

(1) WM MORRISON SUPERMARKETS LIMITED

(2) SAFEWAY STORES LIMITED

(3) WM MORRISON PRODUCE LIMITED

Claimants

- and -

PERSONS UNKNOWN AND ORS

[more fully described in the Claim Form]

Defendants

CLAIMANTS' SKELETON ARGUMENT

Hearing: 16 January 2025 (2.5 hours)

References in this Skeleton Argument:

- e.g. “[HB/50]” are references to tabs/page numbers in the Hearing Bundle.
- e.g. “[AB/1/2]” are references to the tabs/ page numbers of the Authorities Bundle.

Suggested Pre-Reading: (Time Estimate: 3 hours) -

- Claim form dated 15 January 2025 [HB/3-12]
- Application Notice dated 15 January 2025 [HB/27-31]
- Draft Orders [HB/255-326]
- First Witness Statement of ██████████ (“████████”) [HB/53-70]
- First Witness Statement of Andrew Todd (“Todd”) [HB/94-126]
- First Witness Statement of Joanna Goff (“Goff”) [HB/253-259]
- First Witness Statement of ██████████ (“████████”) [HB/238-240]

A. INTRODUCTION

1. The First Claimant is a supermarket chain that operates 1,700 retail sites, including supermarkets and convenience stores, across the United Kingdom (see ██████████ at [8]-[11] [HB/55]). The retail stores are supplied with goods delivered from regional

distribution centres (“**RDCs**”). The RDCs also supply goods for the online business of the First Claimant’s group of companies and to wholesale business customers.

2. The Second and Third Claimants are wholly owned subsidiaries of the First Claimant. The Second Claimant produces and distributes a range of products sold in retail stores operated by the First Claimant. The Third Claimant purchases produce from third parties, such as farmers, and packs and distributes fresh produce.
3. By the claim, the Claimants have sought injunctions to restrain unlawful protest activity at eight of the RDCs (together “**the Sites**”).
4. In this hearing, the Claimants seek on, short notice, basis:
 - a. an injunction with liberty to the Defendants to apply to set aside or vary;
 - b. an order for alternative service.
5. In short, the threat which has provoked the claim was disruptive protest at one of the Sites (and at other RDCs not owned or occupied by the Claimants) on 10 January 2025. That protest occurred under the banners of “Farmers to Action” (“**FTA**”) which is an action group “Dedicated to defending Farmers and Citizens across Great Britain” (Todd at [63] and [66] [**HB/110-111**]), whose current demands are (1) for fairness in food pricing, (2) for national food security, and (3) the abolition of inheritance tax (“**IHT**”) and the restoration of agricultural property relief and/or business property relief. “Farmers to Action” is affiliated with another action group known as “Together Declaration” (“**Together**”) (together “**the Protest Groups**”).
6. The Orders¹ do not to stop protestors from undertaking peaceful protests whether near the Sites or otherwise. The Claimants’ concern has been to enforce its property rights and mitigate economic risks posed by unlawful activities which prompted the injunctive relief. The draft Orders have been carefully drawn and only prohibit activity which is clearly unlawful i.e., acts constituting trespass, private nuisance and public nuisance and, in the latter two cases, which are clear obstructions to the Claimants’ access to its land.

B. SHORT NOTICE

7. An application for an interim remedy may be made without notice, if it appears to the Court that there are good reasons for not giving notice: rule 25.3(1) of the CPR. The

¹ Separate orders have been prepared for each Site for the sake of clarity.

Supreme Court explained, however, in *Wolverhampton CC v London Gypsies and Travellers* [2024] 2 WLR 45 at [142] and [238(iv)(b)] [AB/56 and 58] that injunctions against newcomers are, in substance, always a type of without notice injunction.

8. In *Wolverhampton* at [226] – [229] [AB/77-78], the Court identified that local authorities applying for “newcomer” injunctions must (1) take reasonable steps to draw the application to the attention to persons likely to be affected sought or with some other genuine and proper interest in the application, with sufficient time before the application is heard; and (2) explain to the Court what steps it has taken to give notice of the application and all responses it has received.
9. In view of the urgency of this application (as explained in the certificate of urgency [HB/25-26]), there is insufficient time to give three clear days’ notice of the application to the Defendants. The nature of the risk (as explained in Todd at [94] – [95] [HB/124-125]) causes the Claimants concern that further notice will expedite any protests planned for some or all of the Sites. Short notice, in accordance with paragraph 4 of Practice Direction 23A and paragraph 4.3(3) of Practice Direction 25A, was given on 15 January 2025 of the application by uploading the relevant documents to www.morrisons-corporate.com/injunction and by sending an email to info@farmerstoaction.org. Further notice will be given to the Defendants to the hearing date and time once the Claimants receive that information from the Court.

C. THE SITES

10. The Claimants’ title to and rights in respect of the Sites are explained in Todd [HB/96-110]. In summary:
 - a. **Northampton Swan Valley (“Swan Valley”)**: This RDC is, in fact, three separate sites which are:
 - i. SV1: The First Claimant is the registered proprietor of a leasehold interest in land known as Morrisons, Cob Drive, Swan Valley, Northampton, NN4 9BB. The land is private land and the First Claimant has an immediate right to possession of the land. The entrances to SV1 (as explained at Todd [16] [HB/98] are from Cob Drive [HB/127], which is a private road situate on freehold land owned by Aviva Life & Pensions UK Limited. The First Claimant is entitled to the benefit of a right of way over Cob Drive. Cob

Drive adjoins a public highway at a roundabout on Nectar Way shown coloured in pink on the plan at [HB/127].

