



Claim No: QB-2022-001236

IN THE HIGH COURT OF JUSTICE
QUEEN’S BENCH DIVISION
ROYAL COURTS OF JUSTICE

In the matter of an application for an injunction under s.1, Localism Act 2011, s.222, Local Government Act 1972, s.130, Highways Act 1980 and section 17 of the Crime and Disorder Act 1998.

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

and

- (1) DAVID BALDWIN**
- (2) THOMAS BARBER**
- (3) MICHELLE CADET-ROSE**
- (4) TIM HEWES**
- (5) JOHN HOWLETT**
- (6) JOHN JORDAN**
- (7) CARMEN LEAN**
- (8) ALISON LEE**
- (9) AMY PRITCHARD**
- (10) STEPHEN PRITCHARD**
- (11) PAUL RAITHBY**
- (12) HOLLY ROTHWELL**
- (13) ELIZABETH SMAIL**
- (14) JOHN SMITH**
- (15) BEN TAYLOR**
- (16) JANE THEWLIS**
- (17) ANTHONY WHITEHOUSE**
- (18) ANDREW WORSLEY**
- (19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA**

Defendant

RETURN BUNDLE

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Application notice

For help in completing this form please read the notes for guidance form N244Notes.

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Name of court The High Court of Justice, Queen's Bench Division	Claim no. QB-2022-001236
Fee account no. (if applicable)	Help with Fees – Ref. no. (if applicable)
	HWF- - - - -
Warrant no. (if applicable)	
Claimant's name (including ref.) North Warwickshire Borough Council	
Defendant's name (including ref.) 18 named defendants & Persons Unknown	
Date	27 April 2022

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

North Warwickshire Borough Council, Legal Services

2. Are you a Claimant Defendant Legal Representative

Other (please specify)

If you are a legal representative whom do you represent?

North Warwickshire Borough Council

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

1) Jake Handling, Joshua Smith, Kathryn Dowds, Christian Murray-Leslie & Diana Martin be named defendants, 2) the power of arrest be amended to reflect that the injunction date was 14.04.22, 3) the Claimant be granted permission to rely on section 9 witness statements & to serve by post.

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

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

at a telephone hearing

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

Is this time estimate agreed by all parties? Yes No

7. Give details of any fixed trial date or period

8. What level of Judge does your hearing need?

9. Who should be served with this application?

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

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

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

If necessary, please continue on a separate sheet.

Statement of Truth

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

- I believe that the facts stated in section 10 (and any continuation sheets) are true.
- The Applicant believes** that the facts stated in section 10 (and any continuation sheets) are true. **I am authorised** by the applicant to sign this statement.

Signature



- Applicant
- Litigation friend (where applicant is a child or a Protected Party)
- Applicant's legal representative (as defined by CPR 2.3(1))

Date

Day Month Year

Full name

Name of applicant's legal representative's firm

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

Applicant's address to which documents should be sent.

Building and street

Council House

Second line of address

South Street

Town or city

Atherstone

County (optional)

Warwickshire

Postcode

C V 9 1 D E

If applicable

Phone number

01827 719251

Fax number

DX number

Your Ref.

Legal/CHT/KOT

Email

legalservices@northwarks.gov.uk

Claimant
1st statement
C. Tobin
27th April 2022
Exhibit CHT/1

Claim No. QB-2022-001236

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

In the matter of an application for an injunction under s.222, Local Government Act 1972 s.130(5), Highways Act 1980 and s.1, Localism Act 2011.

B E T W E E N

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

and

- (1) DAVID BALDWIN**
- (2) THOMAS BARBER**
- (3) MICHELLE CADET-ROSE**
- (4) TIM HEWES**
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**(19) PERSONS UNKNOWN WHO ARE ORGANISING,
PARTICIPATING IN OR ENCOURAGING OTHERS TO
PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION
AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE
KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA**

Defendants

AND BETWEEN

NORTH WARWICKSHIRE BOROUGH COUNCIL

and

- (20) SARAH BENN**
- (21) MOLLY BERRY**
- (22) EMILY BROCKLEBANK**
- (23) KATHERYN DOWDS**
- (24) JAKE HANDLING**
- (25) GWEN HARRISON**
- (26) SIMON MILNER-EDWARDS**
- (27) BARRY MITCHELL**
- (28) CHRISTIAN MURRAY-LESLIE**
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- (36) ISABEL ROCK**
- (37) VIVIENNE SHAH**
- (38) JOSH SMITH**
- (39) HANNAH TORRANCE BRIGHT**
- (40) SARAH WEBB**

Proposed Defendants

WITNESS STATEMENT OF CLIVE TOBIN

I, CLIVE TOBIN, of The Council House, South Street, Atherstone, CV9 1DE,
Solicitor and Local Government Officer WILL SAY AS FOLLOWS:

1. I am employed by North Warwickshire Borough Council (“the Council”) as the Head of Legal Services. I am duly authorised on behalf of the Council to make this witness statement.
2. I make this witness statement in relation to the interim injunction and power of arrest granted by Mr Justice Sweeting, on a without notice basis, on 14 April 2022, and the ongoing proceedings related to that injunction (“the injunction”).
3. By way of introduction, during the week commencing 11 April following discussions between myself and Steve Maxey, the Council’s Chief Executive, the Claimant decided to issue proceedings for an injunction to prohibit the dangerous and disruptive behaviour then being undertaken by protestors at the Kingsbury Oil Terminal (the “Terminal”). I authorised Ms Ryan, Principal Solicitor, to issue those proceedings which she did on 13th April, and they came before Mr Justice Sweeting, as I have said, the following day.

Additional Defendants

4. At the time that the proceedings were heard on 14 April, the only names of protestors known to the Claimant were those 18 Defendants named in the proceedings. Since that time, additional names have become known.
5. Committal proceedings are proceeding against Mr Jake Handling (Proposed Defendant 24) and, Mr Josh Smith (PD 38) following their arrest inside the Shell Depot at Kingsbury Oil Terminal (the “Terminal”) on 23 April 2022.

6. They were also arrested on 15 April 2022 inside the Terminal, and it was intended to produce them to court on 19 April, but it was necessary to release them prior to production as the custody time limit under s.27(4), Police and Justice Act 2006 was about to expire. The Claimant has decided not to pursue Mr Handling and Mr Smith in relation to the arrest on 15 April on the basis that the Claimant can not be certain that they were aware of the injunction on that occasion.

7. Committal proceedings are being pursued against 16 protestors who were arrested while blocking an entrance to the Terminal on 26 April 2022. They are the following proposed Defendants:
 - (20) Sarah Benn
 - (21) Molly Berry
 - (22) Emily Brocklebank
 - (25) Gwen Harrison
 - (26) Simon Milner-Edwards
 - (27) Barry Mitchell
 - (30) David Nixon
 - (31) Stephanie Pride
 - (32) Amy Pritchard
 - (33) Simon Reding
 - (34) Margaret Reid
 - (35) Catherine Rennie-Nash
 - (36) Isabel Rock
 - (37) Vivienne Shah
 - (38) Josh Smith
 - (39) Hannah Torrance Bright
 - (40) Sarah Webb

8. It is intended by the Claimant to pursue committal proceedings against:
 - (28) Christian Murray-Leslie and
 - (29) Diana Martinin relation to alleged breaches of the Order over the night and early morning of 14-15 April 2022, when they affixed themselves to each other on a gantry inside the Shell Depot of the Terminal. They were not arrested by police for breach of the injunction (though they were arrested

for criminal matters) and paper committal proceedings will be issued shortly.

9. Finally, the Claimant is also aware of Katheryn Dowds (PD 23) who was arrested for breach of the Injunction on 15 April 2022, inside the Valero Depot at the Terminal. Although she is not being made subject to committal proceedings, as the Claimant can not be certain that she was aware of the injunction, the Claimant now has her name and address.
10. The Claimant seeks permission to add these additional 21 people as the 20th-40th Defendants inclusive. I do not believe that they should remain within the 19th Defendant ("Persons Unknown") now that they are identifiable and have been arrested inside the areas edged in red on the map attached to the injunction.

Power of Arrest

11. Secondly, I have observed that the Power of Arrest issued on 14 April 2022, and which applies to the Order, states that it applies to the order made on 10 March 2022. As stated above, since the Council's application had not been made on 10 March and was not heard until 14 April, this appears to be a typographical error and I would ask that the Court corrects this using its power in Part 40.12 of the Civil Procedure Rules, so as to refer to the Injunction dated 14 April 2022, as amended by Order dated 21 April 2022.

Committal evidence

12. Thirdly, I ask that the Court allows the Claimant to rely on the section 9 witness statements completed by police officers and other witnesses including Mr Dawson, and the witness statements made by Mr Maxey in relation to the committal proceedings.
13. Although CPR Part 81 requires evidence on committal to be made by way of affidavit, all the statements contain declarations of similar effect to

a statements of truth, which state that the maker of the statement understands the consequences of making a statement which they do not believe to be true. Moreover, Mr Maxey is a solicitor and an officer of the court, as well as the Chief Executive of the Claimant, and the other witnesses aside from Mr Dawson (whose statement is in s.9 format) are police officers.

14. Given the time available, it has not been possible to obtain affidavit evidence from those witnesses. I am aware that an extensive policing operation is ongoing at the Terminal and that over 200 arrests have been made in total in connection with these protests, the vast majority of which relate to criminal charges. The police officers involved in the operation have prepared section 9 witness statements in relation to those arrests and resulting criminal charges which set out the events that have occurred at the Terminal and include the events which are alleged to amount to breach of the Injunction. These statements are made contemporaneously and, given the number of arrests and the fact that many of the incidents have occurred out of ordinary office hours, it would not be practical for all those officers to prepare and swear affidavit evidence in time for any committal proceedings, particularly for those in custody

Service on solicitors/by post

15. Further, I am aware that those arrested for alleged breaches of the Injunction reside in various parts of the United Kingdom, none being resident in Warwickshire. Accordingly, it is not practical for the Claimant to serve Committal Applications and evidence on those concerned personally. I therefore ask the Court to permit service of those applications and evidence either on solicitors where they are represented or else by post, if necessary using recorded delivery.
16. I would ask that the Court amends the Injunction in the form attached to this application, and marked as CHT/1, to allow these means of service for committal applications and evidence on those alleged to have breached the order in the future.

STATEMENT OF TRUTH

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

Signed:

A handwritten signature in blue ink, appearing to be 'Am2'.

Date: 27th April 2022

Claimant

1st statement

C. Tobin

27th April 2022

Exhibit CHT-1

Claim No. QB-2022-001236

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QUEEN'S BENCH DIVISION

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Defendants

AND BETWEEN

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Proposed Defendants

THIS IS THE EXHIBIT MARKED "CHT-1" REFERRED TO IN THE
WITNESS STATEMENT OF CLIVE TOBIN DATED
27 APRIL 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No. QB-2022-001236

In the matter of an application for an injunction under s.222, Local
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INTERIM INJUNCTION ORDER

PENAL NOTICE

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

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

On the 28 April 2022, before Mr Justice Sweeting, sitting at the Manchester Civil Justice Centre, 1 Bridge Street West, Manchester, M60 9DJ the Court considered an application by the Claimant for an injunction.

UPON the return date of an interim injunction and power of arrest granted without notice by Mr Justice Sweeting on 14 April 2021, and amended pursuant to slip rule CPR rule 40.12 (the “Injunction”)

AND UPON hearing counsel Mr Jonathan Manning and Ms Charlotte Crocombe for the Claimant, [and [counsel for the (NO of) Defendants] [and the Defendants not appearing]

AND UPON considering an application for an interim injunction brought by the Claimant pursuant to the above statutory provisions, inviting the Court to exercise its discretion to grant injunctive relief pursuant to s.37(1) Senior Courts Act 1981

AND FURTHER UPON the Court being satisfied for the purposes of section 12(2) of the Human Rights Act 1998 that the Claimant has taken all practicable steps to notify any Defendant not appearing of this application, including by serving the Injunction in accordance with the alternative methods of service specified in its para.6 and Schedule 2.

AND FURTHER UPON the Court being satisfied for the purposes of section 12(3) of the Human Rights Act 1998 that the Claimant is likely to establish at the trial of this claim that any publication restrained by this Order should not be allowed.

AND FURTHER UPON the Court having particular regard to the importance of the Convention right to freedom of expression but finding in the circumstances that it is just and convenient, and proportionate, to continue the injunctive relief in the terms set out herein, pending the trial of this claim

AND FURTHER UPON the Court being satisfied for the purposes of s.27(3), Police and Justice Act 2006, that there is a significant risk of harm to a person or persons from the conduct prohibited by this Order and that a power of arrest should therefore also be continued

IT IS ORDERED THAT

1. The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):
 - (a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the “Terminal”), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1, or within 5 metres of those boundaries (edged in red) (the “buffer zone”).

For the avoidance of doubt, this prohibition does not prevent the Defendants from using any public highway within the buffer zone for the purpose of travelling to or from a protest held, or to be held, outside the buffer zone.

- (b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:
 - (i) entering or attempting to enter the Terminal
 - (ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal
 - (iii) obstructing any entrance to the Terminal
 - (iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)
 - (v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land
 - (vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)
 - (vii) erecting any structure
 - (viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal

- (ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;
 - (x) abseiling from bridges or from any other building, structure or tree on land or
 - (xi) instructing, assisting, or encouraging any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.
2. A power of arrest, pursuant to s.27 Police and Justice Act 2006 shall apply to paragraph 1(a) and (b) above.
 3. This Order shall continue until the hearing of the claim unless previously varied or discharged by further Order of the Court.
 4. Any person served with a copy of, or affected by, this Order may apply to the Court to vary or discharge it, on 48 hours written notice to the Claimant at the address set out at the foot of this Order.
 5. Pursuant to CPR rules 6.15, 6.27 and 81.4(2) (c) and (d), the Claimant shall be permitted to serve the Claim Form and supporting documents relied on, and this Order and power of arrest, by the alternative methods specified at Schedule 2 to this Order.
 6. The deemed date of service of the documents referred to at paragraph 6 above shall be the date of the relevant certificate of service on completion of the steps described in Schedule 2 to this Order.

If you do not fully understand this Order you should go to a solicitor, Legal Advice Centre or Citizens' Advice Bureau.

Name and Address of the Claimant's Legal Representatives

Ms Annie Ryan

The Council House

South Street

Atherstone

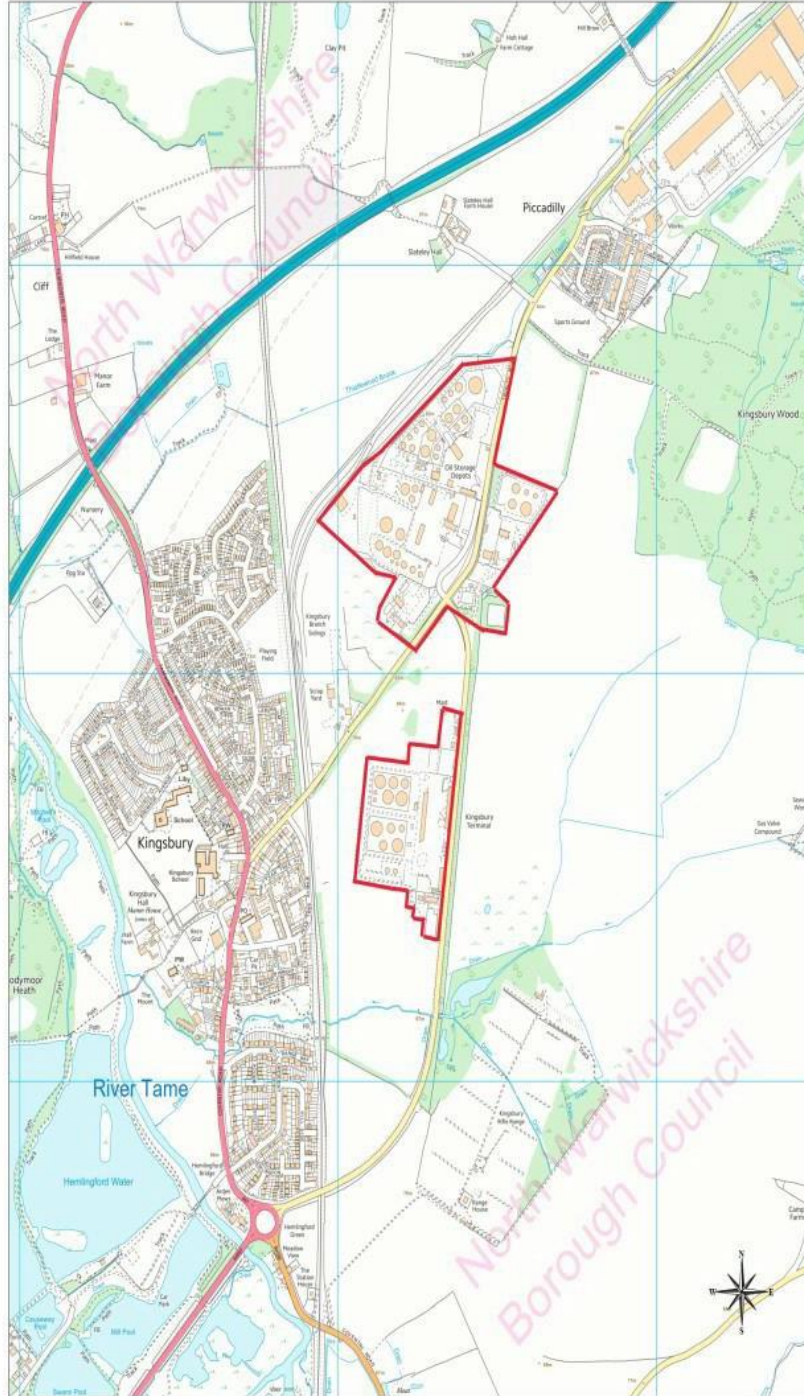
Warwickshire CV9 1DE

Email:

clivetobin@northwarks.gov.uk

annieryan@northwarks.gov.uk

SCHEDULE 1



(c) Crown Copyright and database rights 2022
Ordnance Survey 100017910



North Warwickshire
Borough Council



Operator:	xxxxxx
Department:	xxxxxx
Drawing No:	nnnnnn
Date:	11/04/2022
Scale:	1:10000

SCHEDULE 2

1. Service of the Claim Form and this Order and power of arrest shall be effected by
 - (i) placing signs informing people of
 - (a) this Claim,
 - (b) this Order and power of arrest, and the area in which they have effect and
 - (c) where they can obtain copies of the Claim Form. Order and power of arrest, and the supporting documents used to obtain this Orderin prominent locations along the boundary of the buffer zone referred to at para.1 of this Order and particularly outside the Terminal and at the junctions of roads leading into the zone,
 - (ii) placing a copy prominently at the entrances to the Terminal;
 - (iii) posting a copy of the documents referred to at para.1(i)(c) above Order on its website, and publicising it using the Claimant's facebook page and twitter account, and posting on other relevant social media sites including local police social media accounts, and/or.
 - (iv) any other like manner as the Claimant may decide to use in order to bring the Claim Form and this Order and power of arrest to the attention of the Defendants and other persons likely to be affected.
2. If the Claimant intends to take enforcement proceedings against any person in respect of this Order, the Claimant shall, no later than the time of issuing such proceedings, serve on that person,
 - (i) a copy of the Claim Form and all supporting documents relied on to obtain this Order; and
 - (ii) a copy of this Order and power of arrest.
3. The Claimant may serve the documents referred to in paragraph 2 above, and any committal application and evidence by
 - (i) Service on the person's legal representative or
 - (ii) Where the person is not legally representative, service by recorded delivery post.
4. The Court will consider whether to join the person served to the proceedings as a named Defendant and whether to make any further Order.

Signed: *Mr Justice Sweeting*

Dated: 28 April 2022

SECTION 222 LOCAL GOVERNMENT ACT 1972 INJUNCTION - POWER OF ARREST

Under section 27, Police and Justice Act, 2006. Claim no

IN THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION

NORTH WARWICKSHIRE BOROUGH COUNCIL	Claimant
18 NAMED DEFENDANTS AND PERSONS UNKNOWN LISTED ON THE INJUNCTION ORDER DATED 14 APRIL 2022.	Defendant

The court orders that a power of arrest under section 27, Police and Justice Act 2006, applies to the following paragraph of an order made on 28 April 2022

(Here set out those provisions of the order to which this power of arrest is attached and no others)

*(Where marked * delete as appropriate)*

1. The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):
 - (a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the "Terminal"), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1, or within 5 metres of those boundaries (edged in red) (the "buffer zone").
 - (b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:
 - (i) entering or attempting to enter the Terminal
 - (ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal not within the buffer zone
 - (iii) obstructing any entrance to the Terminal
 - (iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)
 - (v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land
 - (vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)
 - (vii) erecting any structure
 - (viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal
 - (ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;
 - (x) abseiling from bridges or from any other building, structure or tree on land or
 - (xi) instructing, assisting, encouraging or allowing any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.

Power of Arrest

The court thinks that there is a significant risk of harm to a person.

A power of arrest is attached to the order whereby any constable may (under the power given by section 27 Police and Justice Act 2006) arrest without warrant a person if he or she has reasonable cause to suspect that the person is in breach of the provision.

