim Form (or copies of it), on or around the various sites in respect of which an injunction was to be sought, can usually be expected to bring the proceedings to the attention of the defendants. However, the whole point of Traveller Injunctions was to bind persons who turned up at the land only after the injunction had been granted. In respect of that category of defendant, posting copies of the Claim Form at the various sites was not likely to be an effective means of bringing the proceedings to their attention. To take an obvious example, displaying copies of the Claim Form at the Dagenham Road Car Park (or at any of the other sites covered by the injunction granted to LB Barking & Dagenham) was not likely to bring the proceedings to the attention of a family of Travellers in Rochdale. The first such a family was likely to discover about the proceedings, that had led to an injunction being granted against them, was when they subsequently pitched their caravan for an overnight stay in the Dagenham Road Car Park.

46. It may well be that the importance of this aspect of the decision in *Cameron* on claims against "Persons Unknown" has not been fully appreciated in the Cohort Claims. However, since the Supreme Court decision in *Cameron* the point has been authoritatively determined. In a claim against "Persons Unknown", the method of alternative service of the Claim Form that the Court permits must be one that can reasonably be expected to bring the proceedings to the notice of *all* of those who fall within the definition of "Persons Unknown". Without that safeguard, there is an obvious risk that the method of alternative service will not be effective in bringing the proceedings to a (perhaps significant) number of those in a broadly defined class of "Persons Unknown". By dint of the alternative service order, they would be deemed to have been served, when in fact they have not (a point that becomes important when the Court comes to consider granting final relief against "Persons Unknown"). Such an outcome offends the fundamental principle of justice that each person who is made subject to the jurisdiction of the court had sufficient notice of the proceedings to enable him to be heard (see *Cameron* principles (1) and (4) (see [11] above)).

47. ...the Court must adopt a vigilant and more rigorous process when considering applications under CPR 6.15 for alternative service of the Claim Form on "Persons Unknown". If the requirements of *Cameron* cannot be met, permission for alternative service should be refused. ...In practical terms, the advocate will be expected to demonstrate, by evidence filed in compliance with CPR 6.15(3)(a), how the proposed method of alternative service on the Person(s) Unknown can reasonably be expected to bring the proceedings to the attention of all of those who are sought to be made defendant(s). The greater and more ambitious the width of the definition of "Persons Unknown" in the Claim Form correspondingly the more difficult it is likely to be to satisfy the requirements for an order for alternative service.

48. Save in respect of the exceptional category of claims brought *contra mundum*, it is difficult to conceive of circumstances in which a Court would be prepared to grant an order dispensing with the requirement to serve the Claim Form upon "Persons Unknown" under CPR 6.16 (*Cameron* principle (5)). Consequently, if the Court refuses an order, under CPR 6.15, for alternative service of the Claim Form against "Persons Unknown", the jurisdiction of the Court cannot be established over the "Persons Unknown" defendants. Without having established jurisdiction, there will be no viable civil claim against them. With no civil claim, there can be no question of granting (or maintaining) interim injunctive relief against "Persons Unknown".

...

166. These principles also apply equally to proceedings which are brought against (or include) "Persons Unknown". The Claim Form must be served on "Persons Unknown". Ordinarily, that will require an order for alternative service under CPR 6.15. If the claimant cannot obtain an order for alternative service – because no method can be devised that can reasonably be expected to bring the proceedings to the attention of all of those identified as the "Persons Unknown" – and the Court does not dispense with service of the Claim Form – then the Court's jurisdiction cannot be established over the "Persons Unknown". In that event, there will be no viable civil claim and there will be no question of any injunction being granted, whether interim or final."

67. None of the above principles were criticised by the Court of Appeal in *LB Barking and Dagenham v Persons Unknown* [2022] EWCA Civ 13.
68. Regarding protest cases, in *Secretary of State for Transport and HS2 v Cuciurean* [2020] EWHC 2614 (Ch) service provisions for an injunction order (rather than initial application were considered).

