



Neutral Citation Number: [2022] EWHC 1715 (QB)

Case No: QB-2021-003094

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London WC2A 2LL

20 June 2022

Before:

THE HONOURABLE MR. JUSTICE NICKLIN

Between:

(1) MBR ACRES LIMITED

(2) DEMETRIS MARKOU

(for and on behalf of the officers and employees of MBR Acres Limited, and the officers and employees of third party suppliers and service providers to MBR Acres Limited pursuant to CPR 19.6)

(3) B & K UNIVERSAL LIMITED

(4) SUSAN PRESSICK

(for and on behalf of the officers and employees of B & K Universal Limited, and the officers and employees of third party suppliers and service providers to B & K Universal Limited pursuant to CPR 19.6)

Claimants

- and -

(1) FREE THE MBR BEAGLES

(formerly Stop Animal Cruelty Huntingdon)

(an unincorporated association by its representative Mel Broughton on behalf of the members of Free the MBR Beagles who are protesting within the area marked in blue on the Plan attached at Annex 1 of the Claim Form and/or engaging in unlawful activities against the Claimants and/or trespassing on the First Claimant's Land at MBR Acres Limited, Wyton, Huntingdon PE28 2DT and/or posting on social media images and details of the officers and employees of MBR Acres Limited, and the officers

and employees of third party suppliers and service providers to MBR Acres Limited)

(2) CAMP BEAGLE

(an unincorporated association by its representative Bethany Mayflower on behalf of the members of Camp Beagle who are protesting within the area marked in blue on the Plan attached at Annex 1 of the Claim Form and/or engaging in unlawful activities against the Claimants and/or trespassing on the First Claimant's Land at MBR Acres Limited, Wyton, Huntingdon PE28 2DT and/or posting on social media images and details of the officers and employees of MBR Acres Limited, and the officers and employees of third party suppliers and service providers to MBR Acres Limited)

(3) MEL BROUGHTON

(4) RONAN FALSEY

(5) BETHANY MAYFLOWER

(also known as Bethany May and/or Alexandra Taylor)

(6) SCOTT PATERSON

(7) HELEN DURANT

(8) BERNADETTE GREEN

(9) SAM MORLEY

(10) PERSON(S) UNKNOWN

(who are protesting within the area marked in blue on the Plan attached at Annex 1 of the Claim Form and/or engaging in unlawful activities against the Claimants and/or trespassing on the First Claimant's Land at MBR Acres Limited, Wyton, Huntingdon PE28 2DT and/or posting on social media images and details of the officers and employees of MBR Acres Limited, and the officers and employees of third party suppliers and service providers to MBR Acres Limited)

(11) JOHN CURTIN

(12) MICHAEL MAHER

(also known as John Thibeault)

(13) SAMMI LAIDLAW

(14) PAULINE HODSON

(15) PERSON(S) UNKNOWN

(who are entering or remaining without the consent of the First Claimant on the land and in buildings outlined in red on the plan at Annex 1 of the Amended Claim Form, that land known as MBR Acres Limited, Wyton, Huntingdon PE28 2DT)

(16) PERSON(S) UNKNOWN

(who are interfering with the rights of way enjoyed by the First Claimant over the access road on the land shown in purple at Annex 3 of the Amended Claim Form and enjoyed by the Second Claimant as an implied or express licensee of the First Claimant)

(17) PERSON(S) UNKNOWN

(who are obstructing vehicles of the Second Claimant entering or exiting the access road shown

in purple Annex 3 of the Amended Claim Form and/or entering the First Claimant's land at MBR Acres Limited, Wyton, Huntingdon PE28 2DT)

(18) LOU MARLEY

(also known as Louise Yvonne Firth)

(19) LUCY WINDLER

(also known as Lucy Lukins)

(20) LISA JAFFRAY

(21) JOANNE SHAW

(22) AMANDA JAMES 3

(23) VICTORIA ASPLIN

(24) AMANDEEP SINGH

(25) PERSON UNKNOWN 70

(26) PERSON UNKNOWN 74

(28) PERSON(S) UNKNOWN

(who are, without the consent of the First Claimant, entering or remaining on land and in buildings outlined in red on the plans at Annex 1 to the Amended Claim Form, those being land and buildings owned by the First Claimant, at MBR Acres Limited, Wyton, Huntingdon PE28 2DT)