This Power of Arrest

Shall continue until the trial of this claim or further order of the Court.

Note to the Arresting Officer

Where a person is arrested under the power given by section 27, Police and Justice Act 2006, the section requires that:

- A constable who arrests a person for breach of the injunction must inform the person who applied for the injunction.
- A person arrested for breach of the injunction must, within the period of 24 hours beginning with the time of the arrest, be brought before—
 - (a) a judge of the High Court or a judge of the county court, if the injunction was granted by the High Court;
 - (b) a judge of the county court, if—
 - (i) the injunction was granted by the county court, or
 - (ii) the injunction was granted by a youth court but the respondent is aged 18 or over;
 - (c) a justice of the peace, if neither paragraph (a) nor paragraph (b) applies.
 - In calculating when the period of 24 hours ends, Christmas Day, Good Friday and any Sunday are to be disregarded.
 - The judge before whom a person is brought under subsection (3)(a) or (b) may remand the person if the matter is not disposed of straight away.
 - The justice of the peace before whom a person is brought under subsection (3)(c) must remand the person to appear before the youth court that granted the injunction.

Ordered by

Mr Justice Sweeting

On

28 April 2022

SECTION 222 LOCAL GOVERNMENT ACT 1972 INJUNCTION - POWER OF ARREST

Under section 27, Police and Justice Act, 2006. Claim no

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

NORTH WARWICKSHIRE BOROUGH COUNCIL	Claimant
18 NAMED DEFENDANTS AND PERSONS UNKNOWN LISTED ON THE INJUNCTION ORDER DATED 14 APRIL 2022.	Defendant

(Here set out those provisions of the order to which this power of arrest is attached and no others)

The court orders that a power of arrest under section 27, Police and Justice Act 2006, applies to the following paragraph of an order made on 14 April 2022 ~~10 March 2022~~

*(Where marked * delete as appropriate)*

1. The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):

- (a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the "Terminal"), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1, or within 5 metres of those boundaries (edged in red) (the "buffer zone").
- (b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:
 - (i) entering or attempting to enter the Terminal
 - (ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal not within the buffer zone
 - (iii) obstructing any entrance to the Terminal
 - (iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)
 - (v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land
 - (vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)
 - (vii) erecting any structure
 - (viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal
 - (ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;

- (x) abseiling from bridges or from any other building, structure or tree on land or
- (xi) instructing, assisting, encouraging or allowing any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.

Power of Arrest

The court thinks that there is a significant risk of harm to a person.

A power of arrest is attached to the order whereby any constable may (under the power given by section 27 Police and Justice Act 2006) arrest without warrant a person if he or she has reasonable cause to suspect that the person is in breach of the provision.

This Power of Arrest

Shall continue until the trial of this claim or further order of the Court.

Note to the Arresting Officer

Where a person is arrested under the power given by section 27, Police and Justice Act 2006, the section requires that:

- A constable who arrests a person for breach of the injunction must inform the person who applied for the injunction.
- A person arrested for breach of the injunction must, within the period of 24 hours beginning with the time of the arrest, be brought before—
 - (a) a judge of the High Court or a judge of the county court, if the injunction was granted by the High Court;
 - (b) a judge of the county court, if—
 - (i) the injunction was granted by the county court, or
 - (ii) the injunction was granted by a youth court but the respondent is aged 18 or over;
 - (c) a justice of the peace, if neither paragraph (a) nor paragraph (b) applies.
 - In calculating when the period of 24 hours ends, Christmas Day, Good Friday and any Sunday are to be disregarded.
 - The judge before whom a person is brought under subsection (3)(a) or (b) may remand the person if the matter is not disposed of straight away.
 - The justice of the peace before whom a person is brought under subsection (3)(c) must remand the person to appear before the youth court that granted the injunction.

Ordered by

Mr Justice Sweeting

On

14 April 2022

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ROYAL COURTS OF JUSTICE

In the matter of an application for an injunction under s.1, Localism Act 2011, s.222, Local Government Act 1972, s.130, Highways Act 1980 and section 17 of the Crime and Disorder Act 1998.

B E T W E E N

NORTH WARWICKSHIRE DISTRICT COUNCIL



-and-

- (1) DAVID BALDWIN**
- (2) THOMAS BARBER**
- (3) MICHELLE CADET-ROSE**
- (4) TIM HEWES**
- (5) JOHN HOWLETT**
- (6) JOHN JORDAN**
- (7) CARMEN LEAN**
- (8) ALISON LEE**
- (9) AMY PRITCHARD**
- (10) STEPHEN PRITCHARD**
- (11) PAUL RAITHBY**
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- (13) ELIZABETH SMAIL**
- (14) JOHN SMITH**
- (15) BEN TAYLOR**
- (16) JANE THEWLIS**
- (17) ANTHONY WHITEHOUSE**
- (18) ANDREW WORSLEY**
- (19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE**

**PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE
SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA**

Defendants

ORDER

BEFORE Mr Justice Sweeting, sitting at the Royal Courts of Justice, Strand, London WC2A 2LL on 19 April 2022.

UPON the arrest of Katheryn Dowds, Jake Handling and Joshua Smith for alleged breach of the injunction dated 14 April 2022.

AND UPON the Court being informed that Katheryn Dowds, Jake Handling and Joshua Smith were released from police custody before it was possible to bring them before a judge, and it therefore not being necessary for the Court to make any order.

AND UPON Hearing Counsel Mr Manning and Ms Crocombe for the Claimant, and Counsel Mr Powlesland for the Defendants

IT IS ORDERED THAT:

1. Today's hearing be adjourned.
2. The return date of the injunction dated 14 April 2022 shall be heard at 10:00am on 28 April 2022 at Manchester Civil Justice Centre 1 Bridge Street West Manchester M60 9DJ.
3. Paragraph 4 of the injunction granted on 14 April 2022 shall be amended in the form attached hereto to record the new venue for the return date.
4. Costs reserved.

SIGNED *Mr Justice Sweeting*

DATED Thursday 21 April 2022

Amended This 21st Day of April 2022 Pursuant To Slip Rule CPR 40.12

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No. QB-2022-001236

In the matter of an application for an injunction under s.222, Local Government Act 1972 s.130(5), Highways Act 1980 and s.1, Localism Act 2011.



B E T W E E N

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

and

- (1) DAVID BALDWIN**
- (2) THOMAS BARBER**
- (3) MICHELLE CADET-ROSE**
- (4) TIM HEWES**
- (5) JOHN HOWLETT**
- (6) JOHN JORDAN**
- (7) CARMEN LEAN**
- (8) ALISON LEE**
- (9) AMY PRITCHARD**
- (10) STEPHEN PRITCHARD**
- (11) PAUL RAITHBY**
- (12) HOLLY ROTHWELL**
- (13) ELIZABETH SMAIL**
- (14) JOHN SMITH**
- (15) BEN TAYLOR**
- (16) JANE THEWLIS**
- (17) ANTHONY WHITEHOUSE**
- (18) ANDREW WORSLEY**

(19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA

Defendants

INTERIM INJUNCTION ORDER (WITHOUT NOTICE)

PENAL NOTICE

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

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

On the 14 April 2022, before Mr Justice Sweeting, sitting at the Royal Courts of Justice, Strand, London WC2A 2LL, via MS Teams, the Court considered an application by the Claimant for an injunction.

UPON hearing counsel for the Claimant, without notice to the Defendants

AND UPON considering an application for an interim injunction brought by the Claimant pursuant to the above statutory provisions, inviting the Court to exercise its discretion to grant injunctive relief pursuant to s.37(1) Senior Courts Act 1981

AND FURTHER UPON the Court being satisfied for the purposes of section 12(2) of the Human Rights Act 1998 that the Claimant has taken all practicable steps to notify the Defendants of this application.

AND FURTHER UPON the Court being satisfied for the purposes of section 12(3) of the Human Rights Act 1998 that the Claimant is likely to establish at the trial of this claim that any publication restrained by this Order should not be allowed.

AND FURTHER UPON the Court having particular regard to the importance of the Convention right to freedom of expression but finding in the circumstances that it is just and convenient, and proportionate, to grant injunctive relief in the terms set out herein, pending the trial of this claim

AND FURTHER UPON the Court being satisfied for the purposes of s.27(3), Police and Justice Act 2006, that there is a significant risk of harm to a person or persons from the conduct prohibited by this Order and that a power of arrest should therefore be granted

IT IS ORDERED THAT

1. The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):

(a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the “Terminal”), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1, or within 5 metres of those boundaries (edged in red) (the “buffer zone”).

For the avoidance of doubt, this prohibition does not prevent the Defendants from using any public highway within the buffer zone for the purpose of travelling to or from a protest held, or to be held, outside the buffer zone.

- (b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:
 - (i) entering or attempting to enter the Terminal
 - (ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal
 - (iii) obstructing any entrance to the Terminal
 - (iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)
 - (v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land
 - (vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)
 - (vii) erecting any structure
 - (viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal
 - (ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;
 - (x) abseiling from bridges or from any other building, structure or tree on land or
 - (xi) instructing, assisting, or encouraging any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.

2. A power of arrest, pursuant to s.27 Police and Justice Act 2006 shall apply to paragraph 1(a) and (b) above.
3. This Order shall continue until the hearing of the claim unless previously varied or discharged by further Order of the Court.
4. This Order shall, in any event, be reconsidered at a further hearing at **10.30 am on 28 April 2022** at the **Manchester Civil Justice Centre, 1 Bridge Street, West Manchester, M60 9DJ.**
5. Any person served with a copy of, or affected by, this Order may apply to the Court to vary or discharge it, on 48 hours written notice to the Claimant at the address set out at the foot of this Order.
6. Pursuant to CPR rules 6.15, 6.27 and 81.4(2) (c) and (d), the Claimant shall be permitted to serve the Claim Form and supporting documents relied on, and this Order and power of arrest, by the alternative methods specified at Schedule 2 to this Order.
7. The deemed date of service of the documents referred to at paragraph 6 above shall be the date of the relevant certificate of service on completion of the steps described in Schedule 2 to this Order.

If you do not fully understand this Order you should go to a solicitor, Legal Advice Centre or Citizens' Advice Bureau.

Name and Address of the Claimant's Legal Representatives

Ms Annie Ryan

The Council House

South Street

Atherstone

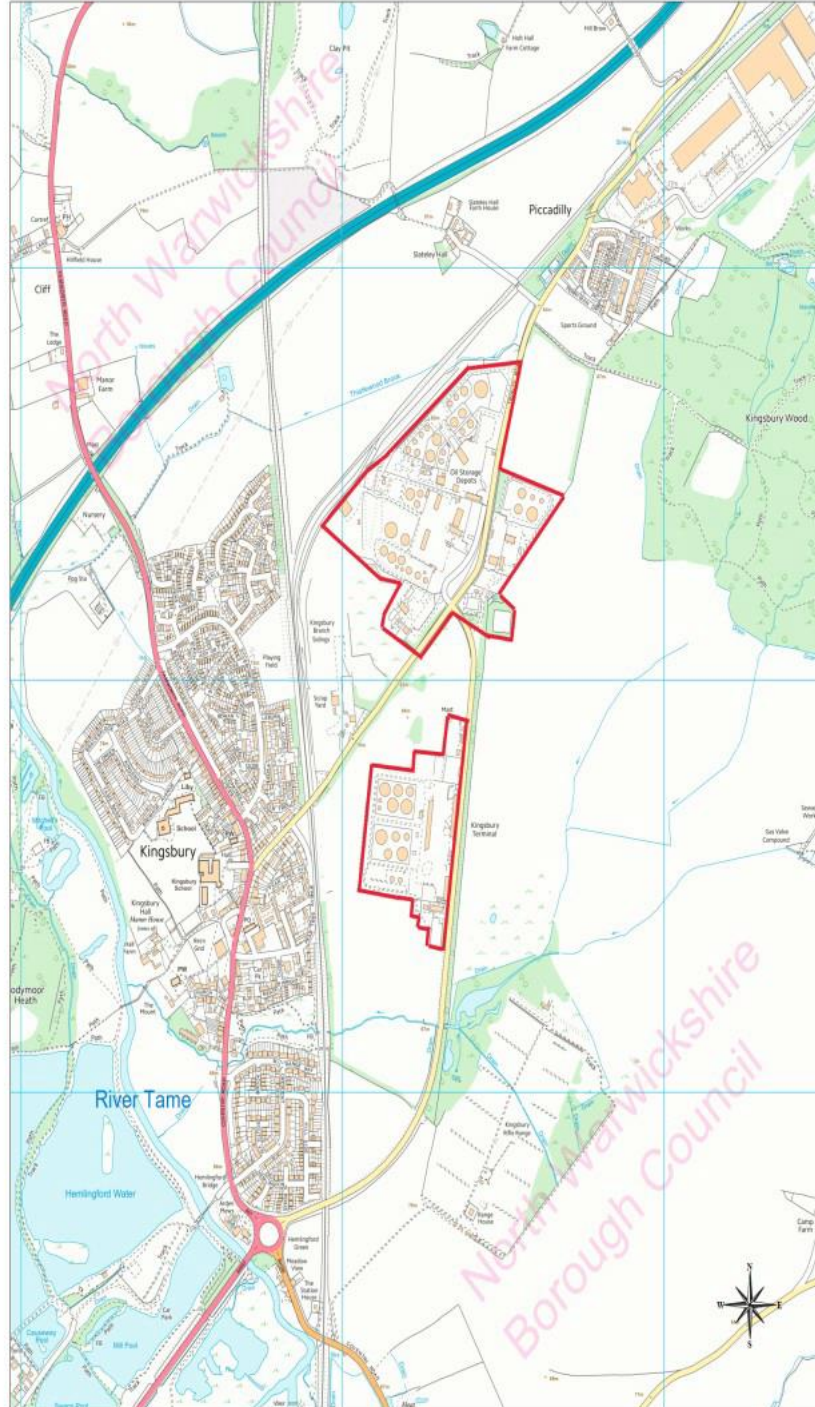
Warwickshire CV9 1DE

Email:

clivetobin@northwarks.gov.uk

annieryan@northwarks.gov.uk

SCHEDULE 1



North Warwickshire
Borough Council

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Ordnance Survey 100017910



Operator:	xxxxxx
Department:	xxxxxx
Drawing No:	nnnnnn
Date:	11/04/2022
Scale:	1:10000

SCHEDULE 2

1. Service of the Claim Form and this Order shall be effected by
 - (i) placing signs informing people of
 - (a) this Claim,
 - (b) this Order and power of arrest, and the area in which they have effect and
 - (c) where they can obtain copies of the Claim Form. Order and power of arrest, and the supporting documents used to obtain this Orderin prominent locations along the boundary of the buffer zone referred to at para.1 of this Order and particularly outside the Terminal and at the junctions of roads leading into the zone,
 - (ii) placing a copy prominently at the entrances to the Terminal;
 - (iii) posting a copy of the documents referred to at para.1(i)(c) above Order on its website, and publicising it using the Claimant's facebook page and twitter account, and posting on other relevant social media sites including local police social media accounts, and/or.
 - (iv) any other like manner as the Claimant may decide to use in order to bring the Claim Form and this Order and power of arrest to the attention of the Defendants and other persons likely to be affected.
2. If the Claimant intends to take enforcement proceedings against any person in respect of this Order, the Claimant shall, no later than the time of issuing such proceedings, serve on that person,
 - (i) a copy of the Claim Form and all supporting documents relied on to obtain this Order; and
 - (ii) a copy of this Order and power of arrest.
3. The Court will consider whether to join the person served to the proceedings as a named Defendant and whether to make any further Order.

Signed *Mr Justice Sweeting*

Dated Thursday 14 April 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No. QB-2022-001236

In the matter of an application for an injunction under s.222, Local Government Act 1972
s.130(5), Highways Act 1980 and s.1, Localism Act 2011.

B E T W E E N

NORTH WARWICKSHIRE BOROUGH COUNCIL

and

- (1) DAVID BALDWIN**
- (2) THOMAS BARBER**
- (3) MICHELLE CADET-ROSE**
- (4) TIM HEWES**
- (5) JOHN HOWLETT**
- (6) JOHN JORDAN**
- (7) CARMEN LEAN**
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- (9) AMY PRITCHARD**
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- (14) JOHN SMITH**
- (15) BEN TAYLOR**
- (16) JANE THEWLIS**
- (17) ANTHONY WHITEHOUSE**
- (18) ANDREW WORSLEY**

**(19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR
ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE
PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE
SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA**

Defendants



QB-2022-001236

INTERIM INJUNCTION ORDER (WITHOUT NOTICE)

PENAL NOTICE

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

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

On the 14 April 2022, before Mr Justice Sweeting, sitting at the Royal Courts of Justice, Strand, London WC2A 2LL, via MS Teams, the Court considered an application by the Claimant for an injunction.

UPON hearing counsel for the Claimant, without notice to the Defendants

AND UPON considering an application for an interim injunction brought by the Claimant pursuant to the above statutory provisions, inviting the Court to exercise its discretion to grant injunctive relief pursuant to s.37(1) Senior Courts Act 1981

AND FURTHER UPON the Court being satisfied for the purposes of section 12(2) of the Human Rights Act 1998 that the Claimant has taken all practicable steps to notify the Defendants of this application.

AND FURTHER UPON the Court being satisfied for the purposes of section 12(3) of the Human Rights Act 1998 that the Claimant is likely to establish at the trial of this claim that any publication restrained by this Order should not be allowed.

AND FURTHER UPON the Court having particular regard to the importance of the Convention right to freedom of expression but finding in the circumstances that it is just and convenient, and proportionate, to grant injunctive relief in the terms set out herein, pending the trial of this claim

AND FURTHER UPON the Court being satisfied for the purposes of s.27(3), Police and Justice Act 2006, that there is a significant risk of harm to a person or persons from the conduct prohibited by this Order and that a power of arrest should therefore be granted

IT IS ORDERED THAT

1. The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):

(a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the “Terminal”), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1, or within 5 metres of those boundaries (edged in red) (the “buffer zone”).

For the avoidance of doubt, this prohibition does not prevent the Defendants from using any public highway within the buffer zone for the purpose of travelling to or from a protest held, or to be held, outside the buffer zone.

- (b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:
 - (i) entering or attempting to enter the Terminal
 - (ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal
 - (iii) obstructing any entrance to the Terminal
 - (iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)
 - (v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land
 - (vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)
 - (vii) erecting any structure
 - (viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal
 - (ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;
 - (x) abseiling from bridges or from any other building, structure or tree on land or
 - (xi) instructing, assisting, or encouraging any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.

2. A power of arrest, pursuant to s.27 Police and Justice Act 2006 shall apply to paragraph 1(a) and (b) above.
3. This Order shall continue until the hearing of the claim unless previously varied or discharged by further Order of the Court.
4. This Order shall, in any event, be reconsidered at a further hearing at **10.30 am on 28 April 2022** at the **Birmingham Civil Justice Centre, Priory Law Courts, 33 Bull Street, Birmingham B4 6DS,**
5. Any person served with a copy of, or affected by, this Order may apply to the Court to vary or discharge it, on 48 hours written notice to the Claimant at the address set out at the foot of this Order.
6. Pursuant to CPR rules 6.15, 6.27 and 81.4(2) (c) and (d), the Claimant shall be permitted to serve the Claim Form and supporting documents relied on, and this Order and power of arrest, by the alternative methods specified at Schedule 2 to this Order.
7. The deemed date of service of the documents referred to at paragraph 6 above shall be the date of the relevant certificate of service on completion of the steps described in Schedule 2 to this Order.

If you do not fully understand this Order you should go to a solicitor, Legal Advice Centre or Citizens' Advice Bureau.