"CPR 81, as I have described, makes provision for service by alternative means. The whole point of this jurisdiction is to enable proper service to be effected by a different means, a means other than personal service. Any judge exercising this jurisdiction – particularly when the order in question is going to bear a penal notice – will be concerned to ensure that whatever method of alternative service is adopted is sufficient to bring to the notice of the persons concerned both (i) the existence of the order and (ii) either the terms of the order or else the means of knowing the terms of the order. " (at [62])

69. In *Cuciurean v Secretary of State for Transport and HS2* [2021] EWCA Civ 357 The Court of Appeal further addressed the issue of service of an order:

"...The Court went on to state at [82(5)] that where alternative service is ordered, "the method ... must be set out in the order." Methods of alternative service vary considerably but typically, in trespass cases, alternative service will involve the display of notices on the land, coupled with other measures such as online and other advertising."

70. Paragraph 70 sets out the extensive steps taken to serve the order in that case with extensive signs placed around the land affected -which was a relatively small area in comparison to the land in the present case- and other further steps.
71. In Gypsy and Traveller borough-wide injunction cases, which typically prohibit unauthorised encampments rather than any wider conduct, the following provisions on service of the application notice were adopted in *Wolverhampton City Council v Persons Unknown* [2018] EWHC 3777 (QB).

"...Directions were given by HHJ Cooke for the service of this application and notice of this application which provided for alternative means of service. I have been provided with a statement of Miss Danielle Taylor, which sets out the steps that have been taken to comply with those directions. In particular, Miss Taylor informs the court that the council, the claimant, published on a dedicated page on its website the documents which

were detailed in the learned judge's order; posted a link to the dedicated website by pinning it to their social media pages on both Twitter and Facebook; issued a press release which was covered in the Express and Star newspaper; placed an editorial in the Wolverhampton edition of that paper publicising details of the application and today's hearing; and, with a view to those potentially affected who may use other social media or alternatively have issues reading the materials provided, uploaded to YouTube and the claimant's website and other social media pages a video outlining the nature of the application. Finally, copies of the relevant documents were affixed in transparent waterproof envelopes at a prominent position at each of the 60 sites proposed to be covered by the injunction and they have been checked on a weekly basis and replaced where necessary." (at [1], emphasis added)

72. The Court of Appeal in the related case of *LB Bromley v Persons Unknown* [2020] EWCA Civ 12 approved the approach taken in *Wolverhampton* and stated:

32. Article 6 of the Convention provides that:

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".

33. This is reflective of a principle of English law that civil litigation is adversarial: "English civil courts act *in personam*. They adjudicate disputes between the parties to an action and make orders against those parties only" (*A-G v Newspaper Publishing Plc* [1988] Ch 333, per Sir John Donaldson MR at [369C]). This allows disputes to be decided fairly: a defendant is served with a claim, obtains disclosure of the evidence against them, and can substantially present their case before the Court (*Jacobsen v Frachon* (1927) 138 LT 386, per Atkins LJ at [393]). This allows arguments to be fully tested.

34. The principle that the court should hear both sides of the argument is therefore an elementary rule of procedural fairness. This has the consequence that a court should always be cautious when considering granting injunctions against persons unknown, particularly on a final basis, in circumstances where they are not there to put their side of the case." (emphasis added)

Service Requirements in Proposed Order:

73. The provisions for service of the Order are:

7. The Claimant is permitted in addition to personal service to serve this Order by the following methods together:

7.1 service of the sealed Order on Insulate Britain by email to their known email addresses identified at paragraph 5.2 above; and

7.2 posting a copy of this Order through the letterbox of each Named Defendant (or leaving in a separate mailbox) with a notice affixed to the front door if necessary, drawing the recipient's attention to the fact the package contains a court order. If the premises do not have a letterbox, or mailbox, a package containing this Order may be affixed to the front door marked with a notice drawing the recipient's attention to the fact that the package contains a court order and should be read urgently. The Notices shall be given in prominent lettering in the form set out in Appendix 4.

74. These provisions largely reflect the service provisions for the interim orders and claim forms made in the present claims.

Submissions

75. There is no timeframe within which to effect service on Persons Unknown therefore the order may be served personally on any individual at any point prior to the expiry date and they will be bound by the injunction.
76. Given the wide scope of the present injunction it is quite clear that an email sent to Insulate Britain is not sufficient to bring the present proceedings to the attention of all of those potentially bound by the order.
77. The service provisions in the interim applications are not sufficient to make all those affected by the order aware of the proceedings. This is relevant to the form of relief that the court should grant.
78. There is no provision in the Proposed Order to provide a means by which the land affected by the order is demarcated at street level. Persons attending demonstrations on land covered by the Order, such as an overbridge or underbridge, may therefore do so without the Order coming to their attention. Such persons will become bound by the order at the moment on which personal service is affected. It is impossible for such persons to regulate their conduct in advance to avoid any potential breach of the Order.
79. The service provisions of the Proposed Order provide a wholly unconstrained discretion on those acting on behalf of the Claimants to determine who is and who is not to be bound by the Order made on a final basis for an extended duration. Such provisions are uncertain and create a chilling effect which is wider than the strict scope of the injunction.

