

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**  
**(KBD)**

Royal Courts of Justice  
Strand  
London WC2A 2LL

Wednesday, 24 July 2024

BEFORE:

**HHJ COE KC (Sitting as a Judge of the High Court)**

BETWEEN:

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**MANCHESTER AIRPORT PLC AND OTHERS**

Claimants

- and -

**PERSONS UNKNOWN**

Defendant

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**MR T MORSHEAD KC and MS E BARDEN** appeared on behalf of the Claimants  
The Defendant did not appear and was not represented

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**JUDGMENT**  
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1. HHJ Coe KC: This is an extempore judgment; it is not comprehensive, and it is not going to be as detailed as some of the judgments in the authorities to which I have been referred. The reason I am able to deal with it in an extempore and short form is twofold. Firstly, because pursuant to the decision of the Supreme Court in *Wolverhampton City Council v London Gypsies and Travellers* [2023] UKSC 47 (“*Wolverhampton*”) and the subsequent decision of Ritchie J in *Valero Energy Limited v Persons Unknown* [2024] EWHC 134 (KB) (“*Valero*”), the principles are now quite clearly set out, despite the fact that these sorts of injunction applications are relatively new in jurisdictional terms. The second reason, is that I have the benefit of a very detailed and helpful skeleton argument on behalf of the claimants, which has gone, point by point, through the matters for and against the applications which I need to consider in deciding whether or not to make the orders sought.
2. In very short terms, the claimants own three airports in the UK: Manchester Airport; Stansted Airport; and East Midlands Airport. The defendants who are persons unknown - as described in the particulars of claim and in the draft order which I have given permission to amend - are people who feel strongly that the obtaining and use of fossil fuels should cease, and therefore they have engaged in a series of protests and campaigns of protest at various different locations.
3. In some instances, those already well reported incidents have produced significant disruption and in consequence injunctions have been granted to prevent further disruption. Those involved in these campaigns are active on the internet and their websites and so on, and have indicated that this particular summer of 2024, it is their intention to carry on these protests in similar fashion at UK airports.
4. I have seen the witness evidence from Mr McBride and Mr Wortley in particular setting out the details and the wording that has been used by those who have made these posts. It could not be clearer that they intend to bring home their message by causing disruption in the summer, in particular when there is a lot more air traffic with people going on holiday, and so on. They consider that this would give scope for some increased publicity to bring the public's attention to their campaign.

5. It is in light of this published intention that the claimants bring these applications. They are of the sort described in *Wolverhampton* as “newcomer” applications, in the sense that the persons unknown are those who cannot be identified by name, but who form an identifiable group of people by reason of their purpose and intention, as well as their past behaviour and their future plans.
6. These **sui generis** claims were specifically addressed in the *Wolverhampton* case in the Supreme Court and the principles identified there are now much clearer and as I say, have been further clarified by Ritchie J, and therefore in very short form rather than simply the balance of convenience, *American Cyanamid* sort of test. The court has to be satisfied that there is a compelling need for an injunction in a case of this kind, which has effectively become the key question.
7. I am satisfied first of all that I have been taken very carefully through the geographical areas in respect of which the protection of injunctions are sought, and so I have seen in particular, Plan 1 in relation to Manchester Airport, Plan 2 in relation to Stansted, and Plan 3 in relation to East Midlands which identify the land which is owned by the various, relevant claimants.
8. It is right to say that there are some complicating features in terms of simply bringing these claims in trespass as one would ordinarily do, because within those areas of land owned by the claimants there are various leases, licences and perhaps other arrangements which give rise to a right to occupy to others and therefore, the claimants properly acknowledge that they do not have an immediate right to possession and therefore, in trespass to protect against the threat of trespass. Considerable work has been done to set those details out and I have been referred to the title plans, and to the breakdown of the specific parts of each airport.
9. However, I am satisfied that the land itself as identified is in the ownership of the claimants. This application is made on the premise that if the injunctions were granted only on the basis of the land that is owned and to which there is a right of possession, it will not provide an effective solution. Again, by reference to the authorities it seems to me first of all that the claimants are entitled to make these applications where they are necessary in order to make the protection which they seek against trespass effective.

10. Secondly, the risk is that (albeit not on land to which the named claimants have a right of possession) any protest of the kind in respect of which injunctions are sought could spill out effectively onto the land to which the claimants do have the right to possession, and against which they are entitled to protection from nuisance. I have been given examples of how that has in fact already occurred in respect of the protestors who fall within this category of defendant.
11. I am satisfied that if it is appropriate to grant the injunctions sought, it is appropriate to grant them in respect of all of the land identified, that is, the areas identified in Plans 1, 2 and 3 to which I have been referred. The authorities make it quite straightforwardly clear that I have to be satisfied that there is a compelling need here, and I am satisfied on the basis of the evidence, in particular of Mr Wortley, who has identified the risks here that these injunctions are necessary and proportionate and that there is a compelling need for them.
12. In saying that, first of all as I have already referred to, there is clear evidence that there is a threat, indeed an intention to target airports, in the way that other airports and other enterprises and oil terminals, infrastructure and highways, have already been targeted in a disruptive way. The example that I have been given in respect of Gatwick Airport, is that people arrived with bandages apparently intending to block [access] and that there have been experiences at Stansted of people going through the perimeter fence with wire cutters and spraying aeroplanes orange. The threat is real, and it is imminent, and in some respects, it is already manifest.
13. Secondly, that the consequences of such protests (as far as airports are concerned) is of particular significance and importance. Airports are sensitive places where security is paramount, and we are all perfectly well aware of that, and if there is this sort of disruption or protest, not only does it have a significant knock-on effect or ripple effect in terms of busy airports, so that delay or disruption to even one flight is likely to affect many others, and therefore many other passengers.
14. Also, there is an increased sensitivity which is identified for me in this case from the evidence of Mr McBride in that even peaceful protests on an airport is a problem because airports are targets for terrorist organisations, and therefore airports have to

respond as if this could be a much more serious security threat and of course as has been pointed out to me, such a protest could in fact be a mask for a terrorist incident.