Name and Address of the Claimant's Legal Representatives

Ms Annie Ryan

The Council House

South Street

Atherstone

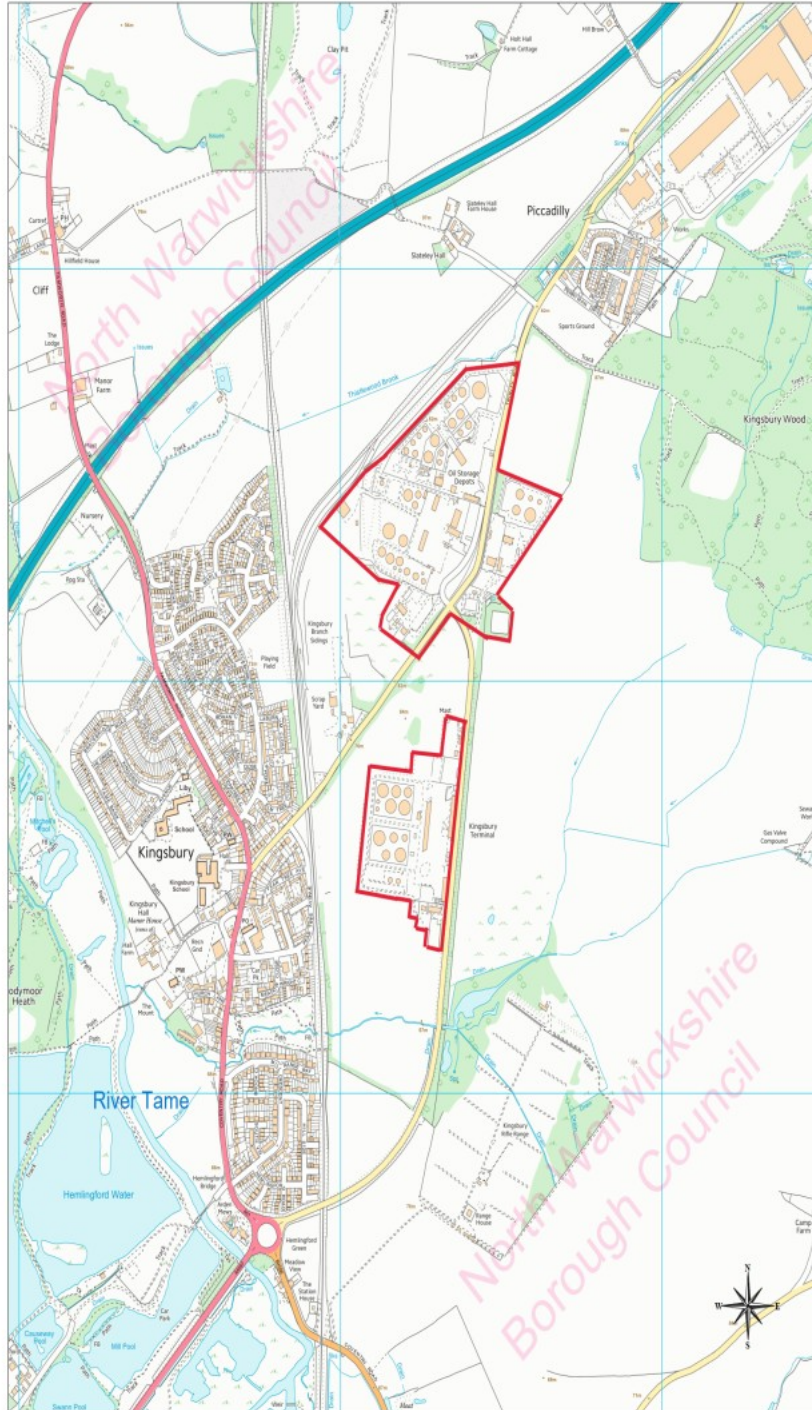
Warwickshire CV9 1DE

Email:

clivetobin@northwarks.gov.uk

annieryan@northwarks.gov.uk

SCHEDULE 1



North Warwickshire
Borough Council

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Ordnance Survey 100017910



Operator:	xxxxxx
Department:	xxxxxx
Drawing No:	nnnnnn
Date:	11/04/2022
Scale:	1:10000

SCHEDULE 2

1. Service of the Claim Form and this Order shall be effected by
 - (i) placing signs informing people of
 - (a) this Claim,
 - (b) this Order and power of arrest, and the area in which they have effect and
 - (c) where they can obtain copies of the Claim Form. Order and power of arrest, and the supporting documents used to obtain this Orderin prominent locations along the boundary of the buffer zone referred to at para.1 of this Order and particularly outside the Terminal and at the junctions of roads leading into the zone,
 - (ii) placing a copy prominently at the entrances to the Terminal;
 - (iii) posting a copy of the documents referred to at para.1(i)(c) above Order on its website, and publicising it using the Claimant's facebook page and twitter account, and posting on other relevant social media sites including local police social media accounts, and/or.
 - (iv) any other like manner as the Claimant may decide to use in order to bring the Claim Form and this Order and power of arrest to the attention of the Defendants and other persons likely to be affected.
2. If the Claimant intends to take enforcement proceedings against any person in respect of this Order, the Claimant shall, no later than the time of issuing such proceedings, serve on that person,
 - (i) a copy of the Claim Form and all supporting documents relied on to obtain this Order; and
 - (ii) a copy of this Order and power of arrest.
3. The Court will consider whether to join the person served to the proceedings as a named Defendant and whether to make any further Order.

Signed *Mr Justice Sweeting*

Dated Thursday 14 April 2022

SECTION 222 LOCAL GOVERNMENT ACT 1972 INJUNCTION - POWER OF ARREST

Under section 27, Police and Justice Act, 2006. Claim no

IN THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION

NORTH WARWICKSHIRE BOROUGH COUNCIL	Claimant
18 NAMED DEFENDANTS AND PERSONS UNKNOWN LISTED ON THE INJUNCTION ORDER DATED 14 APRIL 2022.	Defendant

The court orders that a power of arrest under section 27, Police and Justice Act 2006, applies to the following paragraph of an order made on 10 March 2022

(Here set out those provisions of the order to which this power of arrest is attached and no others)

*(Where marked * delete as appropriate)*

1. The Defendants SHALL NOT (whether by themselves or by instructing, encouraging or allowing any other person):
 - (a) organise or participate in (whether by themselves or with any other person), or encourage, invite or arrange for any other person to participate in any protest against the production or use of fossil fuels, at Kingsbury Oil Terminal (the "Terminal"), taking place within the areas the boundaries of which are edged in red on the Map attached to this Order at Schedule 1, or within 5 metres of those boundaries (edged in red) (the "buffer zone").
 - (b) in connection with any such protest anywhere in the locality of the Terminal perform any of the following acts:
 - (i) entering or attempting to enter the Terminal
 - (ii) congregating or encouraging or arranging for another person to congregate at any entrance to the Terminal
 - (iii) obstructing any entrance to the Terminal
 - (iv) climbing on to or otherwise damaging or interfering with any vehicle, or any object on land (including buildings, structures, caravans, trees and rocks)
 - (v) damaging any land including (but not limited to) roads, buildings, structures or trees on that land, or any pipes or equipment serving the Terminal on or beneath that land
 - (vi) affixing themselves to any other person or object or land (including roads, structures, buildings, caravans, trees or rocks)
 - (vii) erecting any structure
 - (viii) abandoning any vehicle which blocks any road or impedes the passage any other vehicle on a road or access to the Terminal
 - (ix) digging any holes in or tunnelling under (or using or occupying existing tunnels under) land, including roads;
 - (x) abseiling from bridges or from any other building, structure or tree on land or
 - (xi) instructing, assisting, or encouraging any other person to do any act prohibited by paragraphs (b)(i)-(x) of this Order.

Power of Arrest

The court thinks that there is a significant risk of harm to a person.

A power of arrest is attached to the order whereby any constable may (under the power given by section 27 Police and Justice Act 2006) arrest without warrant a person if he or she has reasonable cause to suspect that the person is in breach of the provision.

This Power of Arrest

Shall continue until the trial of this claim or further order of the Court.

Note to the Arresting Officer

Where a person is arrested under the power given by section 27, Police and Justice Act 2006, the section requires that:

- A constable who arrests a person for breach of the injunction must inform the person who applied for the injunction.
- A person arrested for breach of the injunction must, within the period of 24 hours beginning with the time of the arrest, be brought before—
 - (a) a judge of the High Court or a judge of the county court, if the injunction was granted by the High Court;
 - (b) a judge of the county court, if—
 - (i) the injunction was granted by the county court, or
 - (ii) the injunction was granted by a youth court but the respondent is aged 18 or over;
 - (c) a justice of the peace, if neither paragraph (a) nor paragraph (b) applies.
 - In calculating when the period of 24 hours ends, Christmas Day, Good Friday and any Sunday are to be disregarded.
 - The judge before whom a person is brought under subsection (3)(a) or (b) may remand the person if the matter is not disposed of straight away.
 - The justice of the peace before whom a person is brought under subsection (3)(c) must remand the person to appear before the youth court that granted the injunction.

Ordered by

Mr Justice Sweeting

On

14 April 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ROYAL COURTS OF JUSTICE

In the matter of an application for an injunction under s.1, Localism Act 2011, s.222, Local Government Act 1972, s.130, Highways Act 1980 and section 17 of the Crime and Disorder Act 1998.

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

and

- (1) DAVID BALDWIN**
- (2) THOMAS BARBER**
- (3) MICHELLE CADET-ROSE**
- (4) TIM HEWES**
- (5) JOHN HOWLETT**
- (6) JOHN JORDAN**
- (7) CARMEN LEAN**
- (8) ALISON LEE**
- (9) AMY PRITCHARD**
- (10) STEPHEN PRITCHARD**
- (11) PAUL RAITHBY**
- (12) HOLLY ROTHWELL**
- (13) ELIZABETH SMAIL**
- (14) JOHN SMITH**
- (15) BEN TAYLOR**
- (16) JANE THEWLIS**
- (17) ANTHONY WHITEHOUSE**
- (18) ANDREW WORSLEY**
- (19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA**

Defendants

NOTE OF HEARING

BEFORE: Mr Justice Sweeting, sitting at the Royal Courts of Justice, by MS Teams.

COUNSEL FOR THE CLAIMANT: Jonathan Manning and Charlotte Crocombe, 4-5 Gray's Inn Square.

HEARING

1. The hearing commenced at 13.00 hours.
2. Mr Manning said that the Claimant, North Warwickshire Borough Council, sought an interim injunction with power of arrest to restrain unlawful behaviour occurring repeatedly during oil protests outside the Kingsbury Oil Terminal (the "Terminal").
3. Mr Justice Sweeting indicated that he had read the papers including the witness statements in the in the case, and counsel's skeleton argument, except that he had not been able to find the statement from Mr Morris of Warwickshire County Council as it did not appear in the place indicated by the index to the bundle. Counsel referred the Judge to the correct pages in the bundle and Judge read Mr Morris's statement.

The Valero injunction

4. The Judge and Counsel discussed the injunction that had been obtained by Valero Energy Limited ("Valero"), the operators of a portion of the Terminal, seeking to protect that part of the Terminal in which they operate. Counsel explained that the Claimant sought to protect a larger area than that which Valero was able to cover, in particular because Valero only had the right to an injunction to protect its part of the Terminal.
5. Nor did that injunction include a power of arrest, so that enforcement would be a lengthy process of paper committal even assuming that Valero could find out the identity of the protestors who had breached the injunction. It would not be possible to control their conduct during the committal process as the court had no remand or bail powers. Valero had obtained a variation to their injunction on 11 April 2022 requiring police to disclose the names of arrested protestors for the purposes of enforcement, but even so enforcement was likely to be a lengthy and unsatisfactory.

6. Mr Justice Sweeting asked about the absence of a power of arrest in the Valero injunction. Counsel indicated that there was no statutory power to attach a power of arrest to a private litigant's injunction, which was part of the reason why the Claimant decided to take the step of applying for an injunction of its own.

s130(2), (5), Highways Act 1980

7. Counsel explained to the Judge that, although the Claimant is not the Highways Authority, section 130(2) of the Highways Act confers power on the Claimant as a "council" to assert and protect the rights of the public to use and enjoy any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it. Section 130(5) permits a council to take proceedings in its own name (without prejudice to its powers under section 222 of the Local Government Act 1972) in the performance of its functions under s.130 and generally take such steps as it deems expedient.

Article 10

8. Counsel for the Claimant referred the Judge to s.12, Human Rights Act 1998, drawing particular attention to subss. (2), (3) and (4). Counsel submitted that:
 - (i) the Claimant accepted that the right to freedom of expression included the right to protest, and that it may be an important aspect of that right for protest to be carried on in a particular place connected with the aim of that protest (the "buffer zone" sought by the Claimant would protect the right to protest outside the Terminal, as there was green space opposite which would be outside the buffer zone as drawn, where lawful protest could take place);
 - (ii) freedom of expression could include behaviour that went beyond language and words and could include conduct;
 - (iii) the requirements of s.12(3) HRA 1998 were met because the Claimant was likely to establish at trial that the types of expression, "publication" of which it sought to restrain by way of interim relief were such as to be unlawful, dangerous, a nuisance and in some cases criminal – the court could be satisfied that it was likely that the court at trial would not allow these forms of expression to continue;

(iv) Counsel accepted that “publication” for the purposes of section 12 is given a broad meaning, clearly broader than reducing matters into writing and including publishing a person’s views orally (including in the location relevant to the protest). It was accepted, therefore, that the protestors could argue that they were expressing themselves via breaking into the terminal and causing civil disobedience, and that this was a form of publishing their opposition to the use of oil. However, the Claimant was not seeking to prohibit protest against oil production and use, but to restrain the unlawful behaviour which has been attendant on the expression of those views at the Terminal.

(v) this was so notwithstanding the requirement of s.12(4) that the court must have particular regard to the importance of the Convention right to freedom of expression; it was important to note that freedom of expression was a qualified right that could be lawfully interfered with if such interference was prescribed by law and necessary in a democratic society; it must be a proportionate means of achieving a legitimate aim which (by Art 10(2)) may include public safety, the prevention of disorder or crime, the protection of health, and the protection of the rights of others.

(vi) The Claimant was not seeking unreasonably to restrict the rights of protestors to protest and make their views known, and the injunction sought would not impede or prevent lawful protests from taking place outside the Terminal. It was nonetheless necessary to balance the rights of the protestors to protest against the rights of other people going about their lawful business working in or visiting the terminal, people using the road network near the Terminal, people living in nearby Kingsbury and – in the event of an emergency caused by the activities of the protestors – the police and other emergency services, protestors themselves and people living in and visiting the whole Borough. It was necessary to keep the protestors out of the Terminal, and therefore away from its boundaries due to the nature of the conduct set out in the evidence.

9. Counsel referred the Judge to *DPP v Ziegler* [2021] UKSC 23 and *DPP v Cuciurean* [2022] EWHC 736 (Admin). These were cases concerning prosecution for criminal offences, It was no disputed that in the context of an injunction application, the court must take account of and balance the protestors’ Art 10 and 11 rights.

10. Counsel also referred to *National Highways v Persons Unknown* [2021] EWHC 3081 (QB) and the principles set out by Lavender J especially at [38]-[41]. Mr Justice Sweeting said that he was familiar with Lavender J's judgment in that case.
11. Counsel submitted that an injunction had been granted by Lavender J and that this was an *a fortiori* case as in *National Highways*, the protests were peaceful and had not given rise to any disorder, nor had the protestors committed any offences other than obstructing the highway. Here, the protests were not peaceful, there was disorder on numerous occasions and many other offences had been committed,

Buffer Zone

12. The Judge expressed concern that the proposed buffer zone was too wide. He said for it to cover so much of the land at the rear of the Terminal was not logical when the Claimant proposed to allow people to protest outside the front entrance to one of the Terminal buildings.
13. Counsel explained that the exclusion zone had been drawn to protect the immediate boundaries of the terminal by creating a buffer zone which is wider than the terminal itself, but that it had been sought to define its boundaries by reference to physical features on the land that would be readily identifiable on the ground. There had been an element of pragmatism adopted in the drawing of the lines along such boundaries as the railway line, rivers and existing markers given the importance of clarity in relation to the terms of any order.
14. The Judge indicated that he was not yet persuaded that the buffer zone should be drawn so widely and invited the Claimant to consider a different Way of defining it, possibly be reference to a number of metres from the boundary if there were no other workable means to define the boundaries. This matter would be returned to later in the hearing if the court was persuaded that an injunction should be granted.

Timing of the application

15. The Judge asked why this application was made on an urgent basis just before the Easter bank holidays, and whether it could not have been made earlier.

16. Counsel explained that when the protests started on about 1 April 2022, the Claimant was aware that Valero had obtained a pre-emptive injunction on 21 March and did not intend to make any application. The Claimant only changed its mind when protestors broke into the Terminal on the night of 6 and 7 April 2022 and caused various safety issues. This conduct was considered so dangerous that all partners on the Local Resilience Forum declared a major incident. The Claimant decided to make this application at the weekend. It had taken from Monday 11th to Wednesday 13th April to prepare the application and all the evidence, and had issued proceedings on 13th, and the Court had listed the hearing on 14th. Putting the application together had taken a few days, which was partly due to the Police having to both police the continuing protests and also provide evidence to support the Claimant's action. The application was therefore made as soon as it reasonably could be, and it was made because of the disturbances that the Valero injunction had not been able to prevent.
17. The Judge accepted that the Claimant's conduct had not been leisurely.

Application without notice

18. Counsel informed the Court that, although the evidence filed stated that informal notice of the hearing on 14th would be given to the named defendants, that had not been possible as set out in the skeleton argument because although the police had agreed to supply to the Claimant the contact details for the named defendants, all of whom had been arrested previously, that information had yet been given to the Claimant so that there was no means of contacting them to give any notice. The Claimant had chased up the provision of this information on both 13th and 14th April.
19. Counsel submitted that having the names of defendants did not render it possible to contact them unless contact details were known. The Claimant was, so far as notice was concerned, in the same position as if this were a claim solely against persons unknown.
20. The Claimant believed that the police were willing to share the relevant information under a pre-existing information sharing protocol so did not seek an order for non-party disclosure of the kind obtained by Valero on 11th April, but nonetheless no notice had been given.

21. Counsel drew the Court's attention to s.12(2), HRA 1998 which provides that the court may not grant relief that may affect the Convention right to freedom of expression if the defendant is neither present nor represented unless satisfied (a) that the Claimant had taken all practicable steps to notify the defendant or (b) that there were compelling reasons why the defendant should not be notified.
22. Counsel also drew the Court's attention to the decision of Warby J (as he then was) in *Birmingham City Council v Afsar and Persons Unknown* [2019] EWHC 1560 (QB) at paragraph 23(vi) of the skeleton argument, in which Warby J had made the point that urgency will rarely, if ever, be a reason for not giving notice due to modern communications.
23. Counsel sought to distinguish the present case from *Afsar* on the basis that in *Afsar* the Council was not unaware of the contact details of the named defendants. In the present case, the Claimant did not have those details, notwithstanding the fact that it had taken all steps that it could to do so. It was argued that urgency combined with an inability to contact defendants could together satisfy s.12(2)(b). The urgency of the situation was then such that there was a compelling reason to proceed without the Claimant having been able to notify the Defendants.
24. Mr Justice Sweeting rejected the argument that s.12(2)(b) applied but considered that s.12(2)(a) had been satisfied. The Claimant had taken all practicable steps in the attempts it had made to obtain contact details from the police. He observed that the Claimant would need an injunction against persons unknown in any event, due to the growing numbers of unknown defendants attending the protests.

Power of Arrest

25. Counsel referred the Judge to s.27, Police and Justice Act 2006. He explained the power of arrest to the Judge and, in particular that, the arrested person has to be brought before the Court within 24 hours of arrest (s.27(6)). If breach were admitted, the court could sentence at that first appearance; if not the person could be remanded in custody, bailed on conditions or released. This procedure is well known to the police.

26. In terms of the requirements to be satisfied for a power of arrest to be available, Counsel explained that the behaviour prohibited by the injunction must either consist of or include violence or the threat of violence, or there must be a significant risk of harm to a person to whom the conduct referred to above is capable of causing nuisance or annoyance (s.27(2),(3)). Counsel took the Judge to section 27 of the Police and Justice Act 2006, and noted subsections (5)-(7), which relate to the requirement on the Police to notify the relevant authority and bring the arrested person before the Court within 24 hours, and the provisions for Sundays & Bank Holidays, and also to the definition of “harm” in s.27(12).
27. The Judge considered that the only available limb of s.27(3) was “significant risk of harm” as violence was not alleged. He asked Counsel to identify the person in respect of whom there was a significant risk of harm. Counsel submitted that the “person” could be more than one person, and would include in this case the people who work at the terminal including tanker drivers whose tankers had been interfered with and who might be harmed if highways were undermined, the local residents of Kingsbury, people who are attempting to use the highways which has been disrupted, and if there is a major incident it would include emergency services, those who would suffer the environmental effects, and it could even include the protestors themselves and those seeking to protest lawfully.
28. The Judge said that the harm comes from the possibility of that which is described in the police witness statement, and he gave the example of an explosion. Counsel agreed that this is a principal concern. Counsel referred to para.9 of Steven Maxey’s witness statement which set out part of an email from the Assistant Chief Fire Officer of Warwickshire Fire and Rescue referring to the dangers of using mobile phones in the Terminal where explosive gases were present, and to the Fire Services own operation plans for the Terminal which required mobile devices to be handed over in the Terminal control room.
29. The Judge asked what harm is said to arise from the tunnel that was dug by the protestors. Counsel explained that if the highway was undermined then the oil tankers would not be able to cross it, and may fall into the tunnel. It was said by a protestor in

a video that by digging a tunnel they were seeking to stop the flow of oil from the terminal.

30. Counsel submitted that harm should not be narrowly construed. The effect of climbing on oil tankers, and the effect of having violent oil protestors within the Terminal on the staff working at the Terminal, and on the local people in Kingsbury who are subject to a 24-hour police presence could all be considered harm.
31. Counsel submitted that there is a difference between protests being noisy and disruptive, and the significant police presence that is required by the sorts of activities that are being conducted at the Terminal.
32. The Judge then observed that enhanced police presence would be a likely incident of any protest and the right to protest may require people to put up with the impact of such a police presence. He said that the issues go back to protestors getting on the site, and how one should deal with people being in the vicinity of toxic gases and pipes. He considered that this was the harm that distinguished these protests at Kingsbury from other protests.
33. Counsel pointed out that the proposed injunction would not prohibit using the highway for the purpose of attending a protest.

