

Neutral Citation Number: [2025] EWHC 2178 (Ch)

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

Case No. PT-2025-000739

Courtroom No. 10

The Rolls Building  
7 Rolls Buildings  
London  
EC4A 1NL

Wednesday, 30<sup>th</sup> July 2025

Before:  
THE HONOURABLE MR JUSTICE MELLOR

B E T W E E N:

UNIPER UK LTD

and

JOSHUA BARTER, SAM WILLIAMS, IAN JOHNSON, LUKE BADHAREE & PERSONS  
UNKNOWN

MR A ROSENTHAL KC (instructed by Herbert Smith Freehills Kramer LLP) appeared on  
behalf of the Claimant  
NO APPEARANCE by or on behalf of the Defendants

APPROVED JUDGMENT

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*This judgment was delivered in private. The judge has given leave for this version of the judgment to  
be published.*

MR JUSTICE MELLOR:

1. This is an application brought by Uniper UK Ltd, and it concerns the site of the former coal-fired power station at Ratcliffe-on-Soar. Indeed, that was the last coal-fired power station in the UK, and it was permanently shut down on 30 September 2024. What has happened, even before shutdown, but especially since the shutdown, are some acts of trespass and nuisance on that site. In this regard, there are effectively two groups of trespassers represented by the defendants. First of all, there are four named defendants, and these have been identified as people who engage in urban exploration. The second group are Travellers, whose identity is unknown to the claimant, and there has been one serious incursion onto the site and one fairly determined attempted incursion, which caused a lot of damage, by Travellers' groups in the recent past. I should also make clear that the persons unknown, identified as the fifth defendant, is intended to apply not only to Travellers, but also to unknown urban explorers.
2. Now, the background to this is, as I have said, this power station site. It is a very extensive site, comprising some, I think, 280 hectares in area, and it has got a very large perimeter of around five kilometres, which is all fenced. So far as the urban explorers are concerned, they are very interested in scaling various structures in particular, and the power station site comprises eight concrete cooling towers, which reach a height of 114 metres, and a main chimney stack of 198 metres, and in the evidence there are various Facebook posts which show some of the defendants on the top of that main chimney stack at nighttime. In addition to those structures, the evidence shows there is a very large amount of other equipment: coal-fired burners, turbine generator sets, exhaust gas and water treatment facilities, coal storage, transportation, electricity transformers and administrative offices on the site.
3. The injunction is sought over an area of the site, marked in red on the plan, which is proposed to form part of the injunction order, but excluding some fairly substantial areas shaded blue, which are the site of an electricity substation and which are subject to a lease to the National Grid.
4. As far as the Travellers are concerned, there have been two recent incursions, as I have mentioned. First of all, over the weekend beginning on 25 April, a group of Travellers forced entry onto the land with caravans and other vehicles, and they remained on the land until Monday 28 April. They were aggressive, they physically assaulted a security guard, they stole materials from the land, and they damaged buildings and machinery. They found the keys to various vehicles and machinery in the offices on the land, and they used those to try and remove and to remove materials. It was not until about 3.00 on the Monday that the group vacated the land, after they were confronted by 16 private enforcement officers engaged by the claimant and around 20 police officers.
5. I have seen in the evidence very substantial evidence of damage caused by the Travellers. They were obviously trying to, and they managed to, steal copper and various other materials from the site, and there is reliable evidence from the claimant that their damage and loss from that incursion are estimated to have cost around £1.85 million. One of the reasons for the extensive damage sustained during that first incursion was the rather slow and perhaps inadequate response from the police.
6. The second incursion occurred on 26 June, and on that occasion around 10 vans and caravans tried to force entry into the site. Following the first incursion, the claimant had improved security and had installed various vehicle mitigation blocks in front of the main site gates and

elsewhere. The Travellers, therefore, used cutting equipment to break through gates and used vehicles to try and move the vehicle mitigation blocks, and on that occasion 10 patrol vehicles were sent to the site by Nottinghamshire Police. On arrival, the Travellers abandoned their attempt to enter. However, the evidence is clear that a good deal of damage had been caused in the efforts to gain entry, and if the police had not responded as swiftly as they did, the Travellers would have gained entry and would have set up a camp onsite as before. Most recently, on 17 July 2024, the claimant received information from the police that there were Traveller groups in the local area, believed to be the same as those who attempted to gain entry on 26 June.