- ii. SV2: The First Claimant is the registered proprietor of a leasehold interest in land at Morrisons DC2, Swan Valley, Northampton, NN4 9BD. The land is private land and the First Claimant has an immediate right to possession of the land. There are no access issues in relation to this land.
- iii. SV3: The First Claimant occupies the land at Morrisons Swan Valley, Upton, Northampton pursuant to an unregistered lease. The land is private land and the First Claimant has an immediate right to possession of the land. SV3 is accessed at two points shown on the plan at [HB/129]. Those access points are from private roads on Style Way and Sepals Way over both of which the First Claimant has a right of way. Style Way is accessed from a public highway at Nectar Way shown in pink on the plan (nearby which a RDC operated by Sainsburys is located).

b. **Stockton Dickens (“Stockton”):**

- i. The Second Claimant is the freehold owner of the land at Malleable Way, Stockton-on-Tees, TS18 2SZ. The land is private land and the Second Claimant has an immediate right to possession of the land.
- ii. Access to the RDC for heavy goods vehicles (“HGVs”) is from Malleable Way (see Todd at [26] [HB/100]): see the plan at [HB/132]. Malleable Way then meets Crofton Road, which are public highways (shown in pink on the plan).

c. **Sittingbourne (“Sittingbourne”):**

- i. The First Claimant is the freehold owner of the private land at Morrisons South East Distribution Centre, G Park, Sittingbourne, ME10 2FD. It also is the person with an immediate right to possession of the land pursuant to an underlease dated 24 June 2014 and made between (1) Tritax Acquisition 4 Limited and (2) the First Claimant.
- ii. The only access to the RDC (see Todd at [30] [HB/101]) is from Fleet End [HB/134], which is a private road over which the First Claimant has a right

of way. Fleet End can only be accessed from Barge Way, a public highway, shown coloured pink on the plan at [HB/134].

d. **Gadbrooke (“Gadbrooke”)**:

- i. The First Claimant is the freehold owner of the RDC at King Street, Rudheath, Northwich, SW9 7WA, title to which is registered under title number CH403450. The land is private land to which the First Claimant has an immediate right to possession.
- ii. The access point for Gadbrook abuts a roundabout on the A530 (see Todd at [35.3] [HB/103]), which is a public highway shown in pink on the plan at [HB/136].

e. **Latimer Park Kettering (“Latimer Park”)**:

- i. The First Claimant is the registered proprietor of the leasehold interest in the land at Morrisons Distribution Centre, Altendiez Way, Burton Latimer, Kettering, NN15 5YT, registered under title number NN391689. The land is private land to which the First Claimant has an immediate right to possession.
- ii. Altendiez Way, which runs through the Site as shown on coloured pink on the plan at [HB/138], is a public highway. There are two access points for the Site. The north eastern access point is that which is used for HGV access (see Todd at [38] at [HB/104] and it is on the section of Altendiez Way where it meets Kettering Road, shown coloured pink on the plan, which then leads to the A6.

f. **Latimer Park Corby (“Corby”)**:

- i. The First Claimant occupies the land at WM Morrison Supermarkets, 2 Halley Road, Corby, NN17 5AN pursuant to an unregistered lease. The land is private land to which the First Claimant has an immediate right to possession.
- ii. There are two access points to Corby, which are shown on the plan at [HB/140]. They are accessed via a private road, shown on the plan coloured orange, over which the First Claimant has a right of way. The only

means of accessing the private road and exiting the RDC is by the use of a roundabout which is a public highway shown coloured pink.

g. **Bridgwater Willow Green (“Willow Green”)**:

- i. Willow Green is comprised of two separate areas of land at Kins Road, Bridgwater, Somerset, TA6 4FD, registered under title numbers ST315385 and ST376668. Both areas of the RDC are private land. The First Claimant has an immediate right to possession pursuant to its leasehold interests to the land granted by:
 1. Willow Green North: A lease dated 29 July 2014 and made between (1) Lime Property Fund Limited and (2) the First Claimant, whereby the land under title number ST315385 was demised to the First Claimant. The only access to this land is shown on the plan at [HB/143] in pink. That access point abuts Kings Road which leads to a roundabout at the south (“**the Kings Road Roundabout**”). The First Claimant proceeds on the assumption that some or all of Kings Road may be public highway.
 2. Willow Green South: A lease dated 7 December 2022 and made between (1) SLBII Propco 8 Limited and (2) the First Claimant, whereby the land under title number ST376668 was demised to the First Claimant. There are two access points to this land which are shown on the plan at [HB/144]. The southern access point is that which HGVs use to access the Site. The northern access point is used by staff to access the Site and abuts a public highway shown coloured grey on the plan.

h. **Wakefield (“Wakefield”)**:

- i. This RDC is private land at Kenmore Road, Wakefield Industrial Estate, Wakefield, WF2 0XF comprised of four registered titles and one unregistered title. The registered leasehold title which the First Claimant holds is to: (1) a Frozen Foods distribution centre, (2) a fresh food distribution centre, and (3) a main warehouse. The First Claimant is also the freehold owner of the bread

distribution. Last, it occupies a petrol station for its HGV fleet pursuant to an unregistered lease. The First Claimant is the person with an immediate right to possession of all of the land comprised in the Wakefield RDC.

- ii. Access to the Wakefield RDC is through the industrial estate via Kenmore Road. While this road is within part of the First Claimant's registered title, it appears that it may be adopted so the First Claimant proceeds on the assumption that it is a public highway. Access to the Wakefield RDC on Kenmore Road is shown on the plan at [HB/146] in pink. That access point abuts a roundabout on the A650, which is a public highway.

11. Each of the Sites is occupied and/or operated by the Claimants, and are distribution centres from which produce is transported by HGVs to supermarkets and/or stores operated by the First Claimant and/or for sale online and/or wholesale business ([REDACTED] at [8] – [11] [HB/55]).
12. For ease of reference, the remainder of this skeleton argument addresses the Sites together on the basis that the issues and legal principles applicable to each Order are identical and the evidential foundation for relief is materially similar.

D. THE THREATS

13. The basis of the Claimant's view that there is a real and imminent risk of blockading / obstruction at some or all of the Sites is fully set out in Todd at [66] – [87] [HB/111-121].
14. Essentially, some or all of the Protest Groups, appear to be committed to a campaign of protest in order to bring about the demands identified at [66] of Todd [HB/111-112] (“**the Demands**”). That campaign is evolving rapidly, with the tactics progressing from peaceful protest to ‘go-slow’ drives with tractors to, most recently, blockading RDCs at Willow Green.

Original protests by the Protest Groups

15. Following the Labour Government's announcement of the changes to agricultural property and business property reliefs to IHT, to come into force on 6 April 2026, the Protest Groups commenced protest action which appeared to be focused on the Government. For example, a slow drive by tractors to urge local councillors to reject the changes to IHT reliefs occurred on 7 January 2025 [HB/113 at [70.1]] and a protest by

farmers outside the Oxford Farming Centre appeared similarly targeted [HB/113 at [70.2]].