TERMS OF INJUNCTION

Legal Framework

80. General principles of proportionality require that an injunction is targeted as closely as practicable on the conduct which constitutes the tortious behaviour.

The terms of an order may only prohibit otherwise lawful conduct beyond the scope of the strict tort where it is necessary “in order to provide effective protection of the rights of the claimant in the particular case” (*Cuadrilla Bowland v Lawrie* [2020] EWCA Civ 9 at [50]) and “there is no other proportionate means of protecting the claimants’ rights” (see *Canada Goose* at 78 and 82(5)). Clearly the extent to which an order prohibits lawful conduct must be kept to a minimum.

81. Even where the strict terms of an order are limited, consideration must be given to any ‘chilling effect’ that the injunction has beyond conduct falling directly within its terms. This is particularly so for injunctions that are vague or broadly drawn (see *INEOS v Boyd* [2020] EWCA Civ 515 at [40]). The temporary nature of an order may still be disproportionate when the chilling effect is considered (see *Christian Democratic People’s Party v Moldova* (2007) 45 EHRR 13).

Terms of Proposed Order

82. The Proposed Order prohibits:

4. With immediate effect and until [---] April 2025 the Defendants and each of them are forbidden from:
 - 4.1 Blocking, endangering, slowing down, preventing, or obstructing the free flow of traffic onto or along or off the Roads for the purposes of protesting by any means including but not limited to their presence on the Roads, or affixing themselves to the Roads or any object or person, tunnelling in the vicinity of the Roads, abandoning any object, erecting any structure on the Roads or otherwise causing, assisting, facilitating or encouraging any of those matters.
 - 4.2 Causing damage to the surface of or to any apparatus on or around the Roads including but not limited to by painting, damaging by fire, or affixing any item or structure thereto.
 - 4.3 Unless in a motor vehicle, entering onto those parts of the Roads which are not designed or authorised for access on foot other than in cases of emergency.
 - 4.4 Refusing to leave the area of the Roads when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer when carrying out any action prohibited by paragraph 4.1 above.

83. These are addressed in turn.

Blocking, endangering, slowing down, preventing or obstructing traffic for the purpose of protesting

84. The wide scope of this term of the order is problematic. The term prohibits the following conduct:
- i) A go-slow driving protest in which a convoy of cars (or even a single car) drives at, for example, 50mph on a motorway (or at 30mph in a 50 mph zone) in order to highlight the benefits of reduced fuel consumption and/or road safety of traffic travelling at lower speeds. If done in such a way as to impact on the flow of traffic, even for a short period, the action would be prohibited under the Order. However, such a demonstration is not unlawful provided the impact on other road users is limited in time/degree.
 - ii) A cycling convoy which rode on parts of the Roads that are open to cyclists in such a manner as to reduce the speed at which cars could pass in order to highlight the need to prioritise cycling as an environmentally friendly mode of transport. Whilst such a protest might be unlawful if carried out on a motorway, it would not be unlawful if done for limited time periods on roads to which cyclists are permitted access.
85. As the above examples demonstrate, the Order appears to prohibit conduct which is not unlawful and is a clear exercise of Article 10 and 11 rights. There is no basis under which the order permits protests which have only a small impact on the flow of traffic. The Order prohibits all protests that interfere with the flow of traffic in any way. The effect of the order extends considerably beyond tortious conduct and the impact on Article 10 and 11 rights is therefore disproportionate.
86. There are also concerns about the clarity of such an order. Quite how close a road must be the main Roads to count as 'slip roads, side roads, access roads' or which access roundabouts are included is not clear. Such a lack of clarity brings with it a 'chilling effect' which may found a separate ground of challenge to the order.

Causing damage to the Roads including affixing items

87. The complete wording of this term is as follows:

4.2 Causing damage to the surface of or to any apparatus on or around the Roads including but not limited to by painting, damaging by fire, or affixing any item or structure thereto.

