

Claim No. PT-2025-000739

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY TRUSTS AND PROBATE LIST (ChD)

BETWEEN

UNIPER UK LIMITED

Claimant

- and -

(1) JOSHUA BARTER
(2) SAM WILLIAMS
(3) IAN JOHNSON
(4) LUKE BADHAREE
(5) PERSONS UNKNOWN WHO ENTER OR REMAIN UPON ANY
PART OF THE LAND AT THE RATCLIFFE-ON-SOAR POWER
STATION (AS DEFINED IN PARA. 1 BELOW) WITHOUT THE
CONSENT OF THE CLAIMANT

Defendants

CLAIMANT'S SKELETON
ARGUMENT FOR HEARING ON
30 JULY 2025

References in square brackets in the style "HB/x" are to pages of the hearing bundle filed by C's solicitors.

Suggested Pre-Reading (t.e. 30 minutes)

1. Application notice [HB/24] and draft order [HB/29]
2. Particulars of Claim [HB/13]
3. Witness statements in support of application:
 - (a) Stephen Close [HB/60] (referred to below as "SC")
 - (b) Andrew Skelton [HB/172] (referred to below as "AS")
 - (c) Graeme Robertson (first) [HB/36] (referred to below as "GR1")
 - (d) Graeme Robertson (second) [HB/177] (referred to below as "GR2")

Introduction

1. This is the hearing of C's application, on notice, for an interim injunction to restrain acts of trespass and nuisance on land in C's ownership which comprises the site of the former coal-fired power station at Ratcliffe-on-Soar ("**the Land**"). Ds comprise two groups of trespassers. First, the named Ds and the persons unknown have previously entered and threaten in the future to enter the Land for "urban exploration". Secondly, travellers (whose identity is unknown to C) have previously entered and threaten in the future to enter the site for the purpose of setting up encampments.

2. C seeks the assistance of the Court to obtain protection against further such conduct taking place on the Land.

Background

The Land

3. The Ratcliffe-on-Soar power station was permanently shut down on 30 September 2024 and is in the course of an approximately two-year period of decommissioning, at the end of which the power station will be demolished and the site ultimately redeveloped. As described at SC1§8 [HB/61], the power station site comprises eight concrete cooling towers, standing at a height of 114m and a main chimney stack at 198m. As would be expected of a coal-fired power station, there is a good deal of other equipment, comprising coal-fired burners, turbine and generator sets, exhaust gas and water treatment facilities, coal storage and transportation facilities, electricity transformers and administrative offices.

4. C is the freehold owner of the Land (C's registered title is at [HB/45]). The Land, which is the area over which the injunction is sought, is shown edged red on the plan at [HB/34], excluding the areas shaded blue (which are the site of an electricity substation and are subject to a lease to National Grid Electricity Transmission Plc). The Land is surrounded by a perimeter

fence of approximately 5km in length (SC1§8 **[HB/62]**). There is a photograph and aerial image at **[HB/88]** – **[HB/89]**.

Travellers

5. C seeks injunctive relief to prevent travellers from unlawfully gaining access to the Land.

6. There have been two recent incursions from traveller groups: see PoC at §§6,8 **[HB/14]** and SC1§§12-26 **[HB/62]**.

7. On Friday 25 April 2025, a group of travellers forced entry onto the Land with caravans and other vehicles, remaining on the Land until Monday 28 April 2025. As described in SC1§14 **[HB/63]** and amplified in AS **[HB/172]**, the travellers who had entered the Land were aggressive, physically assaulted a security guard, stole materials from the Land and damaged buildings and machinery. They drove vehicles which they found on the site, using them to remove materials. It was not until around 15:00 on Monday 28 April 2025 that the group vacated the Land, after being confronted by 16 private enforcement officers engaged by C and around 20 police officers.

8. Evidence of the incursion and the damage caused by the travellers is contained in the photographs and images taken from CCTV footage, summarised at SC1§15 **[HB/64 & HB/90ff]**. C estimates that damage / loss of around £1.85 million has been caused (SC1§17 **[HB/67]**).

9. On 9 June 2025, C received a report from Nottinghamshire Police that travellers had parked in a nearby business park. The fact that a police officer took the trouble to attend at the site to inform C of the presence of travellers in the area led C to instruct its security personnel to increase patrols. In the event, there was no incursion at or around that time: see SC1§19 **[HB/68]**.