7. As far as the urban explorers are concerned, the evidence shows there has been a history of trespass on the land. Some of the evidence relates to incursions prior to shutdown, for example in April 2024. On that occasion, five urban explorers gained entry and climbed the main chimney stack. There is quite a lot of evidence on social media from that incursion relating to the five individuals of which the first defendant was one. There is also a photograph showing the second defendant with the first defendant sitting on the main chimney stack, and there is also a video showing defendants two and three with another unidentified individual walking through the boiler house, and these urban explorers like to boast on social media of their incursions, not only into the Ratcliffe site, but also the site of other power stations.
8. The evidence is clear that although the term ‘urban explorer’ may glamourise the practice, it is extremely dangerous for these persons to enter on the site of this former power station, which is in the process of being decommissioned and various structures being demolished. The evidence is that following the shutdown on 30 September 2024, there is ongoing a two-year period of decommissioning, at the end of which the power station will be demolished and the site ultimately redeveloped.
9. This application has been brought by Uniper UK Ltd, and I have been provided with a very detailed and useful skeleton argument by Adam Rosenthal KC, and he has addressed, in relation to the named defendants, the usual *American Cyanamid Co v Ethicon Ltd* [1975] UKHL 1 principles. First of all, I am entirely satisfied there is a serious issue to be tried. The claimant relies on trespass and nuisance, and Mr Rosenthal submitted, I think accurately, that these claims are unanswerable. It is also clear to me that damages would not be an adequate remedy for the claimant in the event of subsequent incursions, whether by the Travellers or the urban explorers. The evidence is that during this period of decommissioning, the claimant has approximately 200 workers onsite and there are also an increased number of security people on the site, and of course with a site of this magnitude and the size of the perimeter, they cannot stop every attempted incursion. Particular attention was drawn to the health and safety risk to both categories of trespasser.
10. However, I am also satisfied that, in addition to the fact that a lot of this loss would not be capable of quantification, it must be a matter of extreme doubt that any of these defendants would have the wherewithal to pay any amount in damages. Therefore, I reached a very clear conclusion that the balance of convenience clearly favours the grant of an injunction and, as counsel submitted, there are really no factors that weigh in the defendants’ favour. I am also satisfied that there is a real and imminent risk of the defendants trespassing and causing further nuisance, bearing in mind we now have a concerted pattern of previous trespass onto the land for urban exploration, but also the intention to continue.
11. As far as persons unknown are concerned, counsel has addressed me in relation to the Supreme Court judgment in *Wolverhampton County Council v London Gypsies and Travellers* [2023]

UKSC 47. He drew my attention to the five listed factors that the Supreme Court drew attention to in paragraph 167 and also the way in which these factors have been dealt with subsequently at first instance, notably by Ritchie J in *Valero Energy and others v Persons Unknown* [2024] EWHC 134 (KB), which was a final determination, and also the judgment of Thompsell J in *The University of London v Harvie-Clark and others* [2024] EWHC 2895 (Ch), which was an application for interim relief. Indeed, Mr Rosenthal took me very carefully through each of the factors, and Ritchie J has divided them into substantive requirements and procedural, and I will just very briefly summarise why I have concluded all of these requirements are satisfied.

12. First of all, cause of action: there is a plain cause of action in trespass and nuisance. Secondly, full and frank disclosure: it is quite clear that the claimant has addressed this duty, and I have been addressed on any potential defences that the defendants might rely upon, and I will touch on those below. Thirdly, there has to be sufficient evidence to prove the claim, and I agree with counsel's submission that the evidence in the three witness statements, which I pre-read, support the claim and the evidence is overwhelming. I have already mentioned that I have concluded there was a real imminent risk of further trespass, nuisance and property damage, and again I refer to what happened when the Travellers gained entry to the site or attempted to gain entry. In terms of the urban explorers, it is quite clear there is continuing interest in them exploring this site, and perhaps more so now that it is in the process of being decommissioned.
13. Counsel has given consideration as to what defences might be relied upon by the defendants if they were to defend the claim, and he concludes there is none, and I am inclined to agree. He makes the point that this case involves private land, which is a point of distinction from the other cases in which newcomer injunctions have been considered, and he also drew my attention that any Article 8 right that requires a proportionality analysis is appropriately undertaken on an application by an individual under the liberty to apply, and the Article 8 rights belong to individuals and not to the Traveller community as some sort of genus. That is as explained by the Master of the Rolls in the Court of Appeal in the *Wolverhampton* case at paragraph 105.
14. The fifth item on the checklist is the requirement for a compelling need for the injunction, and I am quite satisfied that there is such a compelling need in this case, and in this regard counsel has addressed whether there are other measures that the claimant could take short of obtaining an injunction. In this regard, he has pointed to the security personnel onsite, that they were overpowered by the aggression and threats of violence by the Travellers who entered the site in April, and even the boosted onsite security, including a roving dog patrol and various security gates being welded, did not prevent a group of Travellers attempting to enter in June 2025. The evidence from Mr Close is that that attempt was only prevented by the speedy police response, which cannot be relied upon on every occasion. It is also clear that the additional security measures, including surveillance, have not been successful in preventing entry by urban explorers.
15. Finally, in relation to the urban explorers there is an indication on social media that the grant of an injunction would have a deterrent effect, and that is page 74 of the hearing bundle. I have already covered the point that damages will not be an adequate remedy to the claimant. In terms of the procedural requirements, the persons unknown are, in my judgement, appropriately identified by reference to the tortious conduct to be prohibited, i.e. entry onto the land without consent, and also the clearly defined geographical boundary in the plan to be appended to the order. In terms of the injunction, I am satisfied that these are clearly set out.