88. Whilst referring to 'damage' the definition of the acts prohibited goes well beyond what might ordinarily be considered to be damage. It would include:

- i) writing on the road surface in chalk;
- ii) writing on the faces of bridges etc crossing the Roads in water washable paint; and,
- iii) affixing items such as banners etc to bridges etc crossing the Roads.

89. It should be noted that the purpose for which these actions are carried out is irrelevant under the order. Therefore, defendants are prohibited from these actions in all circumstances.

Entering onto the Roads unless in a motor vehicle

90. The relevant term states:

4.3 Unless in a motor vehicle, entering onto those parts of the Roads which are not designed or authorised for access on foot other than in cases of emergency.

91. There are clear concerns over this term insofar as it relates to areas of the Roads on which non-motor vehicle traffic, such as bicycles, is permitted.

92. Non-motor vehicle traffic is permitted on a number of Roads, several of which are in urban areas. The Roads are defined to include over- and under-bridges and therefore the scope of the prohibition includes overbridges or minor roads that cross the Roads. This might prohibit the following:

- i) A person who cycles down a country lane which crosses the Roads by bridge.
- ii) Walking in the carriageway of a minor road which crosses the Roads as above.

- iii) A person who seeks to cross the A-Roads included in the Roads on foot when out for a walk.⁴
93. A defendant is prohibited from such activity, for whatever purpose, up until the end point of the order.

Refusing to leave the area of the Roads when asked to do so by a police constable/NHL Officer or HCEO.

94. The relevant term states:
- 4.4 Refusing to leave the area of the Roads when asked to do so by a police constable, National Highways Traffic Officer or High Court Enforcement Officer when carrying out any action prohibited by paragraph 4.1 above.
95. This term confers wide ranging powers of exclusion onto police, NHL officers and HCEOs. They enable such persons to direct a defendant to leave the entire area of the Roads following an action prohibited under paragraph 4.1 of the Order.
96. It is notable that the penalty for non-compliance through committal application is up to two years' imprisonment. This contrasts with statutory powers conferred on police constables to direct persons to leave an area in which non-compliance generally leads to minor criminal penalties. For example, the offence of failing to comply with a direction under s14 of the Public Order Act 1986 is punishable by way of fine only.
97. Granting such wide-ranging powers to police officers and others contradicts the principle in *R(Laporte) v Chief Constable of Gloucestershire* [2007] 2 WLR 46 that it is for Parliament to provide tailored measures to regulate public order rather than courts to develop discretionary common law powers.
98. A police power which interferes with a qualified convention right such as Article 10/11 must be exercised 'in accordance with law' in order to be proportionate. Where police directions that engage the fundamental rights of freedom of speech lack clarity, they will not have sufficient certainty for the interference with the Article 10/11 Rights of those affected to be 'in accordance with law'. In

⁴ It is at best unclear whether this comes within the meaning of the phrase 'designed or authorised for access on foot'.

Gillan v United Kingdom (2010) 50 EHRR 45 the Court stated the following in relation to a statutory power of stop and search which did not have any requirement of ‘reasonable suspicion’ or similar:

“The Court recalls its well established case-law that the words “in accordance with the law” require the impugned measure both to have some basis in domestic law and to be compatible with the rule of law, which is expressly mentioned in the preamble to the Convention and inherent in the object and purpose of Article 8. The law must thus be adequately accessible and foreseeable, that is, formulated with sufficient precision to enable the individual - if need be with appropriate advice - to regulate his conduct (S. and Marper v. the United Kingdom [GC], nos. 30562/04 and 30566/04, §§ 95 and 96, ECHR 2008-...)” (at [76]).

99. There is no guidance provided as to how powers under the Order are to be exercised. It is unclear whether any training or guidance on the use of such powers is to be given to police constables, NHL Officers or HCEOs.
100. The powers are clearly open to wide ranging misuse, whether advertent or inadvertent. It is unclear if there is to be any temporal limit on the duration of any exclusion. Without such limit the term could be used to ban an individual from the entire area of the Roads.
101. The power is not targeted at the allegedly tortious conduct. It is the act of obstruction of the Roads that the Claimants assert is tortious. The refusal to comply with a direction by a National Highways Officer is not in itself unlawful.
102. In any event, it is unclear why the above power is deemed necessary. The police already have the power to arrest for the offences of obstruction of the highway and/or public nuisance and to remove obstructions from the highway. Police officers can also make arrests in advance of obstructions occurring on the basis of conspiracy or attempt offences.