15. There is, of course, the danger of damage to aircraft, and not only security issues, but other significant financial repercussions which have a long-term effect.
16. Therefore, I am satisfied that there is a compelling need for the relief sought.
17. It is also right that I should take into account what arguments the defendants here might have raised, if they had been present. This is a without notice application, but it does not mean there is not an obligation to take those arguments into account, particularly where these protests have involved individuals being arrested for criminal offences. There are various criminal offences to which I have been referred including those in the Criminal Justice and Public Order Act 1994, the Public Order Act 2023 which now makes it an offence to affix oneself to an object on the land and the offence of aggravated trespass.
18. Similarly, there are byelaws at Stansted, Manchester and East Midlands which are intended to prevent: the obstruction of emergency exits; demonstrations; people loitering on the land; people refusing to leave when they are asked to do; and so on. The disadvantage from the claimants' point of view of the byelaws and the criminal law generally, is that they only are enforceable after the action has taken place. In other words, they do not prevent the threat or the action in the way that an injunction would, and that is in my view a significant and particularly importance difference in this situation.
19. There is a world of difference between waiting for somebody to breach the criminal law, or the byelaws and then prosecuting them, preventing this sort of action in the first place. The scope that there is for prosecution and sentence is not a remedy which would prevent the threat which is what this injunction application is all about.
20. I should have said before that since this is a without notice application, I have been referred already to the point about tipping off, and I am satisfied that it is appropriate to make this application without notice and for me to consider it without notice. I am also

satisfied that as is apparent from the claimant's skeleton argument and from the submissions that have been made to me in a really very comprehensive way, the claimants have not only dealt with full and frank disclosure, but have gone to some lengths to set out what might have been said on behalf of the defendants. For example, the inclusion in the bundle of the various byelaws from the airports and reference to them deals with one such issue.

21. In those circumstances, I am satisfied that it is necessary to grant the injunctions and that there is a compelling need for them. The correct legal approach is already covered in terms of the authorities that I have been referred to. I would cite the section of Ritchie J's judgment in *Valero*, which seems to me to set out as the claimants' skeleton argument has done, the matters I need to be satisfied about. In particular, it is hard to see at the moment what particular harm there could be to the persons unknown in preventing them from carrying out the sort of disruptive protests that are threatened, and which have been committed before. That is certainly the case in respect of the land, which is privately owned, or in private possession. However again, in the interests of putting everything before the court that they need to, the claimants in respect of Manchester Airport have also referred me to the fact that there are two highways within the land which has been identified, and clearly therefore there is a right to the public without permission to go onto those two highways.
22. I therefore have also to take into account the rights of the potential protestors and have regard to the European Convention on Human Rights, in particular articles 10 and 11. I need to consider whether or not in performing the overall balancing exercise, and in deciding whether or not the compelling need remains, or whether any interference with those rights is something which should cause me to not to make these orders.
23. There is a right to go onto a highway, and there is a right to protest on a highway, but that is a right to peaceful protest. The rights which are to be protected do not include the sort of deliberate and potentially unlawful, criminal behaviour which is the real basis of the threat here. In the circumstances, it seems to me that having considered that as far as Manchester is concerned, the need is compelling and any question of any interference with those rights does not outweigh the need for the injunction.

24. I am also of course aware of the fact - and it has been referred to most recently in submissions - that the claimants give a standard undertaking in damages as part of the injunction application, and if there is anybody who considers that their rights have been interfered with, to such an extent that they would be able to bring a claim and seek a remedy and damages then they are still entitled to. The claimants have given the appropriate undertaking in respect of any such right which is found to have been breached and in respect of which loss is found to have been caused.
25. In those circumstances, it seems to me that it is appropriate to make the orders sought. Having gone through the orders with counsel, first of all it seems to me that it is appropriate to amend the definition of those unknown persons, to include any other organisation of which the claimants are aware, and in respect of which they have any website or email address. I say that because the definition of identification is important, even though it is apparent in this case that it is not simply certain identified organisations, it is nonetheless important that those who otherwise might be similarly minded are included.
26. Secondly, whilst this is not the sort of application where in my view it is appropriate for example to make an interim order with a return date in two weeks' time or so as far as interim or final injunction orders are concerned, there is no distinction in the sense that anybody affected has the right to come to court and seek to have the order discharged, set aside or varied. That is the position here.
27. In those circumstances, what I have indicated is that this is an injunction which is to be reviewed after, rather than to last for, a period of 12 months. That seems to me to be a sufficient period of time to cover off the nature of the threat which has been identified, namely when there are most flights out of airports, but also to reflect the somewhat sequential nature of the kind of campaigns that have been organised at various different locations.
28. I also made it clear that those third parties who are not claimants here but do have a right to possession of various parts of the airports, should also be notified in case they have any reason to ask for any part of these orders to be discharged or varied.

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