The protests on 10 January 2025

16. On 9 January 2025, the Protest Groups advertised a day of national protests in relation to the Demands would be occurring the following day at 10.30am [HB/112-113 at [68]]
17. On 10 January 2025, FTA advertised the protest as a “*Nationwide Tractor Protests happening all over England, Wales & Scotland*” in which “*We will take to roads across the country to show what they think of @Steve Reed MP DEFRA “roadmap” and @Rachel Reeves IHT Levy*” [HB/113 at [69]].
18. On the day, the Protest Groups arranged a number of roadblocks and ‘go-slow’ drives which occurred near the Sites [HB/114-115]:
 - a. A number of tractors carried out a ‘go-slow’ drive on the A38 and 80 tractors carried out a three-hour ‘go-slow’ drive on the A303. Both of these roads are the near the Willow Green Site.
 - b. A ‘go-slow’ convoy occurred around the roads in Northampton near the Swan Valley, Latimer Park and Corby RDCs.
 - c. 50 tractors carried out a ‘go-slow’ drive on the A530 and 30 tractors carried out a similar drive on the A5. Both of these roads are the near the Gadbrook Site.
19. “Tractor road runs” appear to have occurred in around 40 to 45 locations around the United Kingdom [HB/116 at [77] – [78]].
20. One of the First Claimant’s supermarkets was also the target of tractors protesting by driving through the car park [HB/115 at [76]]
21. Most significantly, the Protest Groups also blockaded the Willow Green RDC between the hours of 19:30pm on 10 January 2025 to 8:30am on 11 January 2025 by parking 50-70 tractors in the following locations [HB/116-117 at [79] – [80]]:
 - a. Near the access point to Willow Green North. The tractors parked on and around a roundabout which is wholly located within the land owned by the First Claimant and from which direct access to that site is obtained.

- b. At the entrance and exit points leading off from the southern entrances to Willow Green South.
22. The impact of the blockade at Willow Green was significant and gave rise to health and safety concerns as set out in Sections 4 and 7 of [REDACTED] [HB/59-61, 64-68]: all planned outward deliveries from the site, which would have serviced numerous Retail Stores and customers of the Claimants' wholesale business, were prevented for the duration of the protest (estimated to have affected deliveries to approximately 76 Retail Stores and over 132 wholesale stores/deliveries). Incoming deliveries of stock to the site from suppliers, were also prevented from accessing, leading to disruption of the supply chain. Aside from the financial and reputational impact on the First Claimant, which is difficult to quantify, one striking example of the broader impact to the supply chain is shown by FTA's own Facebook page at [HB/191] which shows empty shelves at a supermarket in Taunton. This RDC supplies a number of rural stores, many of which are located in remote areas which have a limited retail produce offering. As explained in [HB/117 at 81], food is a "critical national infrastructure" sector in the United Kingdom being a sector whose facilities, systems, sites, information, people, networks and processes are necessary for the country to function and upon which daily life depends. As Department for Environment, Food & Rural Affairs put it in their report dated 22 October 2024:

"Every element of the supply chain, from food manufacturing to retailers, relies on physical infrastructure (buildings, vehicles, machines, power and data connections); digital infrastructure (the digital technologies that provide the cyber foundation for information technology and operations); human infrastructure (the skilled people who work in the supply chain and their working relationships with each other) and economic infrastructure (the system of finance, contracts and agreements that allow businesses to make money and operate productively.) Problems arising anywhere in this system can cause disruption to the supply of food. (emphasis added)"

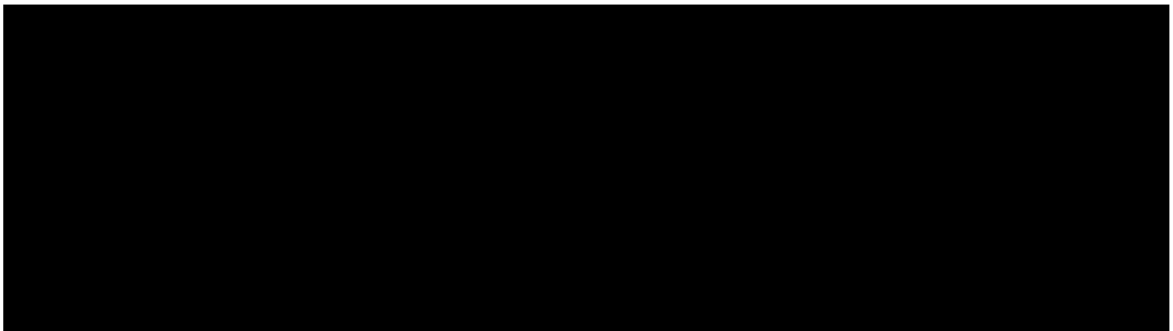
Reaction to 10 January 2025 protests

23. The action on 10 January 2025, in particular the blockade at Willow Green, appears to have galvanised the Protest Groups and generated support:
- a. A number of social media posts were generated by the Protest Groups showing the blockade at Willow Green and the impact it had [HB/116 – 118 at 80] – [83]; 119 – 120 at [86.1] – [86.3]; 187-191, 199- 201]. These posts include a video showing many lorries parked on the roads around the Site which were unable to access it [this video can be made available].

- b. Comments of support have been posted on videos of protests from 10 January 2025 publicised by the FTA [HB/119-120 at [86.1] - [86.2]; 201; 203]. Examples of the messages of support include: “*a concerted effort like this all around the country will soon have Supermarket shelves empty and the government regretting their greedy lying actions*” and “*The government, the supermarkets, they finally need to start prioritising the British farming industry. They need to start prioritising food security. So, we went from rolling road-blocks on dual carriageways and then it progressed to rolling road-blocks around supermarket depots and then, oh my goodness, Somerset, Bridgwater Morrisons, they went and blockaded it from 7.30pm until 8.20am. Legends. Well done. Keep it going...*”
- c. On [13] January 2025, an X user, “The F in Farmer”, tweeted as follows [HB/119-120 at [87.21; 202]: “*With 40 separate events strategically organised in one day from Scotland to Cornwall, starting from 9.00am Friday till 8.30am Saturday going through the night at #somerset @FarmersToAction would like to invite everyone to support us! Farmers we need all your help! We would like to invite all groups to work with us! The public we want fair prices for food for you and us!*”. The text was accompanied by a video showing the blockade at Willow Green with text embedded in it saying “*Farmers stand up If there has ever been a time It’s NOW*” and references 3,500 farmers having joined the campaign to change the industry

The First Claimant

24.