CONCLUSION

103. It is submitted that the present orders display many of the flaws identified in *Canada Goose*, as the Court of Appeal stated:

“...Canada Goose’s problem is that it seeks to invoke the civil jurisdiction of the courts as a means of permanently controlling ongoing public demonstrations by a continually fluctuating body of protestors. It wishes to use remedies in private litigation in effect to prevent what it sees as public disorder. Private law remedies are not well suited to such

a task. As the present case shows, what are appropriate permanent controls on such demonstrations involve complex considerations of private rights, civil liberties, public expectations and local authority policies. Those affected are not confined to Canada Goose, its customers and suppliers and protestors....” [at 93]

104. The Defendants respectfully ask that the court discharge/vary the Proposed Order in accordance with the submissions above.

Owen Greenhall

Garden Court Chambers

03.05.22

SCHEDULE OF NAMED DEFENDANTS

TAB	DOCUMENT	PAGES
Schedule of Named Defendants		
16.	Schedule of Named Defendants	267 - 274

SCHEDULE 1 – NAMED DEFENDANTS

	Name	Address
1.	PERSONS UNKNOWN CAUSING THE BLOCKING OF, OR ENDANGERING, OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ON THE M25 MOTORWAY, A2, A20 AND A2070 TRUNK ROADS AND M2 AND M20 MOTORWAY, A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING	
2.	Alexander RODGER	[REDACTED]
3.	Alyson LEE	[REDACTED]
4.	Amy PRITCHARD	[REDACTED]
5.	Ana HEYATAWIN	[REDACTED]
6.	Andrew Taylor WORSLEY	[REDACTED]
7.	Anne TAYLOR	[REDACTED]
8.	Anthony WHITEHOUSE	[REDACTED]
9.	Barry MITCHELL	[REDACTED]
10.	Ben TAYLOR	[REDACTED]
11.	Benjamin BUSE	[REDACTED]
12.	Biff William Courtenay WHIPSTER	[REDACTED]
13.	Cameron FORD	[REDACTED]
14.	Catherine RENNIE- NASH	[REDACTED]
15.	Catherine EASTBURN	[REDACTED]
16.	Christian MURRAY- LESLIE	[REDACTED]

17.	Christian ROWE	[REDACTED]
18.	Cordelia ROWLATT	[REDACTED]
19.	Daniel Lee Charles SARGISON	[REDACTED]
20.	Daniel SHAW	[REDACTED]
21.	David CRAWFORD	[REDACTED]
22.	David JONES	[REDACTED]
23.	David NIXON	[REDACTED]
24.	David SQUIRE	[REDACTED]
25.	Diana Elizabeth BLIGH	[REDACTED]
26.	Diana HEKT	[REDACTED]
27.	Diana Lewen WARNER	[REDACTED]
28.	Donald BELL	[REDACTED]
29.	Edward Leonard HERBERT	[REDACTED]
30.	Elizabeth ROSSER	[REDACTED]
31.	Emma Joanne SMART	[REDACTED]
32.	Gabriella DITTON	[REDACTED]
33.	Gregory FREY	[REDACTED]
34.	Gwen HARRISON	[REDACTED]

35.	Harry BARLOW	[REDACTED]
36.	Ian BATES	[REDACTED]
37.	Ian Duncan WEBB	[REDACTED]
38.	James BRADBURY	[REDACTED] [REDACTED]
39.	James Malcolm Scott SARGISON	[REDACTED]
40.	James THOMAS	[REDACTED]
41.	Janet BROWN	[REDACTED]
42.	Janine EAGLING	[REDACTED]
43.	Jerrard Mark LATIMER	[REDACTED] [REDACTED]
44.	Jessica CAUSBY	[REDACTED]
45.	Jonathan Mark COLEMAN	[REDACTED]
46.	Joseph SHEPHERD	[REDACTED]
47.	Joshua SMITH	[REDACTED]
48.	Judith BRUCE	[REDACTED]
49.	Julia MERCER	[REDACTED] [REDACTED]
50.	Julia SCHOFIELD	[REDACTED]
51.	Karen MATTHEWS	[REDACTED]