10. On 26 June 2025, a group of travellers attempted to force entry onto the Land at 23:00. There were around 10 vans and caravans (SC1§21 **[HB/68]**). C had increased the security following the earlier incursion, which

included the installation of vehicle mitigation blocks in front of the main site gates and elsewhere (SC1§18 **[HB/67]**). As a result, the travellers were not able to easily gain entry onto the Land and they used cutting equipment to break through the bifold gates and used vehicles to try to move the vehicle mitigation blocks. On this occasion, ten patrol vehicles were sent to the Land by Nottinghamshire Police and when they arrived, the travellers abandoned their attempt to enter. Nevertheless, a good deal of damage had been caused in the efforts to gain entry (SC1§23-24 **[HB/68]**) and it is believed that if the police had been as slow to attend as in April 2025, the travellers would have managed to gain entry and would have set up a camp on site as before.

11. Most recently, on 17 July 2025, a local police officer informed the site manager that there were traveller groups in the local area, believed to be the same as those who attempted to gain entry on 26 June 2025 (SC1§27 **[HB/70]**).

Urban Explorers

12. C also seeks injunctive relief against so-called “urban explorers”. This is the term used to describe individuals who trespass on sites to climb tall buildings and structures and post photographs / videos / messages of their exploits. There has been a history of trespass on the Land by urban explorers who have engaged in highly dangerous activities. Given the scale of the site and the efforts of those who seek to trespass in this way, C seeks the assistance of the Court by means of an injunction to both deter future incursions by urban explorers and to enable C to take direct enforcement action against anyone who does enter the Land for this purpose.

13. Before the power station closed, in April 2024, five urban explorers gained entry and climbed the main chimney stack (198m) (SC1§35 **[HB/71]**). D1 was amongst those five individuals.

14. Subsequently, C has discovered, via social media, that the named Ds and others have trespassed on the Land to engage in urban exploration.

15. At SC1§41 [HB/73] reference is made to the Facebook profile page of D2, which includes a photograph of D2 with D1 sitting on the main chimney stack on the Land [HB/123]. At SC1§43, Mr Close refers to a Facebook post by D1 on 12 June 2025 with a video of the main chimney stack on the Land and a photograph of D1 on top of that chimney stack [HB/125].

16. D1 also posted a number of times on Facebook on 13 April 2025, including photographs of D1 in the turbine hall and a video which appears to have been taken by D1, showing D2 and D3 with another individual (whom Mr Close cannot identify) present on the Land, walking through the boiler house: see SC1§§46-48 [HB/73].

17. As for D4, at SC1§54 [HB/75] reference is made to his Facebook profile page which shows a photograph of D4 with another individual inside the turbine hall, with a caption “*Ratcliffe – Some awesome times spent in here*”, suggesting he has entered the Land on a number of occasions [HB/153].

18. The witness statement of Mr Close also exhibits Facebook entries showing D1-D4 having entered other power stations for urban exploration.

19. In addition, at SC1§58 [HB/76] Mr Close describes various online posts from unidentifiable individuals who refer to urban exploration activity on the Land in the past and future intentions to access the Land for the purpose of “urban exploration”. In particular, at SC1§60, reference is made to a YouTube video entitled “Ratcliffe power station the final coal powered plant to close” posted by “ABANDONED UK” on 30 September 2024, which shows a group of unidentified individuals walking around the power station before it closed [HB/168].

20. It goes without saying that urban exploration on the site of a former power station, which is the process of being decommissioned and the structures demolished, presents an incredible danger both to the individuals

who engage in this activity and also those who are employed on the site. The dangers are described by Mr Close at §62 and §9 [HB/77, 62].

Submissions: Named Defendants

21. In relation to the named Defendants (who are sued in relation to “urban exploration”), the usual *American Cyanamid* principles are applied:

21.1 there is a serious issue to be tried. C relies on trespass and nuisance. C has a right to possession of the Land (as the blue hatched land on which the electricity substation is located is excluded from the scope of the order – see plan at [HB/34]). C has credible evidence, in the statement of Stephen Close, that the named Ds have trespassed on the Land and caused a nuisance by interfering with the safety and security of the site, unduly and substantially interfering with C’s enjoyment of the Land;

21.2 damages would not be an adequate remedy for C in the event of subsequent incursions by travellers or urban explorers. Any health and safety risk (to both categories of trespasser) could potentially cause serious injuries for which damages would not be an adequate remedy: Valero Energy Ltd v Persons Unknown [2024] EWHC 134 (KB) at §70. Moreover any financial loss caused might well be substantial and recovery from any of Ds is unlikely (and impossible the case of persons unknown: Valero at §70);

21.3 the balance of convenience clearly favours the grant of an injunction, in circumstances where none of Ds have the right to enter the Land and would suffer no loss in being prohibited from doing so.