Terms of the Injunction

34. Mr Justice Sweeting again expressed his concerns that the proposed exclusion zone was too extensive, given that protesting in the vicinity is legitimate and doing so does not necessarily lead to the risk of harm. He asked whether the physical boundaries of the terminal itself would not be sufficient.
35. Counsel submitted that there would be no purpose to a buffer zone that was itself restricted to the boundaries of the Terminal as the purpose of the zone was to prevent protestors coming right up to the boundaries, given that they had repeatedly breached the boundaries of the Terminal or attempted to do so. The buffer zone was intended to allow for a small zone outside the boundaries where they were not permitted to be and where they could be arrested before actually attempting to get into the Terminal.

36. The Judge therefore suggested that a boundary be drawn at 5 or 10 meters from the perimeter so as not to push peaceful protest into areas too remote from the object of the protest.
37. Counsel confirmed that the Claimant was very open to other ways of defining the buffer zone and would take instructions after the hearing and put forward a revised proposed Order.
38. The Judge accepted that there may be practical difficulties with arguments about where the precise line 10 meters from the Terminal lay, but that the Police should wait until someone was clearly within the area before arresting them. This would have the effect that the Police would be able to arrest someone who was planning to climb the fence but before they were actually able to do so.
39. Counsel informed the Judge that impeding the flow of traffic may be a legitimate protest activity (per *Zeigler* and *Ineos*), and that the Claimant seeks to deal with the situation that had occurred where highways have been blocked sometimes for a considerable amount of time by protestors attaching themselves to the highway or to tankers. On that basis, counsel suggested that protestors be prohibited from affixing themselves to the highway in paragraph 1(b)(vii).
40. In relation to abandoning vehicles, Counsel explained that the Claimant had, in clause 1(b) of the draft injunction sought to replicate the terms of the Valero injunction insofar as it was possible and reasonable to do so as to avoid confusion by an unnecessary proliferation of similar but different terms. The Judge agreed, and suggested that the order refer to the effect of a prohibited action *e.g.* “abandoning any vehicle which impedes access etc” in order to avoid it covering people turning up in minibuses and parking them illegally, which would be a nuisance but potentially just part and parcel of getting to a protest.
41. Counsel took the Judge to all the remaining provisions of the Order and Power of Arrest, including the Schedules and the application for alternative service.

AFTER THE HEARING

42. The Claimant submitted a revised draft injunction containing a buffer zone by reference to 5 meters around the Terminal. The Order was approved the Judge.
43. Thereafter, Counsel were contacted by the legal representatives of Shell UK who had also made an application for an injunction covering sites including the Terminal, heard immediately after the Claimant's application. Counsel were informed that Shell had relied upon evidence of Mr Stephen Ian Brown contained in a witness statement dated 13 April 2022, and that they were willing, at Mr Justice Sweeting's suggestion, to release that statement to the Claimant for it to be relied on in the Claimant's application. in granting the Claimant's injunction. This witness statement was disclosed to the Claimant on 25 April 2022.

DISPOSAL

44. The Judge agreed to make the Order and power of arrest sought subject to the amendments discussed and a more circumscribed buffer zone.

Jonathan Manning
Charlotte Crocombe
27 April 2022

4-5 Gray's Inn Square
London WC1R 5AH.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

In the matter of an application for an injunction under s.1, Localism Act 2011, s.222, Local Government Act 1972, s.130, Highways Act 1980 and section 17 of the Crime and Disorder Act 1998.

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

and

(1) DAVID BALDWIN
(2) THOMAS BARBER
(3) MICHELLE CADET-ROSE
(4) TIM HEWES
(5) JOHN HOWLETT
(6) JOHN JORDAN
(7) CARMEN LEAN
(8) ALISON LEE
(9) AMY PRITCHARD
(10) STEPHEN PRITCHARD
(11) PAUL RAITBY
(12) HOLLY ROTHWELL
(13) ELIZABETH SMAIL
(14) JOHN SMITH
(15) BEN TAYLOR
(16) JANE THEWLIS
(17) ANTHONY WHITEHOUSE
(18) ANDREW WORSLEY
(19) PERSONS UNKNOWN WHO ARE ORGANISING,
PARTICIPATING IN OR ENCOURAGING OTHERS TO
PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION
AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE
KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA

Defendant

SKELETON ARGUMENT ON BEHALF OF THE CLAIMANT

INTRODUCTION AND BACKGROUND

1. This application is made by North Warwickshire Borough Council (the “authority”) for an injunction to prevent the Defendants from continuing to protest in the immediate locality of Kingsbury Oil Terminal (“the Terminal”), due to the disorder, nuisance, and criminality that has characterised the protests at the Terminal since 01 April 2022.

2. The names of most of the Defendants are not known to the authority. The named First to Eighteenth Defendants have been identified by officers of Warwickshire Police in their witness statements provided in support of this action, but at least 100 additional arrests have been made. The authority believe that Warwickshire Police will share the names and contact details of all those who have been arrested so that they can be added to the proceedings as named Defendants, and served, in advance of the return date to be listed.

LAW

Powers of the Authority to Seek Injunctive Relief

3. The authority has various statutory powers to seek injunctive relief. The most commonly used in this context is s.222(1), Local Government Act 1972, which provides as follows:

“(1) Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area—

(a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and

(b) they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.”

4. Section 27, Police and Justice Act 2006 provides power for the court to attach a power of arrest to certain injunctions made under s.222, 1972 Act.

“(1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).

“(2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.

“(3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either–

(a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or

(b) there is a significant risk of harm to the person mentioned in that subsection.

(4) Where a power of arrest is attached to any provision of an injunction under subsection (2), a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of that provision.

(5)...”

Other powers

5. The authority submits that it also has other powers to seek an injunction, for example, s.1, Localism Act 2011, by virtue of which an authority has power to do anything that individuals, with full capacity, generally may do, in any way whatever and unlimited by the existence of any other power of the authority which to any extent overlaps the general power.

6. Further, by section 130(2) Highways Act 1980, the Claimant may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority.

7. By section 17 of the Crime and Disorder Act 1998, the Claimant is under a statutory duty to exercise its various functions with due regard to the

likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.

Injunctions against persons unknown

8. In *Bloomsbury Publishing Group v News Group and others* [2003] EWHC 1205(Ch); [2003] 1 WLR 1633, the Vice-Chancellor held that injunctive relief could be sought against unnamed defendants, provided that they were sufficiently identified by description in the claim so as to show who is included and who is not (see his Judgment at [19]-[22]).

9. In *Boyd v Ineos Upstream Limited* [2019] EWCA Civ 515, the Court of Appeal considered the grant of injunctions against unknown protesters against fracking. Longmore LJ held that there is no conceptual or legal prohibition on suing persons unknown who are not currently in existence but will come into existence when they commit the prohibited tort, although a court should be inherently cautious about granting injunctions against unknown persons since the reach of such an injunction is necessarily difficult to assess in advance (at [30]-[31]).

10. Longmore LJ framed certain “tentative” requirements for the grant of an order against persons unknown at [34].

“1) there must be a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief;

“2) it is impossible to name the persons who are likely to commit the tort unless restrained;

“3) it is possible to give effective notice of the injunction and for the method of such notice to be set out in the order;

“4) the terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit lawful conduct;

“5) the terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do; and

“6) the injunction should have clear geographical and temporal limits.”

11. In *Cuadrilla Bowland v Persons Unknown* [2020] EWCA Civ 9, Leggatt LJ at [50], caveated Longmore LJ's 4th requirement on the basis that although it was desirable that the terms of an injunction should correspond to the threatened tort and not be so wide that they prohibit lawful conduct, this was not an absolute rule. Although the court must be careful not to impose an injunction in wider terms than necessary to do justice, it is entitled to restrain conduct not in itself tortious or otherwise unlawful if satisfied that such a restriction is necessary to afford effective protection to the rights of the claimant in a particular case. The Court did not consider whether it made a difference that an injunction was sought against persons unknown, as that issue did not arise in *Cuadrilla* itself.

12. In *Barking & Dagenham LBC v Persons Unknown* [2022] EWCA Civ 13, the Court of Appeal held as follows.

(i) It is extremely undesirable for the court to lay down limitations on the scope of as broad and important a statutory provision as section 37 (*per* Sir Geoffrey Vos MR at [72], [120]).

(ii) *South Cambridgeshire BC v Gammell* [2006] 1 WLR 658, CA, is authority for the proposition that where a persons unknown injunction is made, whether an interim or final order, a newcomer who breaches its provisions knowing of them becomes a party to the proceedings at that stage and can apply for the injunction to be discharged (*per* Sir Geoffrey Vos MR at [30], [82]).

(iii) This route to having the injunction reconsidered adequately protects the rights of such newcomer defendants as the Court retains jurisdiction and supervision of such proceedings until the injunction comes to an end (at [92]).

(iv) One of the premises of *Gammell* was that injunctions generally could be validly granted against newcomers in unauthorised encampment cases (at [99]).

(v) Likewise, in *Ineos* (above) the Court of Appeal held that there was no conceptual or legal prohibition on suing persons unknown who were

not currently in existence but would come into existence when the committed the prohibited tort (at [94]).

(vi) There is no reason why the court cannot devise procedures, when making longer term “persons unknown” injunctions, to deal with the situation in which persons violate the injunction and makes themselves new parties, and then apply to set aside the injunction originally violated, as happened in *Gammell* itself (at [82]).

(vii) The Supreme Court decision in *Cameron v Liverpool Victoria Insurance Co* [2019] UKSC 6 did not deal with these principles (as they were not relevant to the case) and did not disapprove them (at [35]).

13. The Court declined to follow the principles in relation to injunctions against persons unknown which had been developed by the Court of Appeal and Nicklin J in *Canada Goose v Persons Unknown* [2020] EWCA Civ 202 at [89]-[92] and by Nicklin J in the *Barking & Dagenham* case at first instance ([2021] EWHC 1201 (QB)). It held that injunctions were available against persons unknown, even where such persons are “newcomers” *i.e.* where they have not committed any of the prohibited conduct and have not been served with proceedings at the time that a final injunction is granted or when they are alleged to have acted in a prohibited way. *Canada Goose* was therefore wrongly decided in that respect.

Expedient

14. The s.222 power is available where the authority considers that it is expedient to exercise it for the promotion or protection of the interests of the inhabitants of its area. In *Stoke on Trent BC v B & Q Retail* [1984] 1 Ch 1, CA, Lawton LJ construed this condition broadly, at p.23A/C (on which issue the House of Lords made no comment).

“They must safeguard their resources and avoid the waste of their ratepayers' money. It is in everyone's interest, and particularly so in urban areas, that a local authority should do what it can within its powers to establish and maintain an ambience of a law-abiding community; and what should be done for this purpose is for the local

authority to decide. Members of the public should be confident that the local authority will do all it can to ensure that they will not be sold unwholesome food or given false measure, that goods will not be sold with false trade descriptions, that property will not be used in breach of the planning legislation and that shops will be open on days and at hours regulated by the Shops Act 1950. In my judgment a local authority is entitled to use its powers for all these purposes.”

Human Rights Act 1998, sch.1

15. Articles 10 and 11 of the European Convention on Human Rights are engaged in this case.

Article 10 – Right to Freedom of Expression

16. Article 10 provides:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...

“2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of ...public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others...”

17. In *R (Gaunt) v Office of Communications (Liberty intervening)* [2011] EWCA Civ 692, at [33] Lord Neuberger of Abbotsbury MR referred to the Opinion of Lord Hope in *R v Shayler* [2003] AC 247, at [59]-[61]:

“33 Later in his opinion, at paras 59-61, Lord Hope explained “the process of analysis” which had to be carried out when considering whether a limitation on freedom of expression is justified on the ground of “pressing social need”. First, the state must show that “the objective

which is sought to be achieved...is sufficiently important to justify limiting the fundamental right”. Secondly, it must show that “the means chosen to limit that right are rational, fair and not arbitrary”. Thirdly, it must establish that “the means used impair the right as minimally as is reasonably possible”. As he went on to say, “it is not enough to assert that the decision that was taken was a reasonable one”, and “a close and penetrating examination of the factual justification for the restriction is needed”.”

18. For the reasons set out below, it is submitted that the injunction sought in this case satisfies the requirements of Lord Hope’s analysis.

Article 11 – Freedom of Peaceful Assembly

19. Article 11 provides:

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others...

“2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of... public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others...”.

20. The right protected by Art.11 is of peaceful assembly, not of any assembly even if causing a public nuisance or other public order disturbance.

Without Notice Injunctions affecting Freedom of Speech

21. Section 12, Human Rights Act 1998 provides, so far as material, 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.

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

“(4) ...

“(5) In this section—

‘court’ includes a tribunal; and

‘relief’ includes any remedy or order (other than in criminal proceedings).”

SUBMISSIONS

22. For the reasons set out above, and in the evidence filed in support of these claims, the authority seeks an Injunction and power of arrest in the terms sought.

The Urgent, Without Notice, Application

23. The authority is making this application at this time, and without having given notice to the Defendants in the first instance, for the following reasons:

(i) The authority first received notice that these protests were going to take place on 1 April 2022, since then the protests have grown in both size and severity:

(a) Between 1 and 5 April 2022, protestors were arriving in groups of approximately 40. They glued themselves to the road servicing the main entrance to the Terminal, and then climbed aboard oil tankers that were forced to a halt.

(b) By 7 April 2022, protestors had broken into the Terminal compound and locked themselves onto large fuel storage tanks, some of which were insecure. Whilst within the compound, the protestors were using their mobile phones to document their activities on social media. As a result of this protest, a large policing operation was initiated, utilising a variety of specialist teams and working alongside staff from the Terminal and the fire service to remove the protestors safely.

(c) It was only at this turn of events, which caused the Claimant very serious concerns about risk of oil igniting and causing a major emergency potentially affecting its entire area, that it decided to seek an injunction in pursuance of its statutory functions. At that stage, it had no details of the identity of any protestor.

(d) On 9 April 2022, protestors deposited a caravan on to the side of the road on Piccadilly Way, which is a road to the south of the Terminal. 20 Defendants glued themselves to the sides and top of the caravan, whilst further Defendants attempted to dig a tunnel under the road via a false floor inside the caravan in order to prevent oil tankers from leaving the Terminal.

(ii) Because of this escalating conduct, the Claimant considers that some urgent action needs to be taken before the Easter Bank Holidays, when protestors are likely to attend the site in greater numbers.

(iii) The Terminal has storage capacity of around 405 million litres of flammable liquids, including unleaded petrol, diesel, and fuel additives. Controlled items, such as mobile phones, cigarettes, lighters, paging units, and matches, are prohibited within its perimeter due to the potential presence of explosive atmospheres, and it is served by pipelines that run beneath Piccadilly Way. As such, the current and

anticipated conduct of the Defendants poses a major fire/explosion risk. The Claimant therefore fears that the reckless activities of the Defendants poses a serious and imminent threat to public safety and the environment.

(iv) Whilst the Claimant received the names of the first eighteen Defendants on the evening of 12 April 2022, in witness statements exhibited to the Statement of ACC Smith, the Claimant has not yet received from the police any contact details for them despite requesting those details on 13 April 2022, when its intention was to give informal notice of today’s hearing.

(v) Nonetheless, the risk to life posed by the activities is too great to delay until those details can be obtained. In the circumstances, the Claimant has taken such steps as are available to it to notify the Defendants, and there is are compelling reasons, for the purposes of Section 12(2), why an order should be granted without the Defendants having been notified.

(vi) Although, in *Birmingham City Council v Afsar and Persons Unknown* [2019] EWHC 1560 (QB), Warby J (as he then was) said this, at [53]:

“Urgency can only be a compelling reason for applying without notice if there is simply no time at all in which to give notice. Modern methods of communication mean that will rarely, if ever, be the case, and it was not the position here. You do not justify applying in secret by showing that your case has merit, or by saying that the relief sought is limited in scope and time, and will have only limited impact on the respondents...”

the context for that case was very different in that the Claimant authority had contact details for the named defendants but took the view that that the urgency of the matter was sufficient meet the requirements of with s.12(2)(b). Warby J was not addressing a case where the

Claimant had no means of contacting the defendants but which was urgent.

Human Rights

24. It is accepted that the people affected by the proposed Order have Convention rights.

25. In *National Highways Limited v. Persons Unknown* [2021] EWHC 3081 (QB), Lavender J refused to set aside an injunction forbidding individuals associated with Insulate Britain from blocking, slowing down, obstructing or otherwise interfering with the flow of traffic on, or access to, the strategic road network, in reliance on the Supreme Court’s decision in *DPP v Ziegler* [2021] 3 WLR 179.

26. In *Ziegler*, the Supreme Court considered the extent to which a protest which involved obstructing the highway may be lawful by reasons of articles 10 and 11 of the European Convention on Human Rights. At [58], Lords Hamblen and Stephens JJSC agreed that the issues which arise under articles 10 and 11 require consideration of the following five questions:

“(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?”

27. In relation to the last question, the Supreme Court relied on eight factors that they considered relevant. These are quoted in summary in *Highways Limited v. Persons Unknown* as follows:

- (1) The peaceful nature of the protest
- (2) The fact that the defendants' action did not give rise, either directly or indirectly to any form of disorder.
- (3) The fact that the defendants did not commit any criminal offences other than obstructing the highway.
- (4) The fact that the defendant's actions were carefully targeted and were aimed only at obstructing vehicles heading to the arms fair.
- (5) The fact that the protest related to a "matter of general concern".
- (6) The limited duration of the protest.
- (7) The absence of any complaint about the defendants' conduct.
- (8) The defendants' longstanding commitment to opposing the arms trade.

Are the Defendant's exercising their Rights?

28. By participating in protests, the Defendants are exercising their rights to freedom of expression in article 10. Although the Claimant disputes that they are exercising rights to *peaceful* assembly for the purposes of article 11, it proceeds at this stage on the basis that it is at least arguable that they are exercising such rights.

Does the Authority Seek to interfere with those Rights?

29. The application for, and the grant of, an injunction to (a) create a small buffer zone around the Terminal where protests may not take place, and (b) restrain the unlawful methods currently used by the Defendants to protest outside this buffer zone would be an interference with those rights by a public authority.

Is the Interference Prescribed by Law?

30. That interference is "prescribed by law", namely section 37 of the Senior Courts Act 1981 and the cases which have decided how the discretion to grant an interim *quia timet* injunction should be exercised, together with section 222(1), Local Government Act 1972, section 130 of the Highways Act 1980, section 1 of the Localism Act 2011, and section 17 of the Crime and Disorder Act 1998.

Is the Interference in Pursuit of a Legitimate Aim?

31. The interference is also in pursuit of legitimate aims, namely to ensure the safe operation of the Terminal, and to protect public safety, the prevention of disorder and crime, the protection of health, and the protection of the rights and freedoms of others, as well as prevention of serious environmental damage, which aims are currently compromised by the dangerous and anti-social behaviour and public nuisance arising from the protests.

Is the Interference Necessary in a Democratic Society?

32. The protests have not been peaceful, rather the protestors have engaged in unlawful direct action to prevent the lawful activity of the Terminal and its distribution partners.

33. The protests have also been characterised by disorder, protestors have forced entry to the Terminal, scattered, locked onto structures containing significant quantities of flammable liquids, and used their mobile phones whilst potentially exposed to explosive atmospheres. They have not complied with the requests of the police, but forced police officers, the fire brigade and workers at the Terminal to put their own lives at risk to enforce their removal.

34. Protestors have committed offences beyond simply obstructing the highway. They have trespassed onto the Terminal, and they have interfered with vehicles containing flammable liquids. Significant numbers of protestors have been arrested on most days since the 1 April 2022 for offences carried out during the protests. These offences include aggravated trespass, offences under Trade Union and Labour Relations (Consolidation) Act 1992, vehicle interference and criminal damage and going equipped to cause criminal damage.

35. Even if it is the protestors' intention to blockade only vehicles attending the Terminal, their actions have had, and threaten to have, a significant impact on all those in the locality. For example, on 5 April 2022, the resulting tailbacks reached as far as the M42. Furthermore, the risk generated by the protestors

both accessing the Terminal and attempting to dig close to pipes servicing the Terminal threatens the lives of those in the immediate locality, and the environment for miles around.

36. It is accepted that the protests relate to a “matter of general concern”.

37. The protests are many in number, disorganised, and not limited in duration. The disruption that they have caused to the Terminal, users of Piccadilly Way and Trinity Rise, and Warwickshire Police, over the last 14 days, is unlawful and considerable.

38. An injunction in similar terms to the that sought by the Claimant was obtained by Valero on 21 March 2022 in respect of that part of the Terminal occupied by it, but not including the whole site or the highways affected and without a power of arrest which is not available to them. Neither this Order nor the actions of Warwickshire Police in carrying out numerous arrests at the protests for suspected criminal offences, has had any effect. In many cases, those arrested have participated in further protests and have been arrested again. The risk posed is now so serious that no lesser measure is appropriate.

39. It is for all the reasons stated at paragraphs 32-38 above, that the Claimant submits that in the circumstances, the restrictions it seeks are necessary in a democratic society.

Is the Interference Proportionate?