52.	Karen WILDIN	[REDACTED]
53.	Liam NORTON	[REDACTED]
54.	Louis MCKECHNIE	[REDACTED]
55.	Louise Charlotte LANCASTER	[REDACTED]
56.	Lucy CRAWFORD	[REDACTED]
57.	Mair BAIN	[REDACTED]
58.	Margaret MALOWSKA	[REDACTED]
59.	Marguerite DOWBLEDAY	[REDACTED]
60.	Maria LEE	[REDACTED]
61.	Martin John NEWELL	[REDACTED]
62.	Mary ADAMS	[REDACTED]
63.	Matthew LUNNON	[REDACTED]
64.	Matthew TULLEY	[REDACTED]
65.	Meredith WILLIAMS	[REDACTED]
66.	Michael BROWN	[REDACTED]
67.	Michael Anthony WILEY	[REDACTED]
68.	Michelle CHARLSWORTH	[REDACTED]

69.	Natalie Clare MORLEY	[REDACTED]
70.	Nathaniel SQUIRE	[REDACTED]
71.	Nicholas COOPER	[REDACTED]
72.	Nicholas ONLEY	[REDACTED]
73.	Nicholas TILL	[REDACTED]
74.	Oliver ROCK	[REDACTED]
75.	Paul COOPER	[REDACTED]
76.	Paul SHEEKY	[REDACTED]
77.	Peter BLENCOWE	[REDACTED]
78.	Peter MORGAN	[REDACTED]
79.	Philippa CLARKE	[REDACTED] [REDACTED]
80.	Priyadaka CONWAY	[REDACTED]
81.	Richard RAMSDEN	[REDACTED] [REDACTED]
82.	Rob STUART	[REDACTED]
83.	Robin Andrew COLLETT	[REDACTED]
84.	Roman Andrzej PALUCH-MACHNIK	[REDACTED]
85.	Rosemary WEBSTER	[REDACTED]
86.	Rowan TILLY	[REDACTED]

87.	Ruth Ann COOK	[REDACTED]
88.	Ruth JARMAN	[REDACTED] AA
89.	Sarah HIRONS	[REDACTED]
90.	Simon REDING	[REDACTED]
91.	Stefania MOROSI	[REDACTED]
92.	Stephanie AYLETT	[REDACTED]
93.	Stephen Charles GOWER	[REDACTED]
94.	Stephen PRITCHARD	[REDACTED]
95.	Susan CHAMBERS	[REDACTED]
96.	Sue PARFITT	[REDACTED]
97.	Sue SPENCER-LONGHURST	[REDACTED]
98.	Susan HAGLEY	[REDACTED]
99.	Suzie WEBB	[REDACTED]
100.	Tessa-Marie BURNS	[REDACTED]
101.	Theresa NORTON	[REDACTED]
102.	Tim SPEERS	[REDACTED]
103.	Tim William HEWES	[REDACTED]
104.	Tracey MALLAGHAN	[REDACTED]

105.	Valerie SAUNDERS	[REDACTED]
106.	Venitia CARTER	[REDACTED] [REDACTED]
107.	Victoria Anne LINDSELL	[REDACTED]
108.	Xavier GONZALEZ TRIMMER	[REDACTED]
109.	Bethany MOGIE	[REDACTED]
110.	Indigo RUMBELOW	[REDACTED] [REDACTED]
111.	Adrian TEMPLE-BROWN	[REDACTED] [REDACTED]
112.	Ben NEWMAN	[REDACTED]
113.	Christopher PARISH	[REDACTED] [REDACTED]
114.	Elizabeth SMAIL	[REDACTED] [REDACTED]
115.	Julian MAYNARD SMITH	[REDACTED]
116.	Rebecca LOCKYER	[REDACTED]
117.	Simon MILNER-EDWARDS	[REDACTED]
118.	Stephen BRETT	[REDACTED] [REDACTED]
119.	Virginia MORRIS	[REDACTED]
120.	Andria EFTHIMIOUS-MORDAUNT	[REDACTED] [REDACTED]
121.	Christopher FORD	[REDACTED]