22. In addition, there is a real and imminent risk of Ds trespassing and causing further nuisance to C and further damage to C’s property as to justify

a precautionary (*quia timet*) injunction: Hooper v Rogers [1975] Ch. 43 (at 50B), Vastint Leeds BV v Persons Unknown [2019] 4 WLR 2 (§31(3)(b)). In relation to D1-D4, the social media posts exhibited to Mr Close's statement demonstrate not only a concerted pattern of previous trespass onto the Land for urban exploration but also the intention to continue to do so.

Submissions: Persons Unknown

23. D5 comprise "newcomers" as described by the Supreme Court in Wolverhampton CC v London Gypsies and Travellers [2024] AC 983, that is persons who are not identifiable but are intended to be bound by the terms of the Court's injunction.

24. It was held by the Supreme Court (at §167) that there is no immovable obstacle (in terms of jurisdiction or principle) in the way of granting injunctions against newcomers on an essentially without notice basis, whether such injunctions are in an interim or final form. However, it was made clear that such injunctions are only likely to be justified as a "*novel exercise of judicial discretion*" where five listed factors apply: (i) a compelling need for the protection of civil rights, (ii) procedural protection for the rights of the newcomers, (iii) compliance with a strong duty of disclosure on applicants, (iv) territorial and temporal limitations in the terms of the injunction and (v) that it be just and convenient to grant such an injunction on the facts.

25. These overarching factors as set out by the Supreme Court have since been elucidated into a convenient checklist of substantive and procedural requirements to be satisfied in any application for an injunction against newcomers. C invites the Court to adopt the enumeration of those factors by Ritchie J. in Valero Energy Ltd v Persons Unknown [2024] EWHC 134 (KB). Although that was in the context of an application for a final injunction (on a summary judgment application), these fifteen factors have been applied in the context of an application for an interim injunction in subsequent cases (e.g. by Thompsell J. in The University of London v Harvie-Clark and others

[2024] EWHC 2895) and they are addressed in turn, below (recognising that they are not hard and fast principles which must be satisfied in every case but rather a convenient (non-exhaustive) summary of the factors that a Court should consider when determining an application for a newcomer injunction.

Substantive Requirements

(1) Cause of Action

26. C has a cause of action in trespass and nuisance in relation to the threatened entry onto and activities on the Land. By virtue of its title (above, para. 4) C has an immediate right to possession of the Land. Ds have no right to access the Land without C's permission. As such, any entry onto the Land by any of Ds is a trespass. Moreover the activities of both the traveller groups and the "urban explorers" amounts to a private nuisance in that it substantially interferes with C's enjoyment of the Land, including damage caused to the Land itself and buildings / permanent structures on the Land.

27. In addition, C relies upon a cause of action against those Ds who damage chattels belonging to C (which would apply to damage caused, especially by the traveller groups, as evidenced at §14(b) of the statement of Stephen Close [HB/63]).

(2) Full and Frank Disclosure

28. Although this application is made on notice, the requirement nevertheless remains to be satisfied (per Thompsell J. in University of London v Harvie Clark at §24). C has given consideration to any potential defences that Ds might rely upon below.

(3) Sufficient evidence to prove the claim

29. In the context of an application for an interim injunction, the evidence must satisfy the Court that there is a serious issue to be tried but in any event the evidence of trespass, nuisance and property damage outlined above and

contained in the three witness statements supporting the claim is overwhelming.

30. In addition, as in the case of the named defendants, there is clear evidence of a real and imminent risk of further trespass, nuisance and property damage by persons unknown to justify a precautionary injunction:

30.1 in relation to persons unknown who comprise the traveller groups who have previously trespassed on the Land, the subsequent attempts to gain entry evidence the risk of attempts of yet further incursions if no injunction is granted. Likewise the evidence of travellers setting up camps on other sites in the locality (SC1§19,27,28) **[HB/68-70]**;

30.2 in relation to persons unknown who have engaged in urban exploration, at SC1§58ff **[HB/76]**, Mr Close describes a Facebook group called “Abandoned UK” which posts about abandoned buildings to members of a community of urban explorers. This group has around 239,000 followers and posts include numerous power stations, including the subject Land. Mr Close refers, also, to a recent post on the forum “Reddit” on which an unidentified person posts “*Thinking of getting into Ratcliffe on soar power station ...*” and another unidentified person posts about having previously entered the Land. At SC1§60, Mr Close refers to a YouTube video posted by a user named “Abandoned UK” showing an unidentified group having entered the Land with comments from other unidentified users. Reference is also made to SC1§§61-62 **[HB/77]**.