They are in clear words. They specify what conduct is to be restrained by the Court's injunction, and I agree there is no scope for innocent third parties to be inadvertently caught. Thirdly, the prohibitions must match the claim, and I am satisfied this is the case here, and I have already mentioned the geographic boundaries.

16. The final limit is a temporal one and the order sought is for an initial period of 12 months with a provision for the claimant to apply to the court to continue the injunction. As I have mentioned, the decommissioning process is expected to last around two years, and if there are further serious incursions it may be that the decommissioning process will take longer, but I am satisfied that an initial period of 12 months, with the claimant effectively checking back with the court in 12 months' time, is entirely appropriate. The final procedural factors are service, and I will come back to that. Seventh, the right to set aside or vary, and there is a provision in the order on shortish notice, i.e. 48 hours, and the eighth requirement is review, but I am satisfied there is no specific provision required, bearing in mind there is a liberty to apply, and also this is an interim order, albeit lasting for 12 months. The claimant gives the usual cross-undertaking in damages, and it clearly has very substantial assets to meet any liability, even though I agree it is almost inconceivable that any liability could arise.
17. The final points I have to consider are service by alternative means, and counsel has addressed me in considerable detail on the requirements, and also the evidence from Mr Robertson as to the detailed attempts to bring the notice of this application to the attention of the defendants. It is not necessary to detail all the steps that have been taken. Mr Robertson, in his first witness statement, detailed four methods which he intended to use to give notice of the application and provide the relevant documents. First of all, sending them by post, courier or by hand to certain addresses that have been identified for the first and fourth defendants. Secondly, uploading copies of the claim documents to a dedicated page on the claimant's website. Thirdly, affixing notices on the perimeter fence at various locations located on a plan, which I have been shown. Also, fourthly, sending messages to each of the Facebook accounts of the first to fourth defendants.
18. Those messages got through to the Facebook accounts of defendants one, three and four, but not to defendant two. In his second witness statement, Mr Robertson gives some further details of the service of the relevant documents. At the address identified for the first defendant, eventually delivery by post was successful on the second attempt on 24 July, and it was signed for by Josh. Hand delivery was successful, I think, at both addresses on 23 July. Now, because the second defendant could not be messaged on Facebook, the director of the firm involved had a telephone conversation with a Kayleigh Williams, who indicated she is the second defendant's mother. Ms Williams provided an email address to which the claim documents could be sent, and an email was subsequently sent to Ms Williams on 24 July, attaching a copy of the relevant documents.
19. Mr Robertson also exhibits to his second witness statement a series of Facebook posts from the first defendant and the fourth defendant and a Facebook group. These posts clearly indicate that the first, second, third and fourth defendants have discussed the claimant's injunction application, and posts from the first and fourth defendants clearly indicate they have received and/or are able to access the documents relating to this application. In all these circumstances I am satisfied that appropriate notice of this application was brought to the attention of all four named defendants.
20. There is a further complication in relation to the second defendant because there is an indication that he may be a minor. Based on the evidence, he might be 17 or he might be 18.

It is not entirely clear, and so I have to consider whether, pursuant to CPR 21.2, I should appoint a litigation friend or make an order under 21.2(3), permitting a child to conduct proceedings without a litigation friend. On this application, counsel and his solicitors took in my view a very cautious approach, and they proposed to discontinue the claim against the second defendant unless I directed otherwise. During submissions, I indicated my view that based on what I have seen from the Facebook posts the second defendant poses just as much a risk as any of the urban explorers, which needs to be restrained by injunction, and therefore I propose that the claim should continue against the second defendant.

21. In the circumstances, I will make an order under 21.2(3) permitting the second defendant to conduct proceedings without a litigation friend, but I have directed that the order should contain a permission to apply for him to appoint a litigation friend if he so wishes. Therefore, in all the circumstances, I was entirely satisfied that the named defendants know of the contents of the documents that were relevant to this application, and that has been indicated as the most important requirement.
22. Finally, in relation to service, I am invited to make orders for alternative service under CPR 6.15, 6.27 and 81.4(2) (c).
23. CPR 6.15 is the provision for making an order for service of the claim form by an alternative method, and 6.27 extends the same rule to other documents in the proceedings. In all the circumstances and based on the evidence I have seen, I am quite satisfied I should make the appropriate orders because in this case it is difficult to see what else the claimant could have done to bring notice of the relevant documents to the defendants.
24. I should just mention the persons unknown because in relation to the Travellers none of them have been specifically identified, but if they are, as they seem to be, circling the site they will no doubt be able to see the notices which have been posted, and if they are interested they will be able to obtain copies of the documents from the main gate on the site. They can also attend the claimant's solicitors at Exchange House in London if they so wish for copies as well. In all these circumstances, I am prepared to grant the order as sought with the amendments that I have indicated in this ruling.

**End of Judgment.**

Transcript of a recording by Acolad UK Ltd  
291-299 Borough High Street, London SE1 1JG  
Tel: 020 7269 0370  
legal@ubiquis.com

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This transcript has been approved by the judge.