122.	Darcy MITCHELL	[REDACTED]
123.	David MANN	[REDACTED]
124.	Ellie LITTEN	[REDACTED]
125.	Julie MECOLI	[REDACTED] [REDACTED]
126.	Kai BARTLETT	[REDACTED]
127.	Sophie FRANKLIN	[REDACTED] [REDACTED]
128.	Tony HILL	[REDACTED]
129.	Nicholas BENTLEY	[REDACTED] [REDACTED]
130.	Nicola STICKELLS	[REDACTED]
131.	Mary LIGHT	[REDACTED] [REDACTED]
132.	David McKENNY	[REDACTED]
133.	Giovanna LEWIS	[REDACTED] [REDACTED]
134.	Margaret REID	[REDACTED]
135.	Marcus DECKER	[REDACTED] [REDACTED]
136.	Morgan TROWLAND	[REDACTED] [REDACTED]

SUMMARY JUDGMENT COSTS ORDER

TAB	DOCUMENT	PAGES
Supporting Witness Statement for M25 Injunction		
17.	Order of Bennathan J dated 16 January 2023	276-280

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION



BEFORE: MR JUSTICE BENNATHAN

Claim No: QB-2021-003576, QB-2021-003626, QB-2021-003737

B E T W E E N:

NATIONAL HIGHWAYS LIMITED

Claimant

-and-

(1) PERSONS UNKNOWN CAUSING THE BLOCKING OF, ENDANGERING, OR PREVENTING THE FREE FLOW OF TRAFFIC ON THE M25 MOTORWAY, A2, A20 AND A2070 TRUNK ROADS AND M2 AND M20 MOTORWAY, A1(M), A3, A12, A13, A21, A23, A30, A414 AND A3113 TRUNK ROADS AND THE M1, M3, M4, M4 SPUR, M11, M26, M23 AND M40 MOTORWAYS FOR THE PURPOSE OF PROTESTING

(2) MR ALEXANDER RODGER AND 132 OTHERS

Defendants

ORDER ON CLAIMANT'S COSTS APPLICATION

Upon receiving a written application for costs from the Claimant subsequent to the judgment delivered on 11 May 2022

IT IS ORDERED

- 1. The 24 Defendants against whom summary judgment was granted shall pay the Claimant's costs on the standard basis but not exceeding £4 360 for each Defendant, to be assessed if not agreed.**
- 2. Each of the 24 Defendants shall pay the Claimant £3 000 costs on account under CPR 42.2.8 by 4pm on Friday 20 January 2023.**
- 3. The "24 Defendants" in paragraphs 1 and 2 above, are those listed as "Contemnor Defendants" at paragraph 2 in the sealed order of 12 May 2022 in this claim.**
- 4. Costs in the cases of each of the 109 Defendants in respect of whom summary judgment was refused shall be in the case.**

5. The “109 Defendants” in paragraph 4, above, are those listed in Schedule 1 of the sealed order of 12 May 2022 numbers 2 to 134, except for the 24 Contemnor Defendants.

Dated 16 January 2023

Reasons

1. In May this year I gave judgment in the Claimant’s application for summary judgment and for injunctions, reported at [2022] EWHC 1105 (QB). Later the same month the Claimant submitted their application for costs. I regret that this application has only been brought to my attention in the past two weeks due to my being on circuit and a change of clerks. The facts of the original application and my decisions upon it are set out in my May judgment and I will not repeat them here but refer back as necessary.
2. The application sets out the Claimant’s total costs as £727 573.84, but proposes a reduced total costs figure of £600 000 to allow for the fact that I dismissed the summary judgment applications in 109 cases [May judgment paragraphs 35-36] and to allow for the fact the injunctions I granted included “persons unknown”. While I appreciate the motives behind that reduction, I do not regard it as a proper solution to the issues of the dismissed applications for summary judgment for reasons I will develop.
3. The application is for the costs expended by the Claimant both in the proceedings before me and for 3 earlier interim injunctions, granted by Lavender, Cavanagh, Holgate and JJ on 21 September, 24 September, and 2 October [all in 2021]. The order made in respect of costs on all 3 occasions was “costs reserved”.
4. At the time of my previous judgment there had been 3 sets of committal proceedings for breach of one or other of the 3 interim injunctions [May judgment paragraph 17]. Those sanctioned for breaching injunctions faced adverse costs orders based, in each of the 3 cases, on a summary assessment. I have assumed that the costs applications in those committal applications had no element to reflect the cost of obtaining the

various injunctions, both from the terms of the orders the Court made and because the very reputable Solicitors acting for the Claimant would have made that clear in this costs application, were that the case.