(29) PERSON(S) UNKNOWN

(who are interfering, without lawful excuse, with the First Claimant's staff and Second Claimants' right to pass and repass with or without vehicles, materials and equipment along the Highway known as the B1090)

(30) PERSON(S) UNKNOWN

(who are obstructing vehicles exiting the First Claimant's land at MBR Acres Limited, Wyton, Huntingdon PE28 2DT and accessing the Highway known as the B1090)

(31) PERSON(S) UNKNOWN

(who are protesting outside the premises of the First Claimant and/or against the First Claimant's lawful business activities and pursuing a course of conduct causing alarm and/or distress to the Second Claimant and/or the staff of the First Claimant for the purpose of convincing the Second Claimant and/or the staff of the First Claimant not to: (a) work for the First Claimant; and/or (b) provide services to the First Claimant; and/or (c) supply goods to the First Claimant; and/or (d) to stop the First Claimants' lawful business activities at MBR Acres Limited, Wyton, Huntingdon PE28 2DT)

(32) PERSON(S) UNKNOWN

(who are photographing and/or videoing/recording the First Claimant's staff and members of the Second Claimant and/or their vehicles and vehicle registration numbers as they enter and exit and/or work on the First Claimant's land outlined in red at Annex 1 to the Amended Claim Form for the purpose of causing alarm and/or distress by threatening to use and/or in fact using the images and/or recordings to identify members of the Second

Claimant, follow the Second Claimant or ascertain the home addresses of the Second Claimant for the purpose of convincing the Second Claimant not to:
(a) work for the First Claimant; and/or (b) not to provide services to the First Claimant; and/or (c) not to supply goods to the First Claimant)

(33) PERSON(S) UNKNOWN

(who are, without the consent of the First Claimant, trespassing on the First Claimant's land by flying drones over the First Claimant's land and buildings outlined in red on the plans at Annex 1 to the Amended Claim Form, that being land and buildings owned by MBR Acres Limited, Wyton, Huntingdon PE28 2DT) 4

(34) PERSON(S) UNKNOWN

(who are combining together and/or with other identified Defendants to commit the unlawful acts as specified in paragraphs 496 to 514 of the Amended Particulars of Claim)

Defendants

Caroline Bolton and Natalie Pratt (instructed by **Mills & Reeve LLP**) for the **Claimants Adam Tear** (of **Scott-Moncrieff & Associates Ltd**) for the **Fifth, Seventh, Eighth, Twelfth and Twenty-Second Defendants**

The Fourth (via CVP), Ninth (via CVP), Eleventh, Fourteenth, Twentieth (via CVP), Twenty-First and Twenty-Fourth Defendants appeared in person
The Third, Sixth, Thirteenth, Eighteenth, Nineteenth and Twenty-Third Defendants did not attend and were not represented

APPROVED JUDGMENT

MR. JUSTICE NICKLIN :

1. Today was a hearing listed to deal with an application made some time ago by the Claimants, who wanted to vary the original interim injunction order, as granted by me on 10 November 2021.
2. The explanation for the grant of the injunction in November and its terms are set out in the judgment that was handed down on 10 November 2021 ([2021] EWHC 2996 (QB)). That judgment sets out fully the background to the litigation. The original interim injunction was granted both against named Defendants and certain categories of “Persons Unknown”.
3. Since then, the litigation has moved on and there have been various applications, including the addition of some further parties beyond those who were the original parties back in November. There have been applications to amend and to add new categories of “Persons Unknown”.
4. Of the named Defendants, there are before the court several groups. Some of the named Defendants are legally represented, but most are presently unrepresented. Mr Tear is a solicitor advocate whose firm represents several of the Defendants. Some of those, are represented with the benefit of Legal Aid. But others -- for example, Ms Durant, the Seventh Defendant -- on a privately paying basis. There has been some discussion today of others potentially qualifying for Legal Aid and then being represented by solicitors.
5. In the group of unrepresented Defendants, there are some who are representing themselves. Amongst those, a minority, including for example Mr Curtin, intend to continue to represent themselves. But other unrepresented Defendants would like to be represented if that were possible.