40. The current activities at the Terminal are unacceptable and create a highly significant public safety and environmental risk, including by unauthorised and unsupervised (and potentially hostile) access being gained to a site with 400m litres of inflammable material, by undermining the foundations of the highway and by the other activities which have caused a danger to road-users, staff at the terminal, tanker drivers and other workers attending the terminal, and other local people. The Claimant submits that this aim is sufficiently important to justify interference with the Defendant’s rights under Article 10 & 11 ECHR.

41. There is a need to re-establish a law-abiding environment at the Terminal, and protect health, public safety and the rights and freedoms of the community, and of those who wish to protest lawfully. By restricting Defendants' protest to peaceful activities conducted a safe distance from the Terminal, the Claimant seeks to remove the immediate risk posed, whilst also allowing the continuation of lawful protest.

42. There are no more restrictive alternative means available to the Claimant. As explained above, Valero's Order and the Police attempts to keep matter within reasonable limits by their almost daily attendance, has had no effect. Furthermore, alternative orders (such as a Public Space Protection Order) carry procedural requirements that are too lengthy given the imminence of the danger posed, and provide a penalty for breach too small to be an effective deterrent. Accordingly, an injunction with a power of arrest is the only remaining means available of restraining the conduct complained of.

43. It is submitted that the terms of the injunction sought do strike a fair balance between the rights of the protestors and the rights and interests of the community; the terms are specifically designed to allow the continuation of lawful protest while restricting only the nuisance and anti-social behaviour referred to above. The order will be sought for a period of 2 years, with a review after 12 months, which is considered proportionate, especially since the activities aimed at are only consisting of anti-social behaviour and a public nuisance.

Power of Arrest

44. A power of arrest is also sought in order to provide an effective means of enforcement for the injunctions, if granted, as the paper committal procedure is lengthy and would result in the protests continuing to risk fire and explosion while it was undertaken. Moreover, without being able to identify the names of the protestors and to locate them, paper applications for committal are likely to be impossible to prosecute.

45. The authority submits that the conduct complained of includes, and the prohibitions in the injunction sought relate to, a significant risk of harm to local residents, members of the public, staff working within the Terminal, the authority's and police officers, bailiffs etc, so that it is necessary for a power of arrest pursuant to s.27, Police and Justice Act 2006 to attach to paragraph 1 of the Injunction.

Discretion

46. The authority submits that it is appropriate and expedient for the promotion and protection of the interests of the inhabitants of their area, and in the exercise of the Court's discretion that the defendants be restrained, by way of injunction, from committing tortious and criminal acts and, in particular acts amounting to a public nuisance and to deliberate and flagrant breaches of the criminal law (and which use of the criminal law is unable to prevent), and health and safety regulations.

47. Specifically, the authority considers that it is in the interests of the inhabitants of the Kingsbury:

(i) that the authority endeavours to establish and maintain a law-abiding community;

(ii) that local residents, workers within the Terminal, the emergency services and others working to control the protests, local businesses and members of the public (and the protestors themselves) are protected from the serious and specific threats to their safety, health, property and peaceful existence presented by the reckless actions of the protestors; and

(iii) that the staff within, and attending to, the Terminal should be able to conduct their lawful commercial activities without facing the nuisance described in the witness statements and without disruption as described in the witness statements.

48. For all of the above reasons, the Court is respectfully requested to grant the authority's application.

Jonathan Manning
Charlotte Crocombe
14 April 2022

4-5 Gray's Inn Square
London WC1R 5AH,

Application notice

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Name of court	Claim no.
Fee account no. (if applicable)	Help with Fees – Ref. no. (if applicable)
	H W F - <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/>
Warrant no. (if applicable)	
Claimant's name (including ref.)	
Defendant's name (including ref.)	
Date	

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

2. Are you a Claimant Defendant Legal Representative
 Other (please specify)

If you are a legal representative whom do you represent?

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

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

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

6. How long do you think the hearing will last? Hours Minutes
 Is this time estimate agreed by all parties? Yes No

7. Give details of any fixed trial date or period

8. What level of Judge does your hearing need?

9. Who should be served with this application?

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

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

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

If necessary, please continue on a separate sheet.

Statement of Truth

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

- I believe** that the facts stated in section 10 (and any continuation sheets) are true.
- The Applicant believes** that the facts stated in section 10 (and any continuation sheets) are true. **I am authorised** by the applicant to sign this statement.

Signature

- Applicant
- Litigation friend (where applicant is a child or a Protected Party)
- Applicant's legal representative (as defined by CPR 2.3(1))

Date

Day

Month

Year

Full name

Name of applicant's legal representative's firm

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

Applicant's address to which documents should be sent.

Building and street

Second line of address

Town or city

County (optional)

Postcode

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If applicable

Phone number

Fax number

DX number

Your Ref.

Email

Claim No:

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

In the Matter of an Application for an Injunction under s.222, Local Government Act 1972, s130(5) Highways Act 1980 and s.1, Localism Act 2011

B E T W E E N

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimant

and

(1) DAVID BALDWIN
(2) THOMAS BARBER
(3) MICHELLE CADET-ROSE
(4) TIM HEWES
(5) JOHN HOWLETT
(6) JOHN JORDAN
(7) CARMEN LEAN
(8) ALISON LEE
(9) AMY PRITCHARD
(10) STEPHEN PRITCHARD
(11) PAUL RAITHBY
(12) HOLLY ROTHWELL
(13) ELIZABETH SMAIL
(14) JOHN SMITH
(15) BEN TAYLOR
(16) JANE THEWLIS
(17) ANTHONY WHITEHOUSE
(18) ANDREW WORSLEY
(19) PERSONS UNKNOWN WHO ARE ORGANISING,
PARTICIPATING IN OR ENCOURAGING OTHERS TO
PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION
AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE
KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA
Defendants

PARTICULARS OF CLAIM

The Claimant

1. The Claimant is a local authority within the meaning of section 270(1), Local Government Act 1972; section 8(1), Localism Act 2011; section 44(1) Local Government (Miscellaneous Provisions) Act 1976, and s.17(3) of the Crime and Disorder Act 1998. It is a council and a local authority within the meaning of s.329, Highways Act 1980.

2. Section 222, Local Government Act 1972 confers power upon a local authority to prosecute, defend or appear in legal proceedings, and to institute civil proceedings in its own name, where the authority considers it expedient to do so for the promotion or protection of the interests of the inhabitants of its area. The Claimant considers that the injunctive relief sought in these proceedings is expedient for such purposes.

3. Section 111, Local Government Act 1972 confers power upon a local authority to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions.

4. By section 130(2) and (5), Highways Act 1980, any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it. A council may, without prejudice to its powers under section 222, 1972 Act, in the performance of its functions under s.130(2), institute legal proceedings in its own name, defend any legal proceedings and generally take such steps as its deems expedient.

5. Section 1, Localism Act 2011 confers power on a local authority to do anything that individuals, with full capacity, generally may do, in any way

whatever and unlimited by the existence of any other power of the authority which to any extent overlaps the general power.

6. By section 17, Crime and Disorder Act 1998, the Claimant is under a statutory duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.

Kingsbury Oil Terminal

7. Kingsbury Oil Terminal (the “Terminal”), is situated adjacent to Trinity Road and Piccadilly Way, Kingsbury, Tamworth B78 2HA, on the outskirts of the residential town of Kingsbury, North Warwickshire. Its location is shown, edged in blue, on the map annexed hereto at Schedule 1.
8. The Terminal is the largest inland oil storage depot in the United Kingdom. The 3 main operators at the Terminal are Valero Energy Limited, Essar Oil UK and Shell UK Limited.
9. The Terminal is an upper tier site for the purposes of the Control of Major Accident Hazards Regulations 2015, as it includes 50 storage tanks with a storage capacity of around 405 million litres of flammable liquids, including unleaded petrol, diesel, and fuel additives. The Terminal is pipeline fed and there are eight vehicle loading gantries, which allow approximately 220 daily road loadings.
10. Operators at the Terminal are therefore required to have and keep under review, major accident prevention polices, safety reports and emergency plans (internal and external).
11. In addition, Warwickshire Fire and Rescue Service has prepared an operation plan for the Terminal. The said plan provides *inter alia* for “controlled items” (mobile phones, cigarettes, lighters, paging units, matches etc.) that must be handed in at the Terminal Control Room and

may not be carried or used within the Terminal due to the potential presence of explosive atmospheres.

The Defendants

12. Between 1 April 2022 and 10 April 2022, the Defendants have engaged, in the locality of the Terminal, in protests against the production and use of fossil fuels. Such protests have been characterised by disorder, breaches of the criminal law and public nuisance, including unlawful attempts to obstruct the activity of the Terminal and that of its distribution partners. The protests are believed currently to be organised by individuals or groups operating under the auspices of 'Just Stop Oil', which is a loose coalition of individuals and protest groups working together with the aim of ensuring that the Government commits to halting new fossil fuel licensing and production.
13. The First to Eighteenth Defendants have been arrested by Police due to their conduct while participating in one or more of the protests that have taken place at the Terminal, particularised at paragraphs 12-23 below.
14. The participants in the said protests are transient and mobile. The highly transient nature of the protesting community renders it difficult for the Claimant or the police to identify participants in any significant numbers, unless they have been arrested. Different participants attend different protests in different locations, and in large numbers. If one group only were to be subjected to injunctive relief, this would make little practical difference to the problem as other people would simply attend in its place.
15. Accordingly, it has not been possible to identify participants and spectators in sufficient numbers and with sufficient particularity to take proceedings against named individuals at this stage, other than the First to Eighteenth Defendants.

The Alleged Conduct

16. The Defendants attend the Terminal at all hours of the day and night with the aim of causing serious disruption to its operations. In doing so, they are engaging in tortious and criminal behaviour which is both anti-social and dangerous and which amounts to a public nuisance.

PARTICULARS

- a. Gluing themselves to the carriageway providing access to the Terminal, thereby causing nuisance and creating a danger to road users and themselves.
- b. Breaking into the Terminal compound by sawing through gates, thereby causing damage to, and trespassing on private land.
- c. Using mobile phones within the Compound to make video films of their activities, including while standing on top of oil tankers and storage tanks and next to fuel transfer equipment, thereby endangering public safety and causing a significant risk of fire and / or explosion.
- d. Attempting to access the Terminal compound by abseiling from a road bridge.
- e. Climbing onto storage tanks containing unleaded petrol, diesel, and fuel additives, thereby trespassing and causing a risk of fire and explosion.
- f. Interfering with oil tankers, including by scaling and affixing themselves onto the roof, and by letting air out of the tyres.
- g. Attempting to burrow under the highway serving the Terminal, close to pipelines serving the terminal, thereby causing nuisance and a risk to public safety, damaging the Claimant's land, and creating a danger to road users and themselves.

- h. Obstructing the public highway and the entrances to the Terminal.
 - i. Causing obstruction to the business of the Terminal, and thereby the supply of fuel to petrol forecourts across the West Midlands.
 - j. Creating a real risk of harm both physical and psychological to other highway users, employees of the Terminal, the emergency services, and local residents
 - k. Creating a public nuisance and annoyance.
- 1. Breaching bail conditions requiring them to stay away from the Terminal

17. On 05:00 on 01 April 2022, the Fifth, Thirteenth, Fourteenth, Seventeenth and Eighteenth Defendants were arrested on suspicion of conspiracy to cause public nuisance. Later that day, approximately 40 Defendants arrived at the Terminal, glued themselves to the road and sat in the main entrance roadway. This forced traffic to a standstill and allowed the protestors to climb onto the oil tankers. The Seventh Defendant was arrested on suspicion of vehicle interference for letting air out of the tyres of the stationary lorries. As a result, distribution operations at the site were suspended until 20:30, by which point 42 arrests had been made.

18. At approximately 19:30 on 02 April 2022, 40 protestors attended the Terminal. They blocked the main entrance, glued themselves to the carriageway, and locked onto each other. A number of the protestors also climbed on top of oil tankers. As a result of this protest, distribution operations were suspended at the site. The Defendants remained on the site until 00:00 on 03 April 2022 before dispersing. A total of 68 arrests were made as a result of this protest.

19. At 05:40 on 05 April 2022, 4 Defendants were arrested at the Terminal for offences under section 241 of the Trade Union and Labour Relations (Consolidation) Act 1992.

20. At 07:30 on 05 April 2022, 20 Defendants attended the Terminal, locked onto each other, and glued themselves to the carriageway. The Twelfth and Sixteenth Defendant sat on top of fuel tanker vehicle VRM MV70VNW, causing the vehicle to remain stationary, thereby obstructing the road. The police arrested the Twelfth and Sixteenth Defendant on suspicion of vehicle interference and criminal damage, and the Second and Third Defendant on suspicion of an offence under section 241 of the Trade Union and Labour Relations (Consolidation) Act 1992. 6 other Defendants were also arrested.

21. At 11:30 on 05 April 2022, a second wave of 40 Defendants targeted Junction 9 and Junction 10 of the M42, where they climbed aboard oil tankers as they moved slowly off the slip roads. Operations at the Terminal were suspended for a third time, and the resulting tailbacks encroached on the M42. The police were unable to regain control until 14:30 at which point 78 arrests had been made.

22. At 00:30 on 07 April 2022, a small group of Defendants approached the main entrance to the Terminal and attempted to glue themselves to the carriageway. When the Police were deployed to remove these Defendants, a second group of 40 Defendants approached the Terminal from the fields to its rear. They used a saw to break through an exterior gate, and then scaled the fences to access the compound. Once on site, the Defendants locked themselves onto to a number of different fixtures including:
 - (i) The tops of three large fuel storage tanks containing unleaded petrol, diesel and fuel additives,
 - (ii) Two insecure cabs of fuel tankers
 - (iii) The tops of two fuel tanker
 - (iv) The floating roof a large fuel storage tank
 - (v) A half-constructed fuel storage tank

23. As a result of this protest, a large policing operation was initiated, utilising a variety of specialist teams and working alongside staff from the Terminal and the fire service. That notwithstanding, the Terminal was not clear of Defendants until approximately 17:00 hours. 127 arrests were made on this occasion, including of the Second and Third Defendant for aggravated trespass.

24. At 10:50 on 09 April 2022, 4 Defendants attempted to glue themselves to the carriageway at the main entrance of the Terminal. Three were arrested immediately. Thereafter the First Defendant was arrested for trying to abseil from a road bridge at the junction of Pitt Hill into the north side of the Terminal site.

25. At 15:30 on 09 April 2022, the Defendants deposited a caravan to the side of the road on Piccadilly Way, which is a road to the south of the Terminal. 20 Defendants glued themselves to the sides and top of the caravan, whilst further Defendants attempted to dig a tunnel under the road via a false floor inside the caravan. The approximate dimensions of this tunnel are 700m x 700m square with a depth of 1.2 metres.

26. At 02:00 on 10 April 2022, the police entered the caravan and arrested six Defendants including the Fourth, Sixth, Tenth and Eleventh Defendants. A further 22 Defendants were arrested from outside the caravan.

27. That notwithstanding, Defendants continued to target the site throughout 10 April 2022. Their conduct included scaling tankers and gluing themselves to the carriageway. By the end of the day 180 arrests had been made.

28. This conduct is tortious and constitutes a public nuisance. It is also criminal, but the criminal law is unable to provide adequate remedies to control it.

Effect of the Alleged Conduct

29. The aforementioned conduct is tortious, criminal and constitutes a public nuisance. The protests have caused, and continue to cause, a significant nuisance, disturbance, annoyance and expense to residential occupiers and the commercial activities of the Terminal, both of which are situated within the Claimant's area.

PARTICULARS OF HARM, LOSS AND DAMAGE

- a. The presence of the Defendants within the Terminal, using mobile phones, poses a serious risk of fire and / or explosion involving up to 405 million litres of flammable liquids.
- b. The Terminal has had to cease operations on several occasions due to the risk posed by unauthorised persons within the compound, causing financial loss.
- c. Drivers of lorries accessing the Terminal have been caused nuisance by the Defendants scaling and locking onto their vehicles.
- d. Petrol forecourts across the West Midlands region have suffered fuel shortages. As a result, the Claimant has given mutual aid to Nuneaton and Bedworth Borough Council due to fuel shortages in order to allow essential statutory services to keep running.
- e. Warwickshire County Council has suffered damage to its land, the cost of dealing with which has been £3,189.95. Those costs account for the attendance at the land by a County Highways Officer out of hours, attendance at the land by Balfour Beatty, the costs involved in arranging for the land to be closed on an emergency basis and for works to remedy the damage caused to Highway land both temporarily and permanently.

- f. People living, working and travelling in the district, including residents nearby the Terminal, have been adversely affected by road closures, and the significant police operations.
- g. All those within the Claimant's borough are at risk in the event of any major emergency or incident at the Terminal.

Alternative Remedies Sought

30. The Claimant, Valero Energy Limited (a stakeholder in the Terminal) and the Warwickshire Police, have attempted to prevent or curtail the risk to public safety of activities described above. The following principal steps have been taken but have not been effective to prevent or even curtail the conduct complained of.

PARTICULARS

- (i) An injunction was obtained by Valero Energy Limited on 21 March 2022, in respect of various sites on which they operate in the UK. That injunction related only to part of the Terminal, that part being the area within which Valero operates. An amended interim order was made on 11 April 2022, covering the same part of the Terminal.
- (ii) On 11 April, the Court made a non-party disclosure order against *inter alia* the Chief Constable of Warwickshire Police, requiring the disclosure to Valero of the names of protestors who have been arrested in order to aid enforcement of the Injunction. As a private litigant, however, Valero are unable to obtain a power of arrest attached to its Order. Paper committal is therefore the only available means of enforcement even where Defendants can be identified.
- (iii) To date, Valero's injunction has not proven effective to stop the behaviour complained of. Indeed, the behaviour and public nuisance has worsened since 21 March, leading the authority to

bring this claim. Valero supports the Claimant in making this claim.

- (iv) Warwickshire Police have drawn officers from across the force, and other regional forces, to police the Terminal day and night. 180 arrests have been made as a result of the Defendants actions, and those arrested have been released under investigations or, in some case, on conditional bail. Those arrested and released have in many cases participated in further protests at the Terminal and have been arrested again, in some cases more than once (including the Second and Third Defendants).
- (v) The Police have concluded that their powers under the criminal law are insufficient to prevent further public nuisance and criminal acts or to protect the public. The resource implications for the police in relation to the current level of policing the protests at the terminal are very considerable and they support this application.
- (vi) While the Claimant in principle has power to make a Public Spaces Protection Order under the Anti-social Behaviour Crime and Policing Act 2014, Part 4 Chapter 2, the process for doing so is lengthy and involves public consultation. The sanction for breach is financial only, usually resulting in a fixed penalty notice or prosecution, the former of which is unlikely to provide any deterrent and the latter of which is a lengthy process. This matter is urgent and the Claimant does not consider a PSPO to provide any realistic alternative to this Claim.

31. Accordingly, the Defendants threaten and intend to continue the behaviour complained of unless restrained by this Court.

32. Further, for the reasons set out above, the Claimant believes that the conduct complained of includes a significant and immediate risk of harm

to the inhabitants of its borough, local residents, workers at or visiting the Terminal, other road users, police and council officers and members of the public, so that it is necessary for a power of arrest pursuant to s.27, Police and Justice Act 2006 to attach to paragraph 1 of the draft injunction attached to these Particulars of Claim.

33. The Claimant has undertaken proportionality and equality impact assessments under the Human Rights Act 1998 and the Equality Act 2010, and considers that the relief sought in this claim is necessary, proportionate, justified and appropriate, and in conformity with the rights of protestors under the human rights and equality legislation.

AND THE CLAIMANT CLAIMS:

1. Injunctive relief and powers of arrest.
2. Interim injunctive relief and powers of arrest in the form of the attached draft Orders.
3. Further or other relief
4. Costs.

JONATHAN MANNING
CHARLOTTE CROCOMBE

Dated: 13 April 2022

STATEMENT OF TRUTH

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

Signed: *Annie Ryan*
Position: *Principal Solicitor, NWBC*
Date: *13/4/22*

Date:

Filed on behalf of the Claimant

S Maxey

First Witness Statement

13 4 2022

Exhibits SM1 – SM4

Claim No:

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimants

and

- (1) DAVID BALDWIN
- (2) THOMAS BARBER
- (3) MICHELLE CADET-ROSE
- (4) TIM HEWES
- (5) JOHN HOWLETT
- (6) JOHN JORDAN
- (7) CARMEN LEAN
- (8) ALISON LEE
- (9) AMY PRITCHARD
- (10) STEPHEN PRITCHARD
- (11) PAUL RAITHBY
- (12) HOLLY ROTHWELL
- (13) ELIZABETH SMAIL
- (14) JOHN SMITH
- (15) BEN TAYLOR
- (16) JANE THEWLIS
- (17) ANTHONY WHITEHOUSE
- (18) ANDREW WORSLEY
- (19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA

WITNESS STATEMENT OF STEVEN MAXEY

I, STEVEN MAXEY, of The Council House, South Street, Atherstone, CV9 1DE, Solicitor and Local Government Officer WILL SAY AS FOLLOWS:

1. I am employed by North Warwickshire Borough Council (“the Council”) as the Chief Executive. In addition to being the Council’s statutory Head of Paid Service, I am the Council’s representative on the Strategic Coordinating Group of the Warwickshire Local Resilience Forum (“the LRF”). I am duly authorised on behalf of the Council to make this witness statement.
2. Save where the source of my knowledge is expressly stated the facts set out in this witness statement are from within my own knowledge and are true. Where they are outside my direct knowledge they are true to the best of my knowledge, information and belief.
3. On Friday 1st April 2022, I became aware via the LRF that a number of protestors had gathered outside the Kingsbury Oil Terminal (the “Terminal”). The events since the 1st April are set out in the statement by the Warwickshire Police.