25. On 12 January 2025, FTA posted a photograph of a supermarket operated by the First Claimant where the shelves were empty of produce was captioned with “*@Morrisons...The time to show you back Farmers is now.*” [HB/191]
26. Further redacted WhatsApp messages obtained by [REDACTED] dated 13 January 2025 are referred to at [HB/239 – 240 at [8] – [9]; 242; 245; 247] and variously state:
- “*we need to block distribution centres empty the shelves*” ,-

- *“Just block the diary’s (sic) and distribution centres. It couldn’t be more simple”.*
- *“Next week we are hitting distribution centres, 12 hours, no bull shit taken. There’s only so many times I can explain to people the steps that there’s steps in certain order we take. Basically speaking who can commit to 12 hours, probably Wednesday/Thursday evening. THIS IS NOT A ROAD RUN”*

Likely future incidents

27. On 6 January 2025, plans for a coordinated national day of protest were advertised on “The Farming Forum”, with the planned date for the protest being 17 January 2025 [HB/192]. The tactics endorsed were parking tractors and/or pick up trucks, with banners, in supermarkets’ car parks in order to show that *“farmers are not backing down on the damage this budget will cause and show the strenght [sic] of our resources that “could” be used in far more disruptive ways sgould [sic] that become necessary !”* [HB/192].
28. The advertisement on “Farming Forum” describes peaceful protest at supermarkets, but there has been a clear change of focus and escalation by the Protest Groups given the tactics used at Willow Green and around other RDCs on 10 January 2025.
29. In light of that, the Claimants’ view is that there is a real and imminent risk of serious harm to RDCs, on 17 January 2025 or on another date, by:
 - a. By protestors entering onto and remaining on RDCs in connection with the protests for the Demands by the FTA or other similar protest movements,
 - b. By protestors, with or without tractors or other agricultural vehicles and equipment, causing blockades, obstructions of traffic and interfering with the passage by the Claimants, its agents, servants, employees, licensees, invitees to, from, over and across the access roads in the vicinity of RDCs.
30. That risk is acute for some of all of the Sites and the roads providing access to them (save in respect of SV2, where no relief is sought) because:
 - a. The Willow Green RDC has already been, very effectively, targeted by Farmers to Action by a blockade, taking place both on the Site and on the road which provides HGVs access to it.
 - b. It also appears that, in view of its support for farmers, the Claimants have become a target: see the comment at paragraph 25 above. Additionally, there is a long history of protests by farmers which have occurred by obstructing access

obstructions to the Claimants' RDCs, including Willow Green, Gadbrook, and Wakefield: see [REDACTED] at [32] – [40] [HB/61-63].

- c. Focus on a large national supermarket, such as the First Claimant, is consistent with the Demands of fair pricing and food security: pressure applied directly to supermarket chains has the greatest potential to yield those changes. The Protest Groups also appear well-resourced for these purposes given the 3,500 farmers which are said to have joined the campaign to “change the industry” [HB/121 at 87.2]].
- d. All of the Sites are identified on the First Claimant's website as the location of its logistics' warehouses ([REDACTED] at [11] [HB/55]) and with their addresses, such that they are capable of being easily identified and located by any persons wishing to carry out protests which disrupt the First Claimant's operations.

Impact of direct action

31. If protestors were to carry out direct action by obstructing and/or blocking access to some or all of the Sites, the Claimants would expect to see the operational disruption and financial harm which occurred as a result of the Willow Green blockade on a greater scale, together with associated health and safety and security concerns: see Todd at [81] – [83] [HB/117-118] and [REDACTED] at Sections 4 and 7 [HB/59-61, 64-67]. That would involve:
 - a. Safeguarding / health and safety risks to persons at the Site, notably its employees and protestors, in view of (1) the agricultural vehicles involved in the protests; (2) the HGVs and other vehicles present on or around the Sites. The evidence shows that children were present among the protestors at Willow Green on 10 January 2025.
 - b. A particular vulnerability comes from the presence of fuel, from the fueling stations located at each Site.
 - c. Although no damage was done to the land or chattels situate on it at Willow Green on 10 January 2025, there is the potential that protests could become more disruptive and/or destructive as time goes on.
 - d. The costs involved with seeking to mitigate these risks and the considerable operational disruption to the Claimants. The Claimants have sought to estimate the

losses caused by the Willow Green blockade and put it at at least £200,000, but [REDACTED] at [30] states that does not include damages which have not yet been realised, that the true figure is difficult to quantify and that his expectation is that the present and potential future damage “would be very significant indeed and would result in millions of pounds of loss to the Claimants and their collective businesses and would be hugely detrimental to the Claimants’ reputation” [HB/61].

- e. There is then the harm to the UK food supply chain. Disruption to the food supply chain is of national importance as is recognised by the Court’s power to make a “serious disruption prevention order” on an application pursuant to section 21 of the Public Order Act 2003. In short, the jurisdiction to make such an order requires the Court to be satisfied that a person has committed, on at least two occasions, a protest-related offence or a protest-related breach of an injunction and that such an order is necessary for purposes which include preventing “serious disruption” to two or more individuals or an organisation. That is defined as including, by section 34(1)(c) of the Act, where individuals or an organisation are prevented from accessing, or suffer a disruption that is more than minor to the accessing of, food supplies. Parliament has, therefore, legislated in a manner which it makes clear that any disruption to food supply which is more than *de minimis* may merit the intervention of the Court.

E. THE LAW

32. It is relevant to draw the attention of the Court to the recent Supreme Court judgment in *Wolverhampton CC v London Gypsies and Travellers* [2024] 2 WLR 45 [AB/2-81]. It is the Claimants’ case that *Wolverhampton* has not materially affected the test to be applied when granting an interim injunction in the context of protests against persons unknown (including newcomers).
33. The case involved traveller injunctions which are different to protestor cases because local authorities have duties in relation to travellers. The Supreme Court, in rejecting the appeal, held that injunctions can be granted against persons unknown who are “newcomers”: at [167] [AB/64]. The Supreme Court expressly stated that “*nothing we have said should be taken as prescriptive in relation to newcomer injunctions in other cases, such as those directed at protestors who engage in direct action by, for example, blocking motorways, occupying motorway gantries or occupying HS2’s land with the intention of disrupting construction*”: at [235] [AB/79].