The variation application

6. Let me say a little bit more about the application to amend the injunction order. As I have said, things have developed since the original injunction was granted, the first was granted in August last year, and then amended and changed as a result of my judgment in November.
7. By the variation application, the Claimants seek to add further subparagraphs to paragraph 2 of the original injunction order. I can set these out:
 - “(v) use mirrors, torches or other devices to obscure the vision of a person driving a vehicle that is entering or exiting the area marked on the plan for the Wyton Site at annex 1 with black lines.
 - (vi) block, endanger, slow down, prevent or obstruct the free flow of traffic onto or along or off the B1090, Abbots Ripton Road or within 1 mile in either direction of the First Claimant’s land at the Wyton Site.
 - (vii) install or position CCTV or other surveillance equipment, including drones, to record activities at the Wyton Site as marked in red on the attached plan at annex 1 and/or the access drive to the Wyton Site coloured purple on the attached plan at annex 1 without the consent of the First Claimant and/or lawful excuse.

- (viii) knowingly enter or remain on any premises and/or land and/or residence belonging to or occupied by any Protected Person [that being a defined term] as defined in Schedule A.
 - (ix) photograph or video members of the First Claimant's staff and/or any person accessing, exiting or carrying out lawful activities on the Wyton Site without lawful excuse or the express permission of the First Claimant.
 - (x) attempt to compel or coerce any protected person [again a defined term] to cease their lawful activities for or on behalf of the first and third claimant by: (a) attending their place of work and attempting to obstruct them in their lawful activities whilst at their place of work, or (b) physically harming a protected person and/or their property or attempting to do the same."
8. Amendments were also sought to be made to the definitions of the "Protected Persons" as set out in Schedule A as follows:
- "(a) all staff and employees of the first and third claimant; and
 - (b) suppliers of goods and services that attend the Wyton Site and Hull site, including their staff and company directors."
9. The only other variation of any significance was in respect of the definition and dimensions of the "Exclusion Zone". As will be apparent from the judgment in November, I imposed an Exclusion Zone around the front gateway of the Wyton Site up to the mid-point of the carriageway and to 20 metres either side. By the variation application, the Claimants seek to redefine the Exclusion Zone as follows:
- "(a) for the purposes of the Wyton Site, the area marked with black lines in annex 1 to this order measuring 20 metres:
 - (i) at all points from the boundary of the Wyton Site (the boundary to the Wyton Site being shown in red at Annex 1);
 - (ii) in length either side of the edge of the access road to the Wyton Site shown in purple to Annex 1 and extending to the opposite side of the highway, including the grass verge from the front gate of the Wyton Site as marked in black line around the Wyton Site."
- Similar variations were sought for the Hull site as well, but those are not material for present purposes.
10. The effect of those amendments, if granted, would impose a 20-metre Exclusion Zone around the entire perimeter of the Wyton Site and extend the Exclusion Zone in front of the main gate beyond the mid-point of the carriageway going all the way across the road.
11. The variation application is supported by several witness statements of Ms Pressick, who is an employee of the Third Claimant. She says she speaks on behalf of all the Claimants. The evidence sets out various incidents that have taken place since the original grant of the injunction and which are relied upon as justifying the variations sought.