The Terminal

4. The Terminal is situated in North Warwickshire and is a COMAH site. COMAH is an abbreviation of the Control of Major Accident Hazards Regulations 2015 (SI 2015/483), as amended. A COMAH site is one that stores a sufficient quantity of dangerous substances to fall into the definition of an 'Upper Tier' or 'Lower Tier' site. The Terminal is an Upper Tier site, one of only two in Warwickshire, reflecting that it is one of the biggest oil terminals in the country. As stated in the COMAH External Emergency Plan, the Terminal has 50 storage tanks with a storage capacity of around 405m litres of flammable liquids. It is close to a significant number of residential properties, as shown on the map attached to this statement as exhibit SM1.

The protests

5. Prior to the 1st April, intelligence had been received that major oil protest were planned at a number of similar facilities by protestors. I am aware from direct conversations prior to the start of the protests that one of the operators at the Terminal, Valero Energy, had obtained an interim injunction pre-emptively and I attach that to this statement as exhibit SM2. I am also aware that that interim Order was amended by this Court on 11 April 2022, and I attach a copy of the amended injunction as Exhibit SM3.
6. My understanding it that this injunction was intended to provide a disincentive for protestors, however from 1st April it became clear that no such effect had occurred. Indeed, between 1 and 11 April, the behaviour of the protestors has consistently worsened and become bolder and more dangerous.
7. Through meetings of the LRF, the Police provided updates on how the protests were progressing and the details of this are set out in a separate witness statement provided by Warwickshire police. The protests were declared a major incident by the Police, but not a multi agency incident for the rest of the LRF partners.
8. This however changed on the evening of 6th April/early morning of 7th April. As set out in the Warwickshire Police witness statement, a group of between 40 and 50 protestors went to the Terminal and gained access inside of the compound. The protestors therefore had unfettered access to the storage tanks, which clearly represents a major explosion and fire risk, not least as reports to the LRF stated that the protestors where extensively using mobile phones within the compound, creating videos for their promotional posts.
9. I am told by Barnaby Briggs, the Assistant Chief Fire Officer for Warwickshire Fire and Rescue Service that the use of mobile phones in the vicinity of this facility is extremely dangerous. In an email to me dated 8 April 2022, he said this:

“if you consider that the public are instructed not to use a mobile phone whilst filling their car you can understand how concerned I am at the fact that Just Stop Oil's own publicity pictures show that they have been using phones from the top of tankers and next to fuel transfer equipment. I don't think they have any understanding of the level of risk they are posing to themselves or others through their actions.

“Our Operational plans for [the Terminal] all state; *“All controlled items (mobile phones, cigarettes, lighters, paging units, matches etc.) should be handed over at the Terminal Control Room.....due to the potential presence of explosive atmospheres.”* but of course our crews will only go in through designated gates.”

10. The incident on 6-7 April therefore has changed the position significantly with regard to public safety and risk of significant environmental pollution. Whilst the protestors were removed over the next day or so, the risk to the public and the environment is clearly unacceptable. As set out in the witness statement by the Warwickshire Police, there was a further serious incident on 9th and 10th April, when, in summary, protestors brought a fortified caravan close to the site and attempted to tunnel under the highway in order to prevent the oil tankers from using it.

This application

11. Whilst the Council supports the right of individuals to protest lawfully and exercise the right to freedom of speech and expression, these protests have gone beyond the exercise of those rights. The Council is fully aware of the Human Rights Act 1998 and in particular the Article 10 and 11 rights to freedom of assembly and freedom of expression.
12. The Council has also considered the Public Sector Equality duty contained within section 149 of the Equality Act 2010.
13. I have carried out a proportionality assessment under the Human Rights Act and an Equality Impact Assessment under s.149, Equality Act. I have also considered both issues in combination especially with regard to the high importance to be given to the right to freedom of expression of which the right to protest forms an important part. Copies of these assessments are exhibited at SM4.
14. Nonetheless, I have concluded that it is right for the Council to use its powers to seek an injunction with a power of arrest to seek to control the locations in which and the manner in which the current protests at the Terminal are conducted. In reaching this conclusion, I have sought to strike a balance between the rights of the protestors and the rights of the community within the North Warwickshire area to be kept safe from the risk of a major emergency at the terminal and to be protected from nuisance, criminality and anti-social behaviour that has characterised these protests

15. My reference to the community within North Warwickshire is a reference to all the people within the borough who are affected in different ways, including staff at the Terminal, workers from other companies who attend there for their jobs, local residents, and businesses, all of whom are affected by the disruption. I also include other road users who have been affected by protestors on motorway slip roads and other highways causing blockages by their dangerous activities, members of the emergency services who are required to attend the Terminal on a daily basis and who would be forced to deal with the consequences of a fire or explosion there, the protestors themselves whose safety is at risk and all those other members of the public in the borough who are affected by the disruption and whose safety would be compromised by an emergency the Terminal.
16. I have taken into account the interests of all the inhabitants of the borough for the Council to do all it can to re-establish a safe and law-abiding environment at the particularly sensitive location of the Terminal.
17. I have also taken into account that this injunction and power of arrest is not intended to prevent the right of protestors to attend area around the Terminal and conduct a peaceful and lawful protest. The injunction seeks to establish a buffer zone in the immediate area surrounding the Terminal to prevent further attempts art incursions into the compound itself or serious damage to the roads (public and private) by which the Terminal is accessed. I am seriously concerned that the immediate environs of the Terminal is not a safe place for protests. On the M42 side of the Terminal, there is a railway line and Ministry of Defence land used as rifle ranges. To the other side are Piccadilly Way and Trinity Road which have been the locations for major disruption from protestors including by tunnelling, and gluing themselves to the carriageway, climbing on oil tankers while using their phones and obstructing the entrances to the Terminal itself.
18. The other aspect of the injunction sought seeks to prevent the protestors from undertaking the most dangerous and unlawful activities to which the draft refers and which are set out in summary above and in the police witness statements.
19. I would respectfully state that the activities of the protestors to date, and which this Order seeks to restrain, are those which are do not amount to peaceful or legitimate forms of protest but are dangerous acts of public nuisance, anti-social behaviour and criminality which should be restrained. The protestors article 10 and 11 rights are not absolute but are qualified and, as set out in my assessments, I consider that the

need to protect the health, rights and freedoms of other members of the community and to prevent crime and disorder in the present case form a legitimate aim, and that the remedy sought in this claim is necessary in a democratic society and is proportionate, just and reasonable.

20. Some residents living in close proximity to the Terminal; the villages of Kingsbury and Piccadilly have approximately 8000 residents and many thousands more would be impacted by the wider impacts, for example the catchment area for the River Tame includes Birmingham, Solihull, Sandwell, Walsall, Tamworth, Nuneaton and Hinckley. There are also 8 statutory sites of special scientific interest, 7 Local Nature Reserves and 27 non-statutory sites of local importance.
21. I consider it to be expedient for the protection and promotion of the interests of the inhabitants of North Warwickshire that this application is made, for the reasons set out above.

Power of Arrest

22. I would also ask for a power of arrest to be attached to the provisions of the Order sought, if granted. I believe that the statutory conditions for the grant of a power of arrest are met – as there is clearly a significant risk of significant harm to other people in the area. Moreover, effective enforcement will require the ability to arrest protestors acting dangerously quickly to remove them from the location and restore order. Moreover, it is necessary to bring those accused of breaching the Order before the Court quickly so as to reinforce the deterrent aspect of the Order. I do not think that paper committal applications would have anything like the same impact on the protestors.
23. It is clear from the reports to the LRF from the Police that their current powers and the effect of the current injunction, are seriously deficient in ensuring that the risks of unauthorised, and hostile, access to the Terminal compound, are reduced to an acceptable level. The Council therefore is extremely concerned that as a result the risks to public safety and environmental damage are unacceptable, to the extent that an injunction backed with a power of arrest, in the terms set out in this application, should be granted.
24. I have considered whether the Council's power to introduce a Public Space Protection Order would be a satisfactory alternative to this application. I do not believe that this is the case.

(i) A PSPO requires consultation and publicity before it is made (s.72(3), Anti-social Behaviour Crime and Policing Act 2014), which is likely to take many weeks in relation to an issue such as this.

(ii) The only penalties for breach are financial (ss.67 and 68) – either a prosecution leading to a maximum penalty of a level 3 fine, or a fixed penalty notice. I do not consider that either penalty would be an adequate deterrent in the context of these activities.

Notice

25. As stated above I have had discussions with the Police and Fire and Rescue Service (as part of the LRU and otherwise) each of which fully supports this application and regard it, as I do as urgent. I have also had discussions with Valero who remain extremely concerned about the safety of the Terminal notwithstanding their own injunction and fully support this application. Warwickshire County Council also support this application. They are the local highways authority. A statement by Mr Morris has been filed in support, in respect of the tunnelling incident on 10/11 April 2022.

26. The Council received from the Police, yesterday evening (12 April), details of 18 people who had been arrested at the protests (referred to in the police officers statements exhibited to the statement of Asst Chief Constable Smith). I have given instructions for attempts to me made to notify those people today that we intend to come to court tomorrow to seek an Order. I regard this matter as so urgent that the application cannot wait until full notice has been given. I am concerned that there will be another major incident over the Easter weekend and that protection needs to be in place before then. I am also concerned that making this application on a full inter parties basis, before an order was in force, would lead to more violent and dangerous activities in the period before the matter came before the court.

27. For all of these reasons, I respectfully request that this Court grant the interim Orders sought.

STATEMENT OF TRUTH

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

Signed:

A handwritten signature in black ink, consisting of a series of connected loops and curves, ending in a large, rounded flourish.

Dated: 13th April 2022

Filed on behalf of the Claimant

Steven Maxey

First Witness Statement

Exhibit SM1

Claim No:

BETWEEN

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimants

and

- (1) DAVID BALDWIN
- (2) THOMAS BARBER
- (3) MICHELLE CADET-ROSE
- (4) TIM HEWES
- (5) JOHN HOWLETT
- (6) JOHN JORDAN
- (7) CARMEN LEAN
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- (14) JOHN SMITH
- (15) BEN TAYLOR
- (16) JANE THEWLIS
- (17) ANTHONY WHITEHOUSE

(18) ANDREW WORSLEY

(19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA

Defendants

This is the exhibit SM1 referred to in the Witness Statement

Signed:

A handwritten signature in black ink, consisting of a wavy line that ends in a large, circular loop.



**North Warwickshire
Borough Council**

(c) Crown Copyright and database rights 2022
Ordnance Survey 100017910



Operator:	xxxxxx
Department:	xxxxxx
Drawing No:	nnnnnn
Date: 11/04/2022	Scale: 1:10000

Filed on behalf of the Claimant

Steven Maxey

First Witness Statement

Exhibit SM2

Claim No:

BETWEEN

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimants

and

- (1) DAVID BALDWIN
- (2) THOMAS BARBER
- (3) MICHELLE CADET-ROSE
- (4) TIM HEWES
- (5) JOHN HOWLETT
- (6) JOHN JORDAN
- (7) CARMEN LEAN
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Defendants

This is the exhibit SM2 referred to in the Witness Statement

Signed:

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

IN THE HIGH COURT OF JUSTICE.
QUEENS BENCH DIVISION

CLAIM No: QB-2022-000904

Before: Mr. Justice Butcher

On: 21 March 2022

BETWEEN

**VALERO ENERGY LIMITED
VALERO LOGISTICS UK LIMITED
VALERO PEMBROKESHIRE OIL TERMINAL LIMITED**



**QB-2022-000904
Sub Event ID: 3**

-and-

**(1) PERSONS UNKNOWN ENTERING OR THREATENING TO ENTER AND
REMAIN WITHOUT THE CONSENT OF THE CLAIMANT(S) ON THE LAND
KNOWN INFORMALLY AS PEMBROKE REFINERY, MANCHESTER
TERMINAL, KINGSBURY TERMINAL, PLYMOUTH TERMINAL, CARDIFF
TERMINAL, PEMBROKESHIRE TERMINAL AND AVONMOUTH
TERMINAL AND MORE PARTICULARLY DESCRIBED BELOW AS THE
CLAIMANTS' LAND**

**(2) PERSONS UNKNOWN CAUSING OR THREATENING TO CAUSE
BLOCKADES, OBSTRUCTIONS AND/OR PREVENT THE FREE FLOW OF
TRAFFIC AND INTERFERE WITH THE PASSAGE BY THE CLAIMANTS
AND THEIR AGENTS, SERVANTS, EMPLOYEES, LICENSEES, INVITEES
WITH OR WITHOUT VEHICLES AND EQUIPMENT TO, FROM , OVER AND
ACROSS THE ROADS IN THE VICINITY OF THE LAND INFORMALLY AS
PEMBROKE REFINERY, MANCHESTER TERMINAL, KINGSBURY
TERMINAL, PLYMOUTH TERMINAL, CARDIFF TERMINAL,
PEMBROKESHIRE TERMINAL AND AVONMOUTH TERMINAL IN**

**CONNECTION WITH ENVIRONMENTAL PROTESTS BY THE JUST STOP
OIL AND/OR EXTINCTION REBELLION AND/OR INSULATE BRITAIN
AND/OR YOUTH SWARM MOVEMENTS**

Defendants

ORDER

PENAL NOTICE

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

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

IMPORTANT NOTICE TO THE DEFENDANTS

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

UPON the Claimants' Application by Application Notice for a quia timet injunction dated 21
March 2022 (the "Application")

AND UPON READING the Application and the witness statements of Adrian Rafferty, David Blackhouse and David McLoughlin dated 18 March 2022.

AND UPON hearing Myriam Stacey QC and Joel Semakula for the Claimants

AND UPON the Claimants undertaking to file the claim and application and the note of this hearing and pay the relevant court fees by the end of the next working day after the sealing of this Order

AND UPON the Claimants indicating that they will provide to any defendant copies of further evidence or other documents filed in these proceedings upon request from time-to-time at an email address provided to the Claimants and place all such documents online to be publicly accessible

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

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

AND UPON the Claimants confirming that this Order is not intended to prohibit lawful protest around the Claimants' Land which does not endanger, slow, obstruct, or prevent the free flow of traffic onto or along the Access Roads defined in paragraph 1.2 of the Order nor to prevent lawful use of the Access Roads by any person

IT IS ORDERED THAT:

1. For the purposes of this Order,

1.1 the "Claimants' Land" means all of the property referred to and defined in paragraph 2.1 hereof;

1.2 the “Access Roads” means those parts of the roads in the vicinity of the Claimants’ Land which provide access to each of the sites forming the subject of the Claimants’ Land and the location and extent of which are more particularly shown for illustration purposes coloured variously red, yellow and blue on the plans annexed hereto at Annex I to this Order.

Injunction in force

2. With immediate effect until trial, or further Order in the meantime the Defendants and each of them are forbidden from:

2.1 Entering or remaining upon any part of the following property:

- a) that part of the First Claimant’s freehold property informally known as ‘Pembroke Refinery’ situated at Angle, Pembroke SA71 5SJ, title to which is registered at HM Land Registry under title number CYM613413, the extent of which is shown outlined on the overlay plans exhibited hereto in Annex A (“**Pembroke Oil Refinery**”);
- b) the First Claimant’s leasehold property informally known as ‘Tanker berthing jetties at Pembroke Refinery’ situated at Angle, Pembroke SA71 5SJ, title to which is registered at HM Land Registry under title number CYM614801, the extent of which is shown outlined on the overlay plans exhibited hereto in Annex B (“**Pembroke Oil Refinery Jetties**”);
- c) the Second Claimant’s freehold property informally known as ‘Manchester Terminal’ situated at Trafford Wharf Road, Trafford, title to which is registered at HM Land Registry under title numbers GM12948, GM681405, GM681406, GM783767, LA296722, LA331236 and LA182975 and the

extent of which is shown outlined on the overlay plans exhibited hereto in Annex C (the “**Manchester Oil Terminal**”);

- d) the Second Claimant’s freehold land informally known as ‘Kingsbury Terminal’ at Plot B Trinity Road, Kingsbury, Tamworth, title to which is registered at HM Land Registry under title number WK471878 and the extent of which is which is shown outlined on the overlay plans exhibited hereto in in Annex D (the “**Kingsbury Oil Terminal**”);
- e) the Second Claimant’s leasehold land informally known ‘Plymouth Terminal’ at Cattedown Road, Cattedown, Plymouth title to which is registered at HM Land Registry under title number DN313194 the extent of which is shown outlined on the overlay plans exhibited hereto in Annex E (the “**Plymouth Oil Terminal**”);
- f) the Second Claimant’s leasehold land informally known as ‘Cardiff Terminal’ at Valero Refinery, Roath Dock, Rover Way, Cardiff CF10 4US, title to which is registered at HM Land Registry under title number CYM801292 and the extent of which is shown outlined on the overlay plans exhibited hereto in Annex F (the “**Cardiff Oil Terminal**”);
- g) the Second Claimant’s leasehold land informally known as ‘Avonmouth Terminal’, Avonmouth Dock, Bristol title to which is registered at HM Land Registry under title number BL116644 the extent of which is shown outlined on the overlay plans exhibited hereto in Annex G (the “**Avonmouth Oil Terminal**”); and
- h) the Third Claimant’s leasehold land informally known as ‘Valero Pembroke Oil Terminal’, Waterston, Milford Haven title to which is registered at HM Land Registry under title number CYM287387 the extent of which is shown

outlined on the overlay plans exhibited hereto in Annex H (the
“Pembrokeshire Terminal”);

- 2.2 Blocking any entrance to the Claimants’ Land and/or otherwise impeding access to or enjoyment of the Claimants’ Land;
- 2.3 Damaging any part of the Claimants’ Land;
- 2.4 Blocking, endangering, slowing down, preventing, or obstructing the free passage of traffic onto or along those parts of the Access Roads between the points marked on the plans at Annex I which provide access to the Claimants’ Land;
- 2.5 Affixing themselves to any other person or object on the Claimants’ Land or the aforesaid parts of the Access Roads;
- 2.6 Erecting any structure on the Claimants’ Land or on the aforesaid parts of the Access Roads;
- 2.7 Abandoning any vehicle or item on the aforesaid parts of the Access Roads or doing any other act thereon which might impede access or cause an obstruction;
- 2.8 Refusing to leave the aforesaid parts of the Access Roads when asked to do so by a police constable, when causing an obstruction pursuant to paragraphs 2.2 and 2.4 – 2.7;
- 2.9 Causing, assisting or encouraging any other person to do any act prohibited by 2.1 to 2.8 above;
- 2.10 Continuing any act prohibited by paragraphs 2.1 to 2.9 above

Service

3. Pursuant to CPR r.6.15, r.6.27 and r. 81.4(c) and (d), the steps taken by the Claimants to serve the Claim Form, the application for an interim injunction dated 18 March 2022 (the “Application”), the witness statements of Adrian Rafferty, David Blackhouse and David McLoughlin dated 18 March 2022 with their exhibits and any Order made and the notice of the hearing of the Injunction Application (together “the Claim Documents”) on the Defendants shall be dealt with as follows:
 - 3.1 The Claimants shall affix sealed copies of the Claim Documents in transparent envelopes in at least two location within Pembroke Refinery, Manchester Terminal, Kingsbury Terminal, Plymouth Terminal, Cardiff Terminal, Pembrokeshire Terminal and Avonmouth Terminal.
 - 3.2 The Claimants shall position (four) 4 signs, at conspicuous locations along each of Angle Road; the emergency services access road at Pembroke Refinery; Churchill Way; Trafford Wharf Road; Trinity Road; Piccadilly Way; the privately owned road at the Kingsbury Terminal; Oakfield Terrace Road; Rover Way; Holesmouth Road; King Road Avenue; and 5th Street which are approximately 1.5m x 1m in size, advertising the existence of this Order (together with a map of the relevant site of at least A2 size).
 - 3.3 The Claimants shall upload electronic copies of the Claim Documents (in PDF form) to an electronic folder on the “Dropbox” website and shall include the link to the Dropbox folder and the Claimants’ solicitors’ contact details on each of the aforesaid signs.
 - 3.4 The Claimants shall email a copy of the Order to the email addresses set out in the Appendix hereto.
4. The taking of such steps set out at paragraph 3 shall be good and sufficient service of this Order on the First and Second Defendants and each of them.
5. The Court will provide sealed copies of this Order to the Claimants’ solicitors for service (whose details are set out below).