(4) No realistic defence

31. None of Ds has filed a defence and in compliance of the duty of full and frank disclosure, C has considered what defences might be relied upon by Ds if they were to defend the claim. There is none.

32. There is however an important distinguishing factor between the circumstances in this case and many of the published judgments in “newcomer” injunction applications which is that this application is for injunctive relief against trespassers on private land. It is unlike Wolverhampton CC, which concerned injunctive relief by local authorities against travellers on land owned by the local authority (which owes statutory duties to travellers in certain circumstances) and also applications against protesters on both public and private land (which engage arts. 10 and 11 ECHR).

33. Members of the traveller community who will be bound by the injunction against persons unknown if they seek to enter the Land would have little prospect of invoking their art.8 Convention rights. Indeed, the Supreme Court made clear in Wolverhampton at §183 that any proportionality analysis under art.8 is appropriately undertaken on an application by an individual under the liberty to apply. As explained by Sir Geoffrey Vos MR in the CA in that case (*sub nom.* Barking & Dagenham LBC v Persons Unknown [2023] QB 295) at §105, art. 8 rights belong to individuals, not to the “traveller community” as some sort of genus.

34. Moreover, these cases were brought by local authorities who are subject to the Human Rights Act 1998. C is a private landowner.

(5) Balance of convenience

35. This is a standard requirement in interim injunction applications. However where an order is sought against persons unknown, it was decided by the Supreme Court that a “compelling need” should be sufficiently demonstrated by the evidence for the protection of civil rights: Wolverhampton at §167. In Multiplex Construction Europe Ltd v Persons

Unknown [2024] EWHC 239 (KB), Ritchie J. questioned whether this higher standard applied to the grant of an interim as opposed to a final injunction. However the distinction ought not to be material in this case because on any reckoning the evidence shows a clear and compelling justification for granting the interim relief sought by C.

36. Any trespass on the Land involves considerable health and safety risk to the trespassers and employees of C and others lawfully present on the Land: SC1§§9,16,32-33,62. The likelihood of damage to the Land and C's equipment / structures on the Land from both traveller incursions and entry by urban explorers is a further justification for C seeking the assistance of the Court to prevent future incursions.

37. Conversely, the prevention of further trespass by traveller groups and urban explorers will cause no harm to Ds. The lack of legal entitlement to engage in the activity which C seeks to prevent is stark in this case.

38. It is also necessary, in this context, when considering the need for an order to address whether there are other measures that C could take short of obtaining an injunction. In that regard:

38.1 C has security personnel on site. These personnel were overpowered by the aggression and threats of violence by the travellers who entered the site on 25 April 2025 (SC1§14 **[HB/63]**). C took measures to boost on-site security after this incursion (SC1§18 **[HB/67]**), including a roving dog-patrol and various security gates were welded to prevent them being forced open. Nevertheless this did not prevent a group of travellers attempting to enter on 26 June 2025 (SC1§26 **[HB/69]**) and Mr Close's evidence is that the entry was only prevented by the speedy police response which cannot be guaranteed on every occasion (as evidenced by the slow response following the incursion on 25 April 2025);

38.2 Mr Close's evidence is that the additional security measures (including surveillance) have also not been successful in preventing entry by urban explorers: SC1§36 [HB/72]. As Mr Close notes, the perimeter of the Land is approximately 5km and it is very difficult to monitor every part of the perimeter to prevent a small number of individuals cutting through or climbing over the fence;

38.3 in the case of urban explorers, especially, there is evidence that the grant of an injunction has a deterrent effect: SC1§49 [HB/74]. It is likely also to deter travellers and in any event would afford an additional means of enforcement to C in the event that the injunction is breached in the future.

(6) Damages not an adequate remedy

39. C has already suffered substantial loss from damage caused by the first traveller group over the weekend of 25 April (SC1§17 [HB/67]). The prospect of recovery of damages for such loss from any of those responsible for it is minimal. Moreover, the health and safety risks resulting from the trespass and nuisance caused by the activities of both travellers and urban explorers is not quantifiable in damages.

Procedural Requirements

(i) Identifying persons unknown

40. D5 (persons unknown) is identified by reference to the tortious conduct to be prohibited (i.e. entry onto the Land without consent) and clearly defined geographical boundaries in the form of the Land as demarcated on the plan to be appended to the Order [HB/34].