34. Following the ruling of the Supreme Court², the seven *Canada Goose* guidelines remain good law, and other factors have been added: see e.g. *Valero Energy Ltd v Persons Unknown* [2024] EWHC 1277 (KB) at [57] – [58] [AB/111-114] and *Shell U.K. Limited v Persons Unknown* [2024] EWHC 3130 (KB) at [51] – [52] [AB/138]. Those factors are materially the same as those laid down in the protest cases of *Ineos v Persons Unknown* [2019] 4 WLR 100 at [34] [AB/367], and then developed in *Canada Goose v Persons Unknown* [2020] 1 WLR 2802 at [82] [AB/392-393].

35. In respect of protest cases, the Supreme Court made it clear that (at [236]) [AB/79-80]:

“Often the circumstances of these cases vary significantly one from another in terms of the range and number of people who may be affected by the making or refusal of the injunction sought; the legal right to be protected; the illegality to be prevented; and the rights of the respondents to the application. The duration and geographical scope of the injunction necessary to protect the applicant’s rights in any particular case are ultimately matters for the judge having regard to the general principles we have explained” [emphasis added].

36. The following submissions are structured by reference to the 13 guidelines identified by Ritchie J in *Valero* at [57] – [58] [AB/111-114] as relevant to the grant of an injunction being:

(A) Substantive requirements

- a. Cause of action: There must be a civil cause of action identified in the claim form and particulars of claim. The usual quia timet (since he fears) action relates to the fear of torts such as trespass, damage to property, private or public nuisance, tortious interference with trade contracts, conspiracy with consequential damage and on-site criminal activity.
- b. Full and frank disclosure by the claimant: The applicant must make full disclosure to the Court not just of all the facts and matters upon which it relies but also and importantly, full disclosure of all facts, matters and arguments of which, after reasonable research, it is aware or could with reasonable diligence ascertain and which might affect the decision of the Court whether to grant, maintain or discharge the order in issue, or the terms of the order it is prepared to make or maintain. This obligation is a continuing one: see *Wolverhampton* at [167(ii)] and [219] [AB/64 and 76].

² See in particular at [167], and then expanded upon at [188]-[189] and [218]-[232] [AB/64, 69-70, 76-79].

- c. Sufficient evidence: There must be sufficient and detailed evidence to justify the Court finding there is a compelling need for the protection of civil rights: see *Wolverhampton* at [167(i)] and [188] [AB/64 and 69-70]. There must be a strong probability that a tort or breach of planning control or other aspect of public law is to be committed and that this will cause real harm. The threat must be real and imminent: *Canada Goose* at [82(4)] [AB/393]; *Wolverhampton* at [218] [AB/76].
- d. Defences: The nature of the proceedings are “ex-parte” in Persons Unknown cases and so the Court must be alive to any potential defences and the Claimants must set them out and make submissions upon them.
- e. Compelling justification: There must be a “compelling justification” for the injunction against PUs to protect the claimant’s civil rights. The Court must take into account that which is set out by the Supreme Court in *DPP v Ziegler* [2021] 3 WLR 179 if the Persons Unknown’s rights under the European Convention on Human Rights (“ECHR”) are engaged and restricted by the proposed injunction: *Wolverhampton* at [167(ii)] [AB/64]. The injunction must be necessary and proportionate to the need to protect the claimant’s rights.
- f. Damages are not an adequate remedy: The claimant must show that damages would not be an adequate remedy.

(B) Procedural requirements

- g. Identifying the defendants: “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: *Canada Goose* at [82(1)] [AB/392-393]. The class of “persons unknown” must be framed as precisely as possible, in non-technical language by reference to the torts to be prohibited which is capable of being understood by those who could potentially be subject to it.
- h. Terms of the injunction: The prohibited acts must be clearly expressed in everyday terms: *Canada Goose* at [82(5)-(6)] [AB/393]; *Wolverhampton*

at [222] [AB/77]. Even lawful conduct may be restrained where it is necessary to afford adequate protection to the rights of the claimant because there is no other proportionate way of doing so: *Wolverhampton* at [222] [AB/77].

- i. Scope of the injunction: The prohibited acts must correspond to the actual threatened conduct.
- j. Geographic boundaries: The prohibitions must be defined by clear geographic boundaries, if that is possible: *Canada Goose* at [82(7)] [AB/393]; *Wolverhampton* at [225] [AB/77]. The injunction should be constrained by both territorial (and temporal) limitations so as to ensure, as far as practicable, that they neither outflank nor outlast the compelling circumstances relied upon: [167(iv)] [AB/64].
- k. Temporal limits: The duration of the order should be only such as is proven to be reasonably necessary to protect the claimant's legal rights in light of the evidence of past tortious activity and future feared activity.
- l. Service: An applicant of this kind should take reasonable steps to draw the application to the attention of persons likely to be affected in sufficient time prior to the hearing. The steps taken and the responses received should be explained to the Court: *Wolverhampton* at [226] [AB/77-78]. The applicant must, under section 12 of the Human Rights Act 1998, show that it has taken all practicable steps to notify the respondents: *Wolverhampton* at [167(ii)] and [230] [AB/64 and 78].
- m. The right to set aside or vary: The "Persons Unknown" must be given the right to set aside or vary the injunction on generous terms: *Wolverhampton* at [232] [AB/78-79].
- n. Review: Provision must be made for reviewing the injunction in the future, the regularity of which depends on the circumstances: *Wolverhampton* at [225] [AB/77].

F. THE SUBSTANTIVE REQUIREMENTS

(1) Cause of Action

37. The Sites:

- a. The Claimants' cause of action for the Sites is trespass: the Claimants are the freehold or leasehold owners of the Sites and have an immediate right to possession of all of the Sites.
- b. The Defendants do not have licence or justification to enter onto the Sites, whether generally or for the specific purpose of carrying out protest therefrom.