Further directions

6. The Defendants or any other person affected by this Order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimants' solicitors immediately by emailing valero.service@shoosmiths.co.uk.
7. Any person applying to vary or discharge this order must provide their full name and address, an address for service, and must also apply to be joined as a named defendant to the proceedings at the same time.
8. The Claimants have liberty to apply to extend or vary this Order or for further directions.
9. The return date hearing is fixed for 11 April 2022 at 10:30AM.
10. No acknowledgment of service, admission or defence is required by any party in advance of the return date of the Injunction Application.
11. Costs reserved.

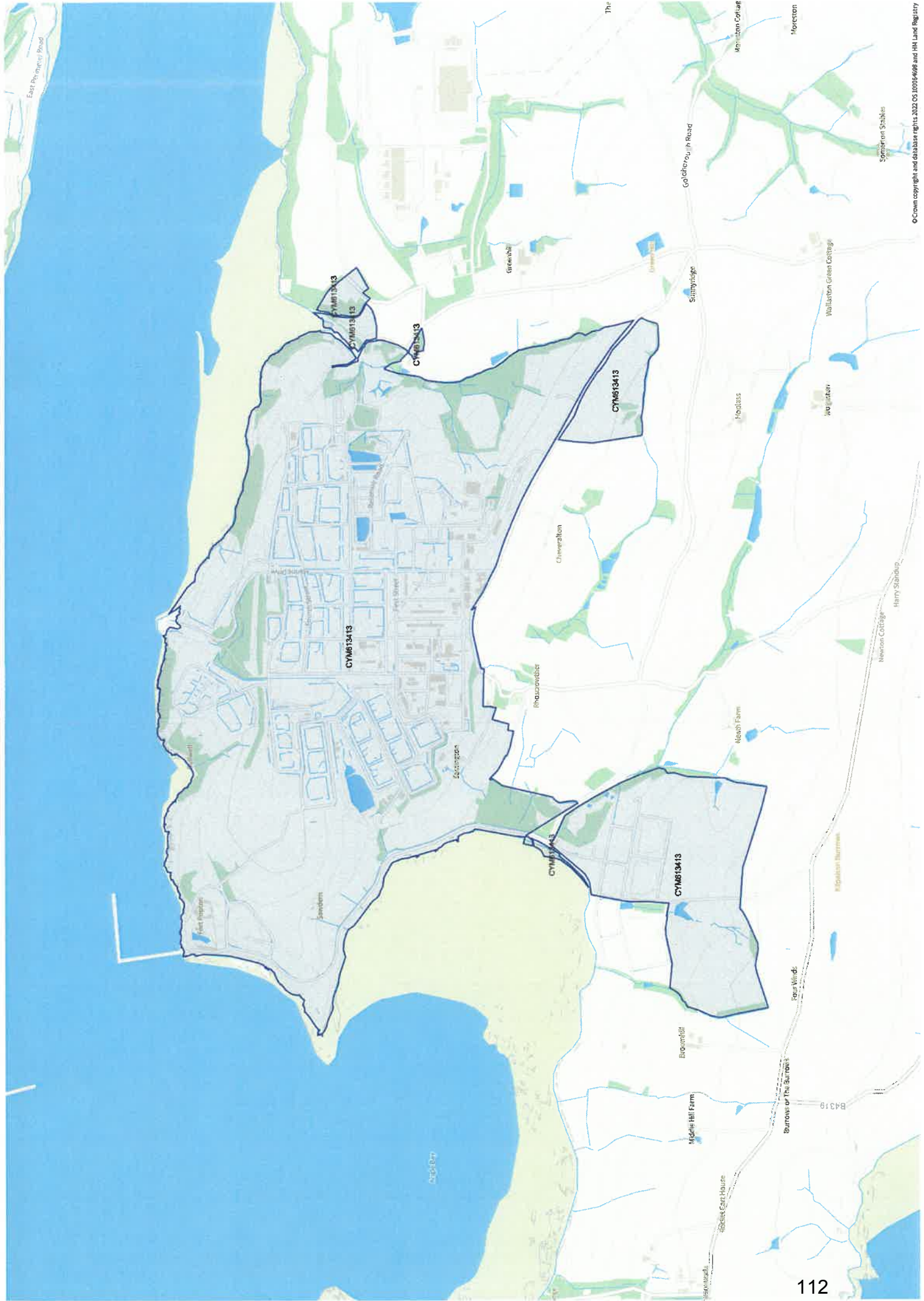
Communications with the Claimants

12. The Claimants' solicitors and their contact details are:

Shoosmiths LLP
2 Colmore Square
38 Colmore Circus Queensway
Birmingham
B4 6SH
(Ref: M-996090)
E: valero.service@shoosmiths.co.uk
T: 03700863000