(ii) Terms of the injunction

41. As per the guidance summarised in Valero, the prohibitions in the order sought by C set out in clear words what conduct is to be restrained by

the Court's injunction. There is no scope for innocent third parties to be inadvertently caught by the injunction.

(iii) Prohibitions (in the order) must match the claim

42. The conduct to be prohibited by the order C seeks reflects C's pleaded claim in trespass, nuisance and for damage to C's property.

(iv) Geographic boundaries

43. The terms of the proposed order are subject to clear geographic limits in that it is to extend to the entirety of the former power station site, but not to any further land which is included in C's freehold title. The geographic limits are shown on the plan to be appended to the Order.

(v) Temporal limits – duration

44. C seeks an interim order to remain in place for an initial period of twelve months, with provision for C to apply to the court to continue the injunction. Mr Close's evidence (SC1§7 [HB/61]) is that the decommissioning process is expected to last around two years (following the closure of the power station on 30 September 2024) after which it will be demolished and the site redeveloped. It is considered that an injunction might well need to remain in force for the duration of the decommissioning and demolition phase, at least and so an initial twelve month period, with the right for C to apply to extend the injunction ought to appropriately balance the rights of C with the measures that C is inviting the Court to impose by injunction.

(vi) Service

45. C's application seeks an order permitting C to serve all Ds by alternative means under CPR r.6.15 and 6.27. This application is addressed below. C notified Ds of the claim, the application and the hearing date by these methods (as set out in GR2, giving three clear days' notice of the hearing).

(vii) Right to set aside or vary

46. The draft order includes the right for Ds to apply to set aside or vary the injunction on “shortish” notice (per Ritchie J. in Valero at §58).

(viii) Review

47. As the C is applying for an interim rather than a final injunction, no review mechanism is necessary: Multiplex Construction Europe Ltd v Persons Unknown [2024] EWHC 239 (KB) per Ritchie J. at §24.

Undertaking in Damages

48. It is almost inconceivable that any Ds could suffer loss as a result of the order C seeks but for completeness, C gives the usual undertaking (GR1§§16-17 [**HB/39**]).

Service By Alternative Means

49. By its application notice, C also seeks an order under CPR rr.6.15, 6.27 and r.81.4(2)(c) for service by an alternative means and at an alternative place on all Ds.

50. The evidence in support of this application is at GR1§§9ff [**HB/38**].

51. In relation to the named Ds (D1-D4), the individuals have been identified only from their social media posts. In relation to D1 and D4, C has obtained two residential addresses at which people by these names are said to live, although the title of these properties is not registered to either D1 or D4. C has therefore sent the claim form, particulars of claim, application notice and witness statements to these Ds at these addresses. If these Ds do indeed reside at either address, the documents will have been served conventionally. However as explained by Mr Robertson in his first witness statement, C cannot be confident that these are the correct addresses and so C seeks orders for service under rr.6.15 and 6.27 on all Ds.

52. As described in GR2§7(a)-(c) **[HB/178]**, ultimately these documents were left at these two addresses (by posting through the letter boxes) by the process servers instructed by C.

53. C has also created a dedicated website page with links to view and download all of the relevant documents: GR2§7(d) **[HB/179]**.

54. An enforcement company instructed by C to assist with notifying Ds1-4 via their Facebook pages attempted to do so on 23 July 2025. They managed to send a message to D1, D3 and D4 but were unable to send a message to D2 via his Facebook profile. Instead, as set out in GR2§7(f) **[HB/180]**, C's agent located a lady called Kayleigh Williams who stated that she is the mother of D2 and provided an email address to which the documents could be sent. A colleague of Mr Robertson therefore sent the relevant documents as attachments to an email to Ms Williams at that email address, with a link to the website referred to above **[HB/180]**.

55. The steps which C has taken to give notice of the claim and the application to all Ds are set out in para. 6 of the draft order **[HB/32]**. They comprise (1) uploading the documents to a dedicated page on C's website, (2) affixing notices at the site (as described below) and (3) sending an electronic message to the Facebook accounts of Ds1-4 stating that a claim has been brought and an application made and providing the URL of the website where the documents can be accessed.

56. Mr Robertson exhibits to his second statement a number of Facebook posts dated 23 July 2025 from D1, D4 and the Facebook Group "Urbex Lost & Found", as described at GR2§8-10 **[HB/180]**, in which various individuals, including D1, D2, D3 and D4 all appear to discuss the injunction application, which indicates that the documents have come to the attention of Ds 1-4 **[HB/200-204]**.