38. **Access roads:**

- a. The roads included within the scope of the proposed injunction are those which are necessary to obtain access to the Sites. As explained above, those roads are a mixture of public highways and private roads, in respect of which the relevant Claimant has the benefit of a right of way to access one of the Sites.
- b. For the private roads: the Claimants seek an injunction in respect of the access roads over which they have rights of way at Swan Valley SV1 and SV3 (see paragraphs 10.a.i and iii above); Sittingbourne (see paragraph 10.c above); and Corby (see paragraph 10.f above): *Cuadrilla Bowland Ltd v Persons Unknown* [2020] 4 WLR 29 at [13] [AB/331-332]. Any protest occurring on those private roads by causing blockades, obstructions and/or interfering with the passage of the Claimant or its licensees to the RDCs would constitute activity which would interfere substantially with the Claimant's rights of access: see *Shell* at [63] [AB/142-143].
- c. For the public highways: for all the Sites, save SV2, seek an injunction which include sections of the public highways but only where that part of the public highway is essential for access to the relevant Site and to make the protection sought effective. In that regard, the threatened conduct would likely constitute:
 - i. public nuisance, in the form of obstruction of the highways occasioning particular damage to the First and/or Second Claimant: *Ineos Upstream* at [44]-[46] [AB/369-370];
 - ii. private nuisance, in the form of unlawful interference with the right of access to the Claimants' land (by them or the licensees) via the highways: *Cuadrilla Bowland Ltd* at [13] [AB/331-332].

(2) Full and Frank Disclosure

39. As demonstrated by their evidence, the Claimants and their legal team have evidenced full and frank disclosure.
40. It is appropriate to draw the following additional points to the Courts' attention:
- a. It might be argued by protestors that the First Claimant's message of support (see ██████ at [6] – [7] [HB/239]) for farmers constitute a licence to carry out protests at sites at which it carries out operations. In that regard:
 - i. The Claimants are clear that they do not intend, by this action, to prevent peaceful protest: see ██████ at [7; 51.6] [HB/54, 68].
 - ii. The Claimants have not endorsed unlawful protest at any stage: see ██████ at [7] [HB/239] and it cannot be properly argued that the First Claimant's comments constitute consent to protestors to enter and remain on its RDCs for the purpose of preventing it and its licensees from accessing those sites.
 - b. Despite the potential that the Protest Groups might also target the First Claimant's supermarkets as part of their protest campaign (see paragraph 27), the Claimants consider it to be appropriate to limit the injunction to the distribution centres (at least, at this stage).
 - c. Those taking part in the protests clearly perceive there to be serious changes required, both at a Governmental level and from supermarket chains, and appear to be committed to achieving those changes for the future success of the farming industry. However, the sincerity of the protesters' views, and the fact that many (including the First Claimant in respect of the changes to IHT reliefs) agree with their aims (if not necessary their means) does not provide a defence in the case of trespass now being considered: see *Shell* at [57] – [58] [AB/140].

(3) Sufficient evidence to prove the claim

41. It is only appropriate to grant an injunction if there is (1) a strong probability of breach of the Claimants' rights by committing a tort; and (2) there is a real and imminent risk: *Wolverhampton* at [218] [AB/76]; *Shell* at [50], [73] – [75] [AB/137 and 145].
42. As set out in paragraphs 14 to 30 above, the evidence before the Court shows a pattern of unlawful activity being used as part of protests carried out by those in connection with the Protest Groups and provides sufficient evidential foundation for the conclusion that

there is a strong probability of a breach of the Claimants' rights by the tortious activity identified in paragraphs 37 - 38 above.

43. Further, the evidence is clear that there is both a general risk of future direct action in respect of sites operated by the Claimants and a specific risk posed by protest planned for 17 January 2025. The sites of the protests are not known – but they are unlikely to be, given that level of planning appears to occur on platforms which are not publicly available [**HB/239 at [8]; HB/114 at [73]**]. What is known is that due to being on the First Claimant's website, the Sites are easy targets. That factor, together with the protest which manifested at Willow Green, and the ongoing expressions of intent referring to distribution centres, mean that there is a particular risk that one or more of the Sites will be the subject of a protest by one of the Protest Groups, whether on 17 January 2025 or on another occasion, by tactics similar to those used at the Bridgwater RDC and other RDCs on 10 January 2025.

(4) Defences

44. Subject to the further issue of potential interference with the Defendants' rights in the European Convention on Human Rights (“**the ECHR**”), addressed below, the Defendants have no arguable defences to the claim:
- a. Given that the Claimants are the owners of land whose title is not reasonably capable of dispute, the Claimants are prima facie entitled to injunctive relief to restrain acts of trespass at the Sites: *Patel v WH Smith (Eziot) Ltd* [1987] 1 W.L.R. 853 at 859E [**AB/355**]; *Shell* at [54] [**AB/139**].
 - b. Additionally, there are no arguable defences to interferences to the Claimant's proprietary interests in the access roads on private land by the Defendants blocking and/or obstructing access. Without any interest in the land or consent from the landowner, the Defendants can have no right to protest on that land.
 - c. As to the highways: the only potential defence is under the ECHR, which is set out more fully below.

(5) Is there a compelling justification?

The Sites and the private roads

45. The Court must consider, “in the round”, whether appropriate weight has been given to the Defendants' qualified rights under Article 10 (freedom of expression) and Article 11

(freedom of assembly) of the ECHR. In protest cases, Articles 10 and 11 are linked. The right to freedom of assembly is recognised as a core tenet of a democracy. There exist Strasbourg decisions where protest which disrupted the activity of another party has been held to fall within Articles 10 and 11.

46. But “*deliberately obstructing traffic or seriously disrupting the activities of others is not at the core of these Convention Rights*”: ***DPP v Cuciurean*** [2022] EWHC 736 per Lord Burnett of Maldon, CJ at [36] [AB/231].
47. Further, Articles 10 and 11 do not bestow any “freedom of forum”, and do not include any ancillary right to trespass on private property: ***Ineos*** at [36] [AB/367]; ***Shell*** at [55] – [57] [AB/139-140] and [121] [AB/161-162].
48. It is possible to imagine at least in theory a scenario in which barring access to particular property had the effect of preventing any effective exercise of an individual’s freedoms of expression or assembly. In such a case, barring entry to that property could be said to have the effect of “destroying the essence of those [Article 10 and 11] rights”. If that were the case, then the State might well be obliged (in the form of the Court) to regulate (i.e., interfere with/ sanction interference with) another party’s property rights, in order to vindicate effective exercise of the rights under Articles 10 and 11: see ***Cuciurean*** at [45] [AB/233]. But that would be an extreme situation. And this is plainly not such a case. As Lord Burnett held in ***Cuciurean*** at [46] [AB/233]:

“[i]t would be fallacious to suggest that, unless a person is free to enter upon private land to stop or impede the carrying on of a lawful activity on that land by the landowner or occupier, the essence of the freedoms of expression and assembly would be destroyed. Legitimate protest can take many other forms.”