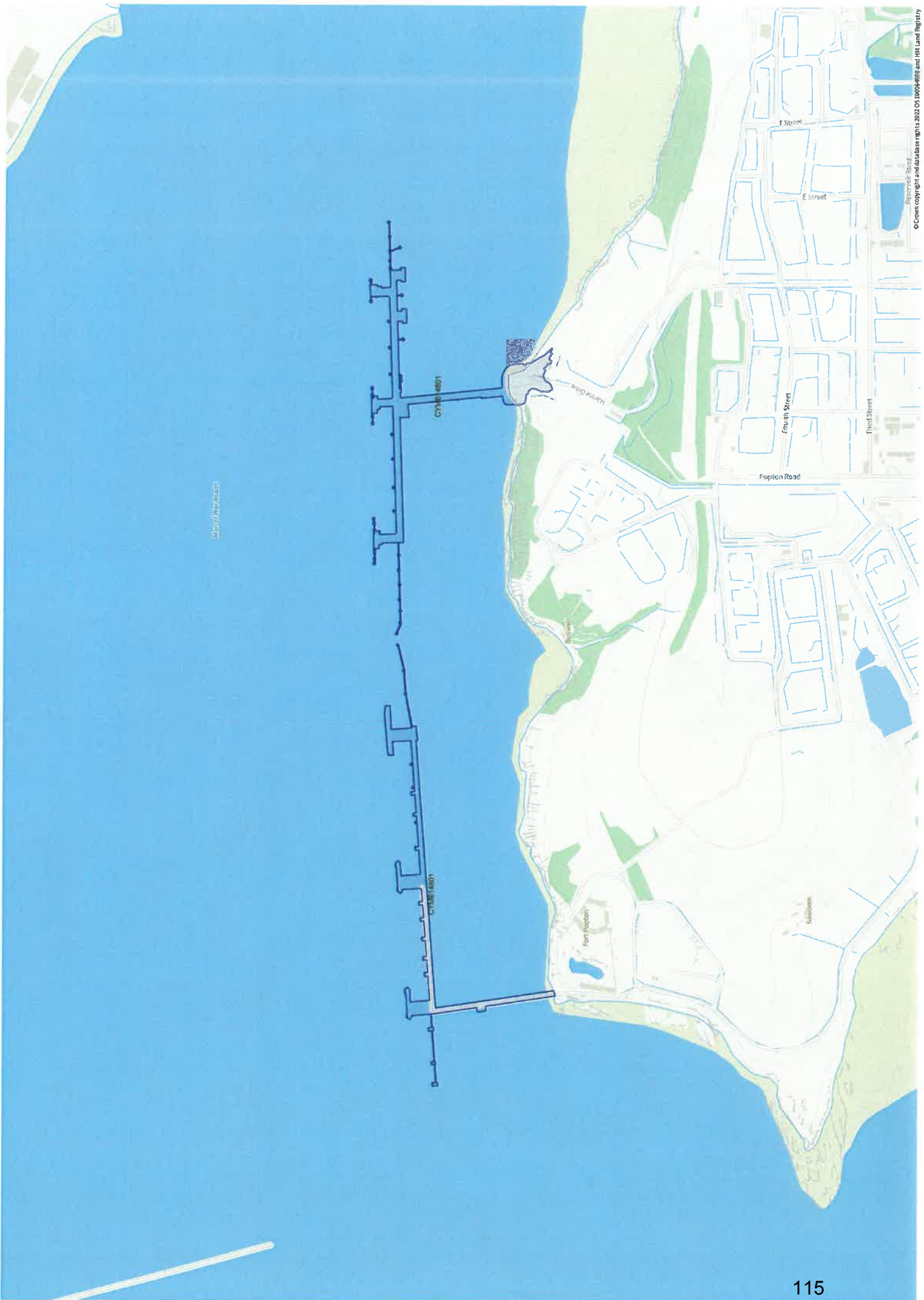
Dated: 21 March 2022

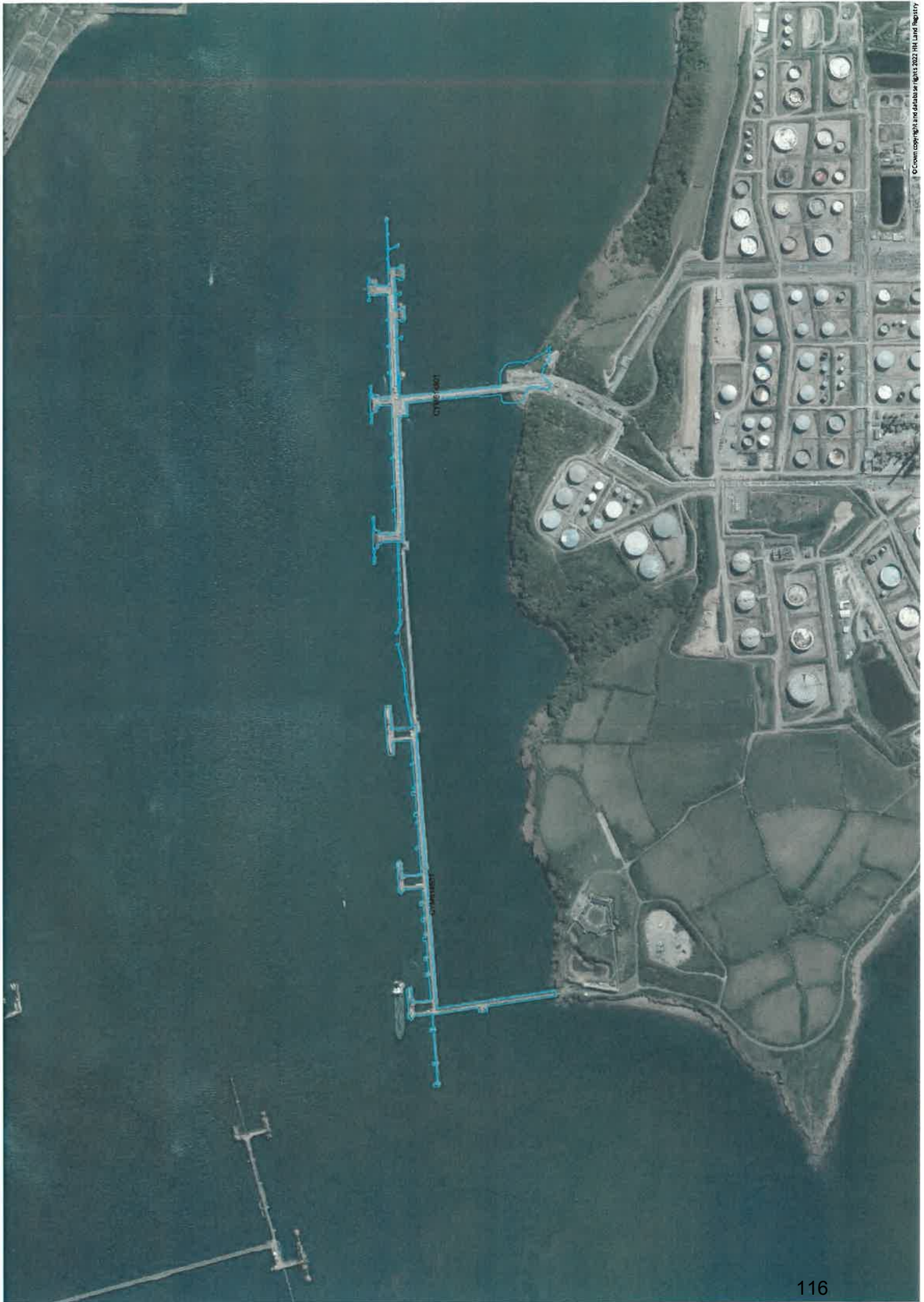
ANNEXURE A



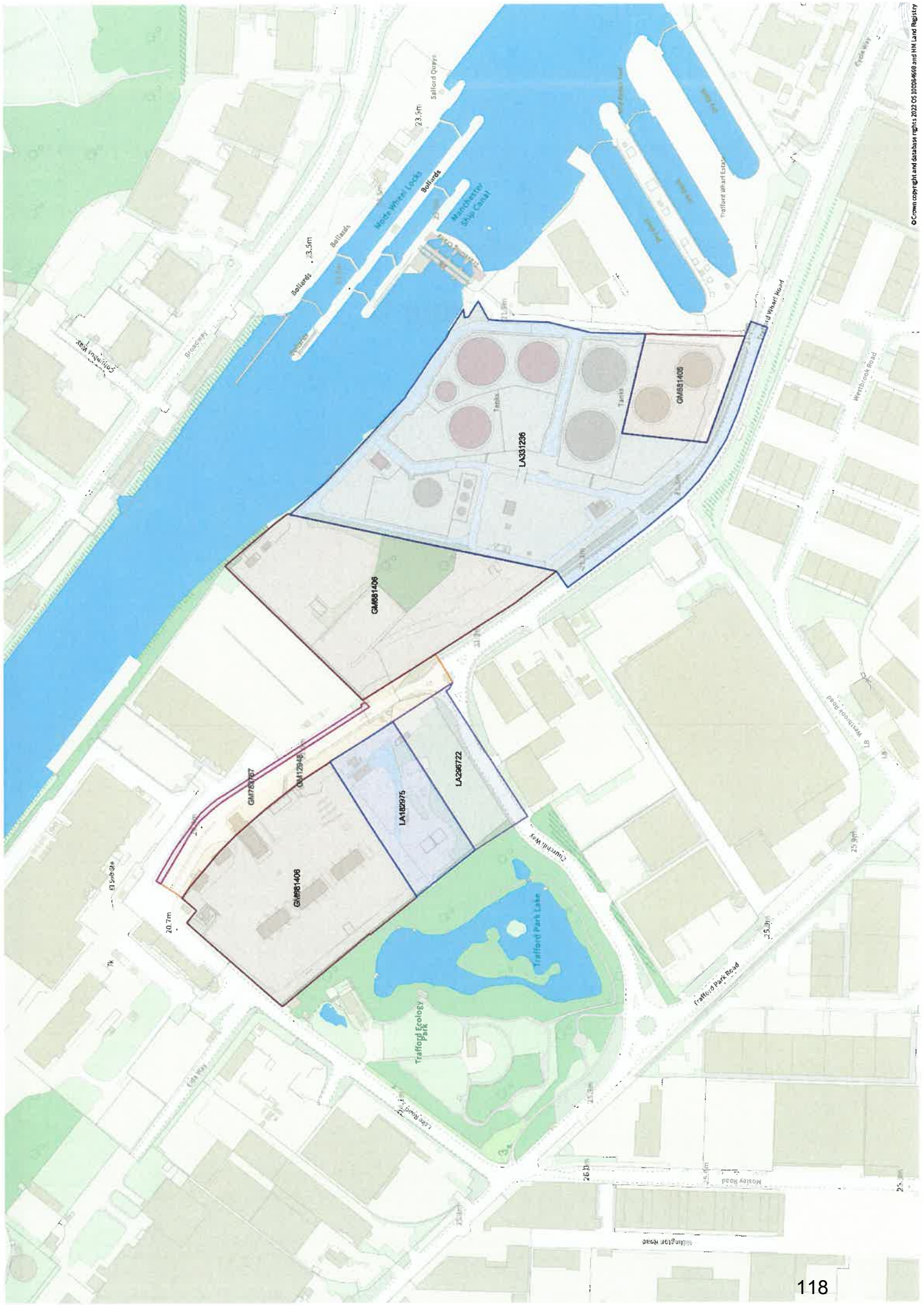


Annexure B



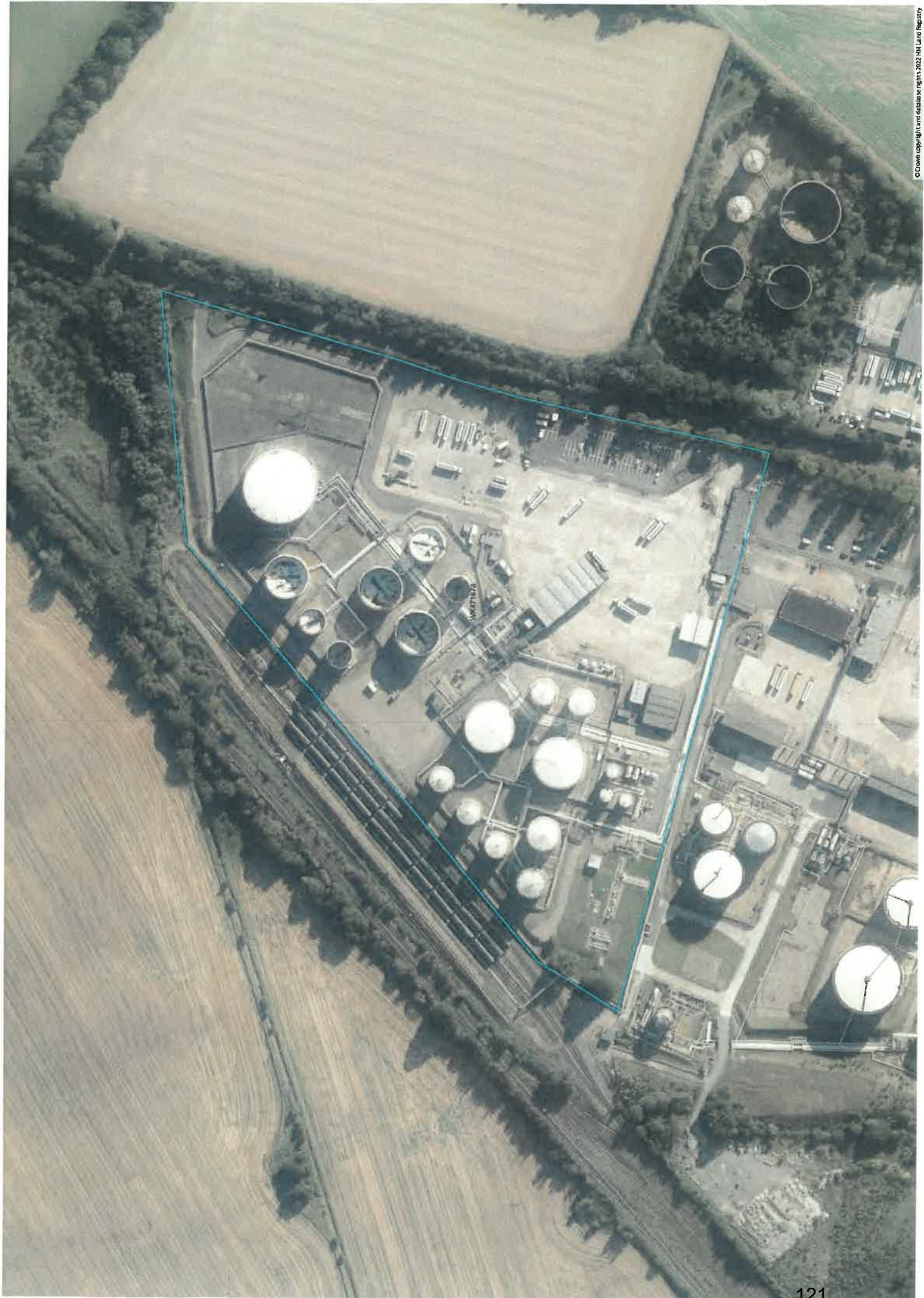


Annexure C



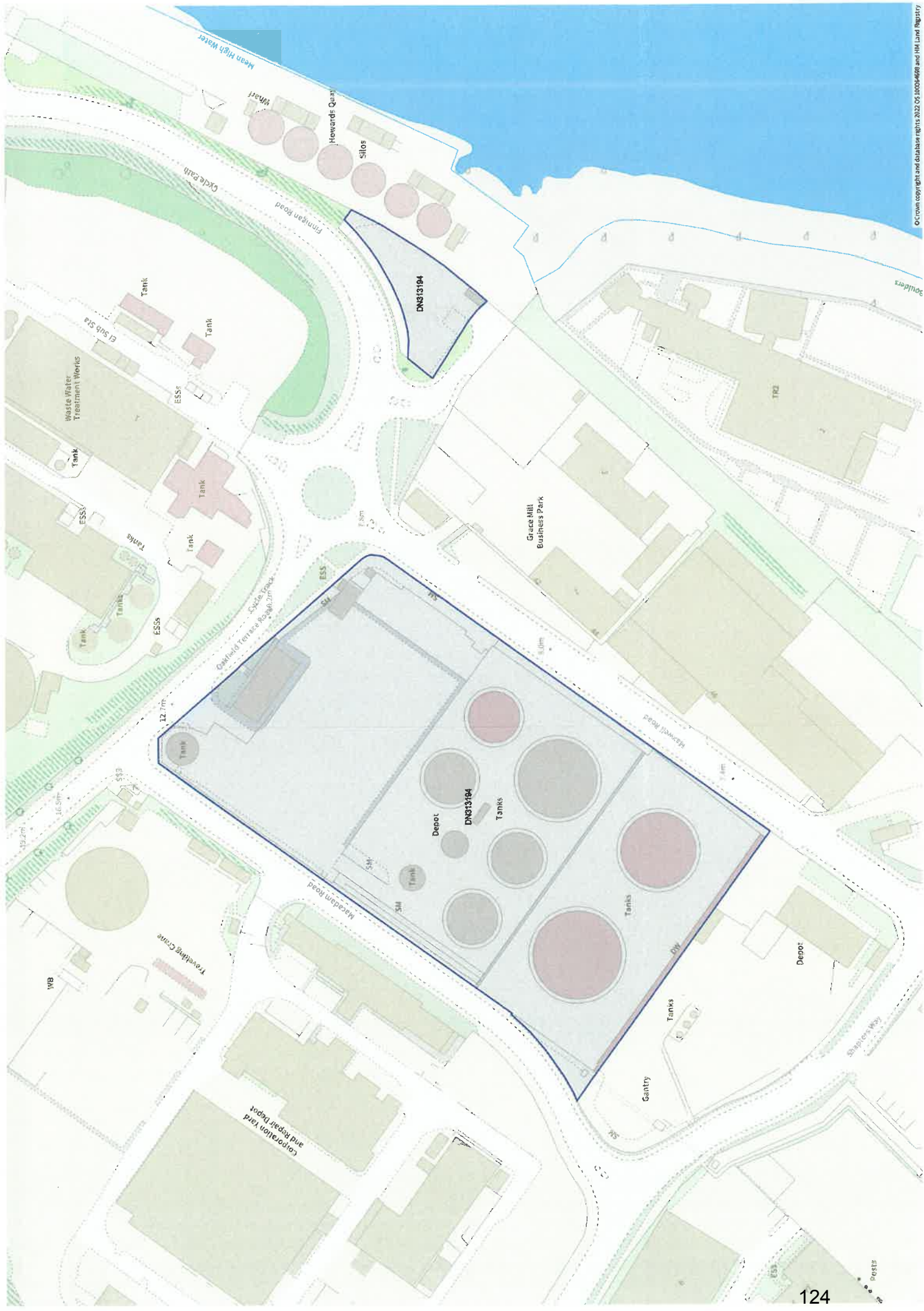


Annexure D



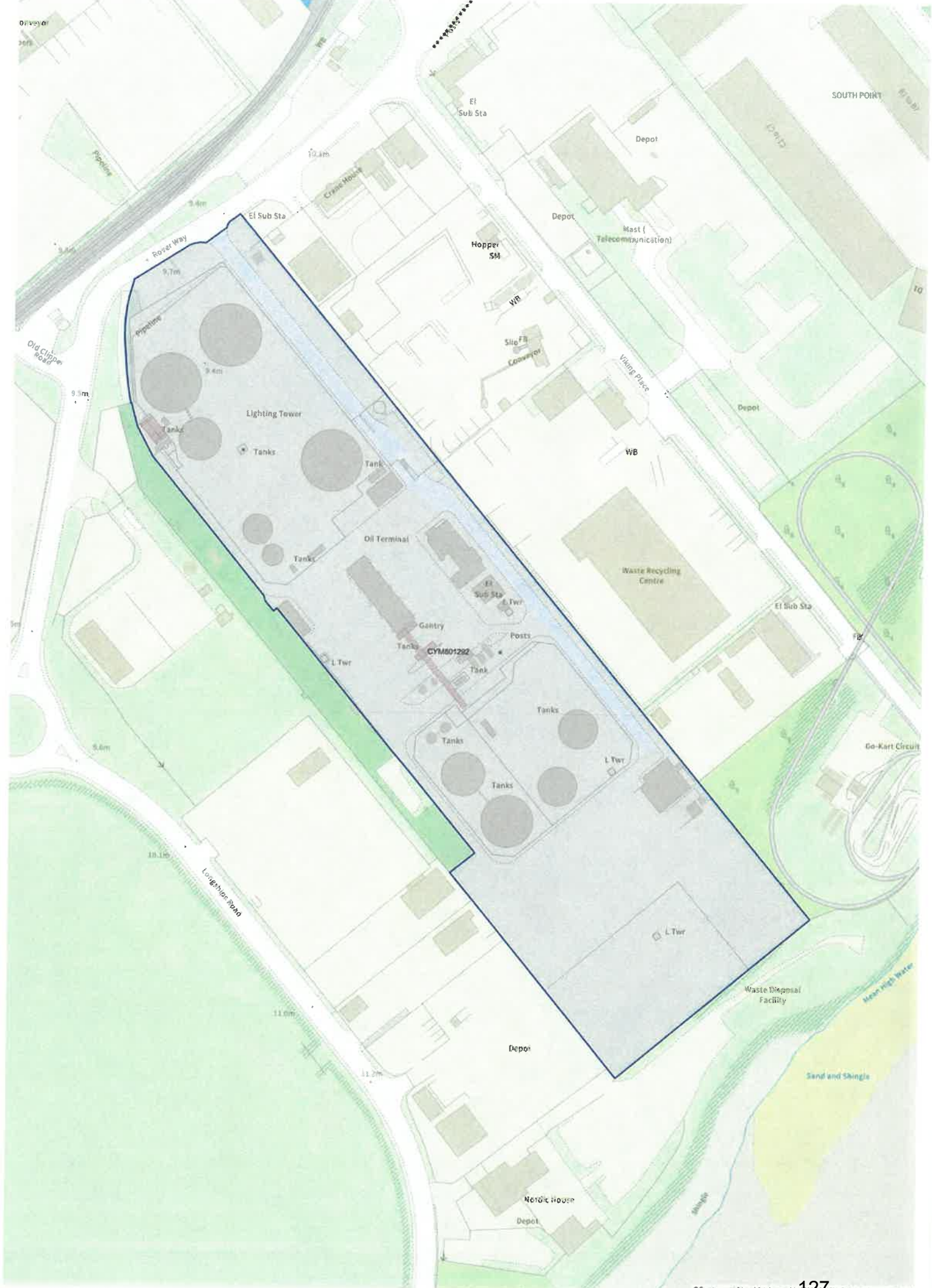


Annexure E





Annexure F





GM180220

Annexure G





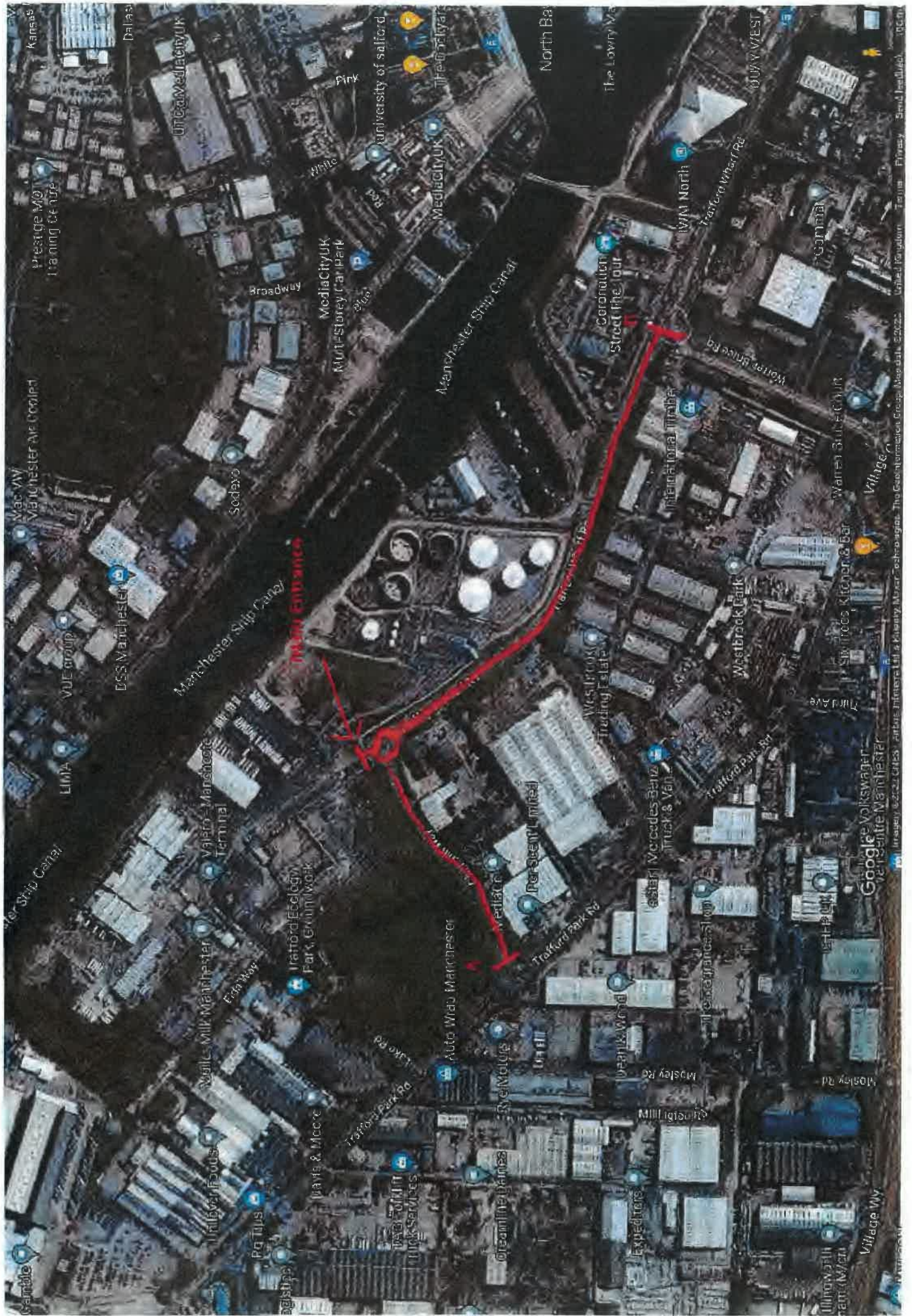
Annexure H

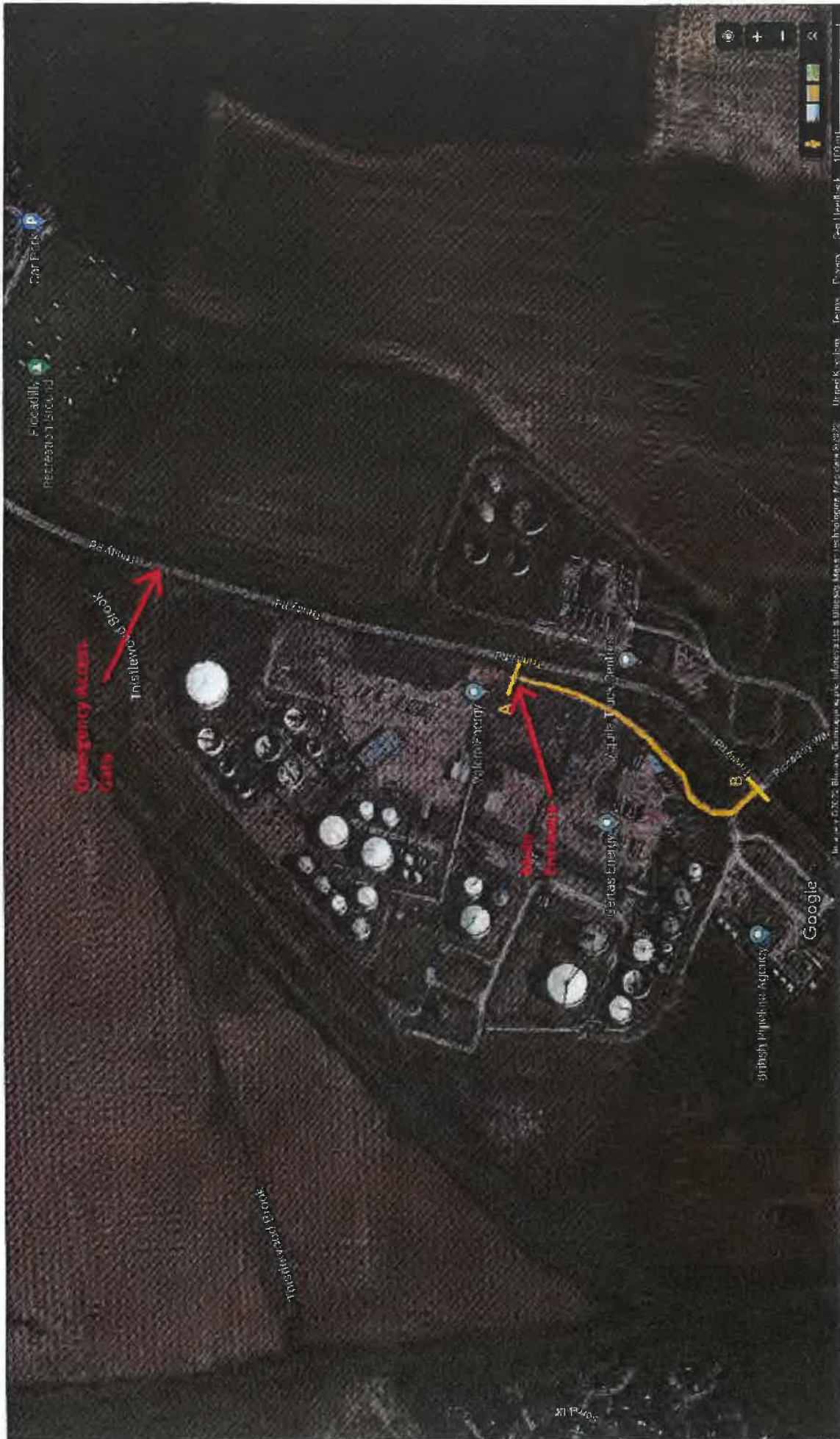




Annexure I







Filed on behalf of the Claimant

Steven Maxey

First Witness Statement

Exhibit SM3

Claim No:

BETWEEN

NORTH WARWICKSHIRE BOROUGH COUNCIL

Claimants

and

- (1) DAVID BALDWIN
- (2) THOMAS BARBER
- (3) MICHELLE CADET-ROSE
- (4) TIM HEWES
- (5) JOHN HOWLETT
- (6) JOHN JORDAN
- (7) CARMEN LEAN
- (8) ALISON LEE
- (9) AMY PRITCHARD
- (10) STEPHEN PRITCHARD
- (11) PAUL RAITHBY
- (12) HOLLY ROTHWELL
- (13) ELIZABETH SMAIL
- (14) JOHN SMITH
- (15) BEN TAYLOR
- (16) JANE THEWLIS
- (17) ANTHONY WHITEHOUSE

(18) ANDREW WORSLEY

(19) PERSONS UNKNOWN WHO ARE ORGANISING, PARTICIPATING IN OR ENCOURAGING OTHERS TO PARTICIPATE IN PROTESTS AGAINST THE PRODUCTION AND/OR USE OF FOSSIL FUELS, IN THE LOCALITY OF THE SITE KNOWN AS KINGSBURY OIL TERMINAL, TAMWORTH B78 2HA

Defendants

This is the exhibit SM3 referred to in the Witness Statement

Signed:

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

IN THE HIGH COURT OF JUSTICE.
QUEENS BENCH DIVISION

CLAIM No: QB-2022-000904

Before Mr Justice Bennathan

On: 11 April 2022

BETWEEN

(1) VALERO ENERGY LIMITED
(2) VALERO LOGISTICS UK LIMITED
(3) VALERO PEMBROKESHIRE OIL TERMINAL LIMITED



-and-

QB-2022-000904

- (1) PERSONS UNKNOWN ENTERING AND REMAINING WITHOUT THE CONSENT OF THE CLAIMANT(S) ON THE LAND KNOWN INFORMALLY AS PEMBROKE REFINERY, MANCHESTER TERMINAL, KINGSBURY TERMINAL, PLYMOUTH TERMINAL, CARDIFF TERMINAL, PEMBROKESHIRE TERMINAL AND AVONMOUTH TERMINAL AND MORE PARTICULARLY DESCRIBED IN THE ORDER OF 11 APRIL 2022 AS THE CLAIMANTS' LAND**
- (2) PERSONS UNKNOWN CAUSING BLOCKADES, OBSTRUCTIONS AND/OR PREVENT THE FREE FLOW OF TRAFFIC AND INTERFERE WITH THE PASSAGE BY THE CLAIMANTS AND THEIR AGENTS, SERVANTS, EMPLOYEES, LICENSEES, INVITEES WITH OR WITHOUT VEHICLES AND EQUIPMENT TO, FROM, OVER AND ACROSS THE ROADS IN THE VICINITY OF THE LAND KNOWN INFORMALLY AS PEMBROKE REFINERY, MANCHESTER TERMINAL, KINGSBURY TERMINAL, PLYMOUTH TERMINAL, CARDIFF TERMINAL, PEMBROKESHIRE TERMINAL AND AVONMOUTH TERMINAL IN CONNECTION WITH ENVIRONMENTAL PROTESTS BY THE JUST STOP OIL AND/OR EXTINCTION REBELLION AND/OR INSULATE BRITAIN AND/OR YOUTH CLIMATE SWARM (ALSO KNOWN AS YOUTH SWARM) MOVEMENTS**

Defendants

ORDER

PENAL NOTICE

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

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

IMPORTANT NOTICE TO THE DEFENDANTS

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

UPON the Claimants' Application by Application Notice for a further anticipatory injunction dated 6 April 2022 (the "Application")

AND UPON READING the documents set out in the First Schedule to this Order

AND UPON hearing Toby Watkin QC for the Claimants

AND UPON the Claimants giving the undertakings set out in the Second Schedule to this Order

AND UPON the Claimants confirming (for the avoidance of doubt) that this Order is not intended to prohibit lawful protest in the vicinity of the Claimants' Land which does not breach the terms of this Order, nor does the order seek to prevent lawful use of the Access Roads by any person.

IT IS ORDERED THAT:

Order of 21 March 2022

1. The interim injunctions set out within paragraph 2 of the Order of 21 March 2022 is discharged and replaced by the interim injunctions contained in paragraph 3 of this Order.

Definitions

2. For the purposes of this Order,

2.1 the “**Claimants’ Land**” means all of the property referred to and defined in paragraph 3.1 hereof;

2.2 “**Site**” means the Claimants’ site at any location, forming part of the Claimants’ Land and identified in paragraph 3.1 of this Order, and which is either (i) from time to time wholly or substantially enclosed or bounded by walls, gates, fences, barriers, hedges, bodies of water or other man-made or natural boundary features or (ii) forms private roads and car parks outside of such enclosure or boundary feature;

2.3 the “**Access Roads**” means those parts of the roads in the vicinity of the Claimants’ Land which provide access to each of the sites forming parts of the Claimants’ Land, the location and extent of which are more particularly shown for identification purposes coloured variously red, yellow and blue on the plans annexed hereto at Annex I to this Order.

Injunction

3. With immediate effect until 23:59 on Friday 21 January 2023, unless varied, discharged or extended by further order, the Defendants and each of them are forbidden from doing the following:

3.1 Entering or remaining upon any part of the following property without the Claimants’ permission:

- a) the First Claimant’s Site informally known as ‘Pembroke Refinery’ situated at Angle, Pembroke SA71 5SJ, the general location and extent of which is shown outlined in red on the plan exhibited hereto in Annex A (“**Pembroke Oil Refinery**”);
- b) the First Claimant’s Site, informally known as ‘Tanker berthing jetties at Pembroke Refinery’ situated at Angle, Pembroke SA71 5SJ, the general location and extent of which is shown outlined in blue on the exhibited hereto in Annex B (“**Pembroke Oil Refinery Jetties**”);

- c) the Second Claimant's Site, informally known as 'Manchester Terminal' situated at Trafford Wharf Road, Trafford, the general location and extent of which is shown outlined in red on the exhibited hereto in Annex C (the "**Manchester Oil Terminal**");
- d) the Second Claimant's Site, informally known as 'Kingsbury Terminal' at Plot B Trinity Road, Kingsbury, Tamworth, the general location and extent of which is shown outlined in red on the exhibited hereto in Annex D (the "**Kingsbury Oil Terminal**");
- e) the Second Claimant's Site informally known 'Plymouth Terminal' at Oakfield Terrace Road, Cattedown, Plymouth, the general location and extent of which is shown outlined in red on the exhibited hereto in Annex E (the "**Plymouth Oil Terminal**");
- f) the Second Claimant's Site informally known as 'Cardiff Terminal' at Valero Refinery, Roath Dock, Rover Way, Cardiff CF10 4US, the general location and extent of which is shown outlined in red on the exhibited hereto in Annex F (the "**Cardiff Oil Terminal**");
- g) the Second Claimant's Site informally known as 'Avonmouth Terminal', Avonmouth Dock, Bristol, the general location and extent of which is shown outlined in red on the exhibited hereto in Annex G (the "**Avonmouth Oil Terminal**"); and
- h) the Third Claimant's Site informally known as 'Valero Pembroke Oil Terminal', Waterston, Milford Haven, the general location and extent of which is shown outlined in red on the exhibited hereto in Annex H (the "**Pembrokeshire Terminal**");

3.2 Blocking any entranceway to the Claimants' Land;