57. Also, as confirmed by Mr Robertson at GR2§7(g) **[HB/180]**, hard copies of the "warning notice" at **[HB/184]** were fixed in the locations

described in GR1§12(c) [HB/39]. Mr Robertson confirms at GR2§7(g) [HB/180] that C has made available hard copies of the relevant documents at the main outer gatehouse to the Land.

Ds1-4

58. In Wolverhampton at §221, the Supreme Court made clear that so far as it is possible to identify persons to whom the order is directed, by name or in some other way, the claimant ought to do so and the fact that a precautionary injunction is also sought against newcomers is not a justification for failing to identify those persons. Given the clear evidence of previous trespasses by Ds1-4 and the evidence of their continued activity as urban explorers, C has taken the view that it is appropriate to name them as defendants.

59. The Facebook accounts of Ds1-4 are the only means by which C can be confident that notification of the claim can be brought to the attention of Ds1-4. For that reason, C has applied for orders under CPR r.6.15, 6.27 and 81.4(2)(c) permitting C to serve the proceedings and the Court's order on Ds1-4 by sending a link to the dedicated webpage on C's website to the Facebook pages of Ds1-4.

60. As set out in GR2§§7(e)-(f) [HB/179-180], C has been unable to send this notification to D2 via his Facebook profile. Accordingly, C's process server has sent an email to a lady who stated that she was the mother of D2 [HB/180]. The position of D2 is addressed further below.

61. So far as D5 (persons unknown) are concerned, C relies on the notices posted around the perimeter of the Land, as described in the evidence of Mr Robertson (see above para. 57), together with the hard copies of the documents left at the entrance to the site and the electronic copies uploaded to the website referenced at para. 53 above.

62. Under CPR r.6.15, it is necessary to show a "good reason" for the Court to make an order for substituted service. C submits that the imminent

threat of further conduct of the sort which C seeks to prevent by applying for this order and the need to notify all those who might be affected by the Court's Order which cannot be accomplished by conventional means of service, provides a good reason for permitting service as sought by C.

63. As explained by Lord Sumption in Barton v Wright Hassall LLP [2018] 1 WLR 1119, the most important question is whether the named Ds know of the contents of the documents after the relevant steps have been taken by C. In light of the evidence in GR2 of the Facebook comments between various individuals including Ds1-4, that requirement is clearly satisfied here. In addition, although C cannot evidence that service at the two addresses where documents were delivered is good service on D1 and D4, the possibility that conventional service has been effected on D1 and D4 ought to provide further comfort to the Court in making the orders for service by alternative means.

64. So far as persons unknown are concerned, C relies on the warning notices posted around the perimeter of the Land as described above as the most likely means of bringing attention of the proceedings and the Court's order to persons unknown who might become subject to the Court's order together with the dedicated page on C's website. In light of the number of notices posted around the perimeter of the site, any individual who seeks to gain entry to the site without C's permission will be made aware that an injunction has been granted prohibiting such entry.

65. Accordingly, the Court is invited to make the orders under rr.6.15, 6.27 and 81.4(2)(c) set out in the draft order **[HB/32]**.

D2

66. As stated above, C's process server was unable to send a message to D2 via his Facebook page and made contact with a lady who stated that she was his mother (which C has no reason to disbelieve). At the same time, this lady claimed that D2 was 16 years old, albeit that the comments in some of

the Facebook posts at SC1 suggest that in February 2025, he had celebrated his 17th birthday some months earlier.

67. Although C could make an application to the Court under CPR r.21.2 for the appointment of a litigation friend or for permission for D2 to conduct the proceedings against him without a litigation friend (especially in light of the evidence that he might be 17 or even 18), D2 will nevertheless be subject to the order made against “persons unknown”. C believes that the direction by the Supreme Court in Wolverhampton to name defendants where known does not require C to take steps to serve a minor in this way, especially where C is unable to communicate electronically with D2 in the way that C can with the other named Ds.

68. Accordingly, C intends to discontinue the claim against D2, unless the Court directs otherwise.

Conclusion

69. There is a real and imminent risk of the torts which have been committed on the Land being repeated by the named Ds and persons unknown. Accordingly, C respectfully requests that the Court grant the interim precautionary relief sought in the draft order (to be amended to reflect the position of D2) together with the orders for service by alternative means and at an alternative place.

ADAM ROSENTHAL KC

Falcon Chambers

25 July 2025

rosenthal@falcon-chambers.com