5. I have not received any submissions from the 133 named Defendants but as they have consistently taken no part, and expressed no interest, in this litigation that is neither unexpected nor any basis for my to refuse an order: They are entitled to take no part but cannot then complain about their voices being unheard on this application.
6. In their costs application the Claimant makes careful submissions as to why the order they seek does not interfere with any Defendant's Convention rights. For the reasons I set out before [May judgment paragraph 47] I accept those submissions in the case of the 24 Defendants against whom I gave summary judgment.
7. The argument advanced in respect of the 109 Defendants against whom I refused summary judgment is set out in the Claimant's application in the following terms [within their paragraph 7]:

Although the Court refused to make final orders as against the 109 Defendants, the Court was nevertheless similarly satisfied that there was a real and imminent threat of trespass and nuisance in respect of those 109 Defendants and made the interim injunction order in the same terms and for the same duration as the final injunctions against the Contemnor Defendants. In practice, therefore, the Claimant was also successful in securing effective injunctive relief and the same prohibitions against the 109 Defendants. Each of the 109 Defendants against whom such injunctive relief was secured were effectively served, were aware that they were Named Defendants, had the opportunity to take part in the proceedings to oppose the claim for a continuation of injunctive relief against them and chose not to do so

8. There are two problems with that approach to the 109 group:

(1) There was no suggestion by the Claimant in their application for an injunction that my grant of such an injunction against the 109 had to be founded on a finding that each of the 109, individually, were likely to commit tortious acts against the Claimant were I not to do so. My approach was whether there was a real danger that “the Defendants”, meaning *some* of the Defendants, and others unknown would violate the Claimant’s legitimate interests. If it were the case that an injunction in a protest case could only be granted where a Claimant could identify the risk of specified individuals acting tortiously, then the process of obtaining an injunction would become hugely complex, take many days of court time, and be even more expensive than is currently the case. I have not called for the Claimant to supply the terms of all their applications for injunctions before and after the case I heard, but I doubt very much that such applications specified the details of each of the named defendants and the evidential basis for fearing they would each act unlawfully, or [with *Canada Goose*, as in May judgment paragraph 41(3), in mind] in a lawful manner so as to infringe the Claimant’s rights.

(2) In any event, whether or not my approach in assessing future risk of tortious conduct was correct, the normal rule is that the costs of interim relief follow the outcome of the underlying claim, and I see no good reason to depart from that course in this case.

9. For those reasons I do not order any adverse costs order in the cases of the 109, but reserve their position as costs in case.

10. I turn to the amount that I should award against the 24. The total amount that the Claimant has expended is set out above. The two aspects that I need to consider are whether some reduction should be made for the “persons unknown” aspect of the injunction applications, and whether I should accept that the costs were properly incurred without further scrutiny.

11. The “persons unknown” aspect has to be a matter of broad assessment. The Claimant suggested a deduction of about 17% to allow for both the refused dismissal applications and the persons unknown. I think that is insufficient and I will instead

reduce the overall costs figure to allow for the persons unknown by 20%. Rounding down in the manner suggested by the Claimant, that gives a figure for named Defendants of £580 000. That figure divided by the 133 named Defendants comes to a very-slightly rounded figure of £4 360 per defendant.

12. In my view the very large total costs figure needs assessment. I do not belittle the hard work and care taken in advancing these applications, nor the need for the Claimant to act to keep the public road network open, but I also note that in the Divisional Court order consequent to the judgment in *NHL v Buse and others* [2021] EWHC 3404 (QB), there is the observation that *“The Court is not satisfied that the costs claimed are proportionate and that each item of costs has been reasonably incurred”*. The total costs I have been asked to award are, of course, much greater than in any of the three committal applications that had occurred at the time of my original decision [May judgment, paragraph 4].

13. The need for assessment, however, need not deprive the Claimant of any order as such a process is bound to approve of a significant part of the costs claimed. I therefore make an order that each of the 24 defendants should pay costs on account in the sum of £3 000 within approximately 4 weeks of this order, with detailed assessment of the remaining £1 360 per head if [as is likely] there is no agreement and the Claimant seeks to pursue that remnant.