49. Put simply, the protests can be carried out at any location and the would-be protestors can protest at locations other than on private land.

The sections of public highway

50. The Claimants are not in fact seeking to restrict the Defendants’ use of the highway for the purposes of protest. However, for completeness, it is helpful to have in mind that even in relation to the highway, the right of protest does not extend to a right to conduct coercive activities. The Claimants accept that not all protest on the public highway is unlawful, or constitutes either a trespass (actionable by the highway owner) or a nuisance, even if it results in some disruption. However, the action which the Claimants seek to prevent would be unlawful by virtue of section 137 of the Highways

Act 1980 which applies if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway.

51. Disruption and whether it is intentional are relevant factors in relation to an evaluation of proportionality under the Supreme Court's approach in *DPP v. Ziegler*. The issues which arise under Articles 10 & 11 require consideration of five questions (at [16][AB/250]):
 1. Is what the defendant did in exercise of one of the rights in articles 10 or 11?
 2. If so, is there an interference by a public authority with that right?
 3. If there is an interference, is it "prescribed by law"?
 4. If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of article 10 or article 11, for example the protection of the rights of others?
 5. If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?
52. Those restrained by the terms of an injunction from obstructing the public highway would otherwise be exercising their Article 10 and 11 rights, and the grant of an injunction will constitute some interference with those rights – even if not within "the core" of those rights. That interference is prescribed by the law concerning the vindication of the Claimants' rights (both private law rights, and its A1P1 rights), and the Claimants' consequent entitlement to an injunction. The vindication of the Claimants' rights is itself a legitimate aim. The protection of the wider public from interference with its access to food is another. Accordingly, the issue of the Court in such a case is whether such interference as the injunction might comprise is "necessary in a democratic society" to achieve that aim.
53. That issue can also be properly expressed as the question of whether the potential interference with the Defendants' rights is "proportionate" which, in turn, requires consideration of four sub-questions:
 1. Is the aim sufficiently important to justify interference with a fundamental right?
 2. Is there a rational connection between the means chosen and the aim in view?
 3. Are there less restrictive alternative means available to achieve that aim?
 4. Is there a fair balance between the rights of the individuals and the general interest of the community, including the rights of others?

54. In the similar context of the Insulate Britain protests, in *National Highways Ltd v. PU* [2021] EWHC 3081, Lavender J (at [38]-[40]) [AB/305-307] summarised and considered the factors which Lords Hamblen and Stephens JSC had identified in *City of London Corpn v. Samede* [2012] PTSR 1624 as being potentially relevant to the issue of proportionality, and consequently how the four proportionality sub-questions might be answered.
55. For similar reasons to those expressed by Lavender J in *National Highways*, the Claimants submit that the four sub-questions relevant to the “proportionality” test can be answered as follows — thus satisfying the (stricter) requirements for obtaining relief in relation to a highway:
- a. The aims of restraining the Defendants’ activities are the vindication of the Claimants’ own private law and A1P1 rights.
 - b. There is an obviously rational connection between the means chosen in this case and the aim in view: the means narrowly focus on the prevention of interference with the Claimants’ rights and with the distribution of their produce.
 - c. There is no less restrictive alternative means available to achieve the aim such as a claim in damages and/or police intervention (see ██████ at [21] – [22] at [HB/69]) and/or a serious prevention order, which could only be obtained if (1) the identities of the protestors were known and (2) after committal or conviction of protestors. None of those means are directly concerned with prevention of the threat which is what this injunction application is concerned with. Most notably, a less restrictive injunction covering only the Sites and/or private roads would frustrate its purpose in circumstances where (1) a blockade has already occurred on public highways at Willow Green South, and (2) preventing access to and from the Sites could easily be achieved by blockading highways which lead to the only access points.
 - d. The grant of an injunction clearly strikes a fair balance between the Defendants’ rights, the Claimants’ rights, and the general interests of the community. The observations of Leggatt LJ in *Cuadrilla* at [94]-[95] [AB/345] are apt:

“... the disruption caused was not a side-effect of protest held in a public place but was an intended aim of the protest.. this is an important distinction. ... intentional disruption of activities of others is not “at the core” of the freedom protected by article 11 of the Convention One reason for this is [is] that the essence of the rights of peaceful assembly and freedom of expression is the opportunity to persuade others.... persuasion is very different

from attempting (through physical obstruction or similar conduct) to compel others to act in a way you desire” [emphasis added]

56. Any interference with anyone’s Article 10 and 11 rights caused by a Court Order preventing that person’s deliberate disruption of the Claimants’ business, and not mere protest, is outweighed by:
- a. The Defendants’ interference with the Claimants’ abilities to carry out their lawful businesses,
 - b. The Claimants’ A1P1 rights to enjoy their own property, and
 - c. The interest of the public in continuing access to the fruits of the Claimants’ undertaking.
57. Consequently, to the degree to which the injunctions sought interfere at all with any individual’s Article 10 & 11 rights, any such interference is proportionate, and does not require the Court to modify its approach (apart from the ECHR) to the threatened interference with the Claimants’ rights.

Necessary and proportionate to protect the Claimants’ rights

58. Expanding on the point set out above in paragraph 55.c:
- a. For the Claimants, damages could not be an adequate remedy for any injury suffered: the Claimants have no reason for confidence that any individual who commits any tort would have the means to provide any financial remedy. But that consideration, though sufficient by itself, is of course dwarfed by the larger points about the particular harm that might be caused to individuals at the Sites and for food security.
 - b. The police do not appear to have the resources to move protestors on. There might be scope for subsequent prosecution for protest occurring on highways on A roads pursuant to sections 7 and 8(2)(b) of the Public Order Act 2023 or if any of the roads is a ‘special road’ under section 8(2)(a). But the possible punishment of protestors for an obstruction on a public highway does not (a) prevent, possibly very considerable, harm by such an obstruction, or (b) extend to the Sites or the private roads. Again, the possibility of prosecutions occurring after the event under s.137 of the Highways Act 1980 does not prevent the impact of a blockade at a Site or on an access road.

- c. In the circumstances, the relief sought is what is necessary and proportionate to protect the Claimants' rights.

(6) Damages

59. The damage to the Claimants is addressed at paragraphs 31 and 58a. Conversely, the Claimants have offered a cross-undertaking in damages [HB/254] in case this becomes necessary and has the means to satisfy any such order, which would be an adequate remedy for the Defendants (see *Wolverhampton* at [234] [AB/79]).

G. PROCEDURAL REQUIREMENTS

(7) Identification of Defendants

60. At this stage, the Claimants cannot identify any of the Persons Unknown: see Todd at [88] – [89] [HB/121-122]. They are mindful of the ongoing requirement on the Claimants to join individual defendants to proceedings who become known and identified to them.
61. The Court is invited to conclude that the descriptions of the Persons Unknown are sufficiently precise to identify the relevant Defendants in circumstances where the descriptions target their conduct.

(8) Terms of the Orders

62. The Orders are clearly and precisely defined in clear and simple language and based on objective conduct, rather than subjective intention.

(9) Scope of the Order

63. There is a clear mirroring between the terms of each draft Order and the threatened torts. Additionally, the proposed injunctions do not prohibit lawful conduct in any manner.
64. As to the public highways, those have been included on the basis set out in paragraphs 10, 38c, and 55c above i.e., because those are the roads which provide the sole or main means of access to the Sites (save for SV2), meaning that they are necessary for the Claimants' relief to be effective.

(10) Geographical and temporal limits

65. As to the geographical limits: the extent of injunctions is made clear by the plans appended which will be appended to the Orders.

66. As to temporal limits: in *Leeds Bradford Airport Ltd and others v Persons Unknown* [2024] EWHC 2274 (KB) at [40] [AB/432], Ritchie J considered that “the request to review annually is an efficient, safe and fair way to protect the ECHR rights of Persons Unknown”. The Court adopted the same approach in *Manchester Airport plc and others v Persons Unknown* [2024] EWHC 2247 (KB) at [26] [AB/418].
67. In line with those cases, the Claimants seek an injunction until a review to take place in 12 months. The evidence shows that that period is reasonably necessary to protect the Claimants’ legal rights in view of threat identified, including the fact of the changes to IHT reliefs coming into effect on 6 April 2026 [HB/113 at 71].

(11) Service

68. Section 12(1) – (2) of the HRA 1998 [AB/436] provides as follows:

“(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”.

69. As set out in paragraphs 7 to 9 above, advance notification by reasonable steps has been given, both of the relevant documents for this application and of the hearing date and time [HB/124 at 93] – [95].
70. Since the Defendants’ ECHR right to freedom of expression is engaged, and since the Defendants are neither present nor represented, the Court must be satisfied either that (i) the Claimants have taken all practicable steps to notify the respondents, or that (ii) there are compelling reasons why the respondents should not be notified. As to that:
- a. The Claimants have proceeded on the basis that section 12 applies and what they propose to do by way of service is – they submit – all that is “practicable.”
 - b. Given the need to secure an injunction in advance of the planned protest on 17 January 2025, it is not practicable to take any additional or other steps to give notice.
71. In the circumstances, both (i) and (ii) are satisfied.
72. Additionally, pursuant to rule 6.15(1), (2) and 6.27 of the CPR, the Claimants need permission for the steps already taken and for those which will be taken for any relevant documents. For the avoidance of doubt: alternative service is the method designed to

bring the proceedings and Orders to the attention of the Defendants. That is the conceptual requirement which was identified by the Supreme Court at [167(ii)] and [230] – [231] of *Wolverhampton* at [AB/64 and 78]. The Court does not need consider whether there is a distinction between ‘service’ and ‘notification’ because the Claimants are proposing to carry out the stricter approach.

73. Todd sets out the extensive steps the Claimants will take to serve the relevant documents in accordance with an order for alternative service.
74. The draft Orders make it clear that no acknowledgement of service, admission or defence is required by any party until further so ordered. That is sufficient to meet the requirement in CPR 6.15(4)(c) that the order for alternative service must specify the period for filing an acknowledgment of service, an admission or defence.

(12) Liberty to apply

75. The Orders provide for the ability and procedure for the Defendants, or any other person affected, to apply to the Court to vary or discharge the order, and to be joined to the proceedings on “generous terms”: *Wolverhampton* at [232] [AB/78-79].

(13) Review

76. The drafting set out in paragraph 66 also meets the requirements to keep the injunction under review to ensure that changing circumstances do not outlast the compelling need resulting in the grant: *Wolverhampton* at [77] [AB/38]. Additionally, the draft Orders provide Claimants with permission to apply to extend or vary the Orders: the Claimants will keep the necessity for the injunctions under review for their duration.

H. THE DRAFT ORDERS

77. A features of the Orders is noted at this stage: no return date has been provided for the hearing of the application. It might be argued by the Defendants that there should be such a return date on the conventional practice to a without notice interim injunction application.
78. However, *Wolverhampton* at [139], [143], [144], [177], [178] and [232] [AB/55 – 57, 67, and 78-79], has made clear that there is no difference substantively between interim and final “newcomer” injunction because their essential character is that they are all “without notice”, whether interim or final. In view of the clarification provided by *Wolverhampton*, the conventional precaution of a return date would be an unnecessary

use of judicial resources, as well as adding needlessly to the costs. The Defendants, and anyone else concerned about the Orders, are fully protected by the liberty to apply, which may be exercised at any time prior to breach.

79. This approach mirrors that taken by HHJ Coe KC in *Manchester Airport* at [26] and by Ritchie J in *Leeds Bradford Airport*.

I. THE ALTERNATIVE SERVICE APPLICATION

80. As set out above, an ancillary application has been made for alternative service pursuant to CPR 16.15(1) and 16.27. The Court is referred to paragraphs 72-74 above. As the Defendants consist of ‘persons unknown’, it is not possible to ‘serve’ (or notify) them personally and alternative methods of service are necessary for the relief to be effective.
81. The Court is referred to the draft Order which sets out the proposed methods of service and Todd at [96] – [98] [**HB/125-126**] which sets out why the methods of service remain an appropriate means by which the documents may be brought to the attention of potential defendants. The proposed alternative service provisions in the draft orders are appropriate and sufficient to bring the continued injunctions to the notice of persons unknown likely to become a defendant.

J. CONCLUSION

82. For the reasons set out above, the Claimants invite the Court to grant the Orders sought.

MYRIAM STACEY K.C.

EVIE BARDEN

LANDMARK CHAMBERS

16 January 2025