The adjournment application

12. The possibility of an application being made by several Defendants to adjourn today's hearing first emerged last week. Emails were sent to the Court, the gist of which was to say that there was a realistic prospect that Catherine McGahey QC, a barrister in private practice, was willing to accept instructions to act on behalf of any of the unrepresented Defendants who wished to be represented. Ms McGahey QC confirmed that she was prepared to act in an email sent to the Court. One potentially complicating factor was that Ms McGahey QC is not able to accept instructions on a direct access basis. She indicated in her email that, provided she had an instructing solicitor, she was willing to act pro bono for any of the Defendants who wanted representation in these proceedings.
13. That was a potentially important development. When making case management decisions, the Court must have regard to the overriding objective to deal with cases justly and at proportionate cost. That includes, "*ensuring that the parties are on an equal footing and can participate fully in the proceedings*" and "*ensuring that it is dealt with expeditiously and fairly*". It needs no explanation, in terms of equality of arms, that it would be fairer if one or more of the unrepresented Defendants to be represented by a professional advocate if one is willing and able to act and the relevant Defendants want to be represented. Unfortunately, Ms McGahey QC wasn't available to appear before the Court today, but she has been in communication, and dates that she would be available in the near future have been identified. What was therefore proposed, at the end of last week, was that the Court should adjourn today's hearing of the variation application to enable Ms McGahey QC to be instructed by those unrepresented Defendants who wished to avail themselves of her services.
14. Very fairly, the Claimants indicated, towards the end of Friday, that they were neutral as to whether the court adjourned the application. They recognised that the offer of *pro bono* representation made by Ms McGahey QC to the unrepresented Defendants was a significant matter that the Court might consider justified adjourning the variation application. Understandably, the Claimants indicated that they considered that there was a need for the variation application to be heard before the end of July. Their solicitors contended that the Claimants were at risk of significant prejudice if the variation application ended up being adjourned to the autumn.
15. What has been able to be ascertained today is that all parties, including Ms McGahey QC, would be able to attend a hearing for two days, if the matter is adjourned to 21 July. As Ms Bolton observed at the hearing, it is fortunate, it might even be said to be remarkable, that we have been able to identify a date in roughly four weeks' time that all parties, and Ms McGahey QC can attend. A hearing within that timeframe would also help to assuage the concerns of the Claimants about a substantial delay in relisting the hearing.
16. So, without much by way of opposition, I have reached the conclusion that the variation application should be adjourned today and refixed for a hearing on 21 and 22 July 2022.
17. There remain several aspects to be finalised in that process, but I am optimistic that, with goodwill and industry on behalf of those who are assisting the litigants in person at the moment, that there is every likelihood that the necessary steps can be taken to ensure that Ms McGahey is properly instructed and able to represent those who wish to

be represented at the adjourned hearing. Mr Tear, to his credit, has indicated that he would be prepared to instruct Ms McGahey on a pro bono basis, which may very well be, at least in the short term, the way forward to enable Ms McGahey to get down to work on what needs to be done by way of preparation for the hearing.

18. As I have noted, some of the litigants have indicated to me today that they, for now, would prefer to continue to represent themselves. Those people are in a minority. Most of the unrepresented Defendants, at the moment, have told me today that they would like to be represented.

The *ex parte* application

19. But that does not conclude matters today. Ms Bolton has brought to my attention this morning some events that took place over this last weekend. She submits that these recent events inform and justify an application that she has made today that I should grant some further specific relief by way of amendments to the interim injunction order, effectively on a without notice basis, pending the adjourned hearing of the variation application. She argues that these recent events mean that it is sufficiently urgent and serious to justify the court granting that further relief now.
20. Two particular events took place, essentially in the last 48 hours. These are, in part, the subject of evidence contained in Ms Pressick's Thirteenth Witness Statement. In the early hours of Sunday morning, Ms Pressick states that approximately 24 protestors trespassed on to the Wyton Site. The police were called. They were able to chaperone the protestors into one of the car parks at the Wyton Site. Ms Pressick states that she understands from the police that three or four individuals were arrested and approximately five others were allowed to leave. She says she does not know the position in relation to the other protestors who had broken into the Wyton Site. She has exhibited a video that was posted on the Camp Beagle Facebook page, which includes a video of a protestor who said that she had broken into the Wyton Site, standing on the highway after she had left the Wyton Site, and she is said to have responded to a question "*How many have we got behind the gates now?*" by saying "*There are still, I don't know, 20 people.*"
21. Ms Pressick goes on to explain that she did not recognise the individuals who could be seen in the various videos, and she said she understands from the security guard that he does not recognise the individuals either. However, she said:

"It appears that at least one of the protestors who had broken into the Wyton Site had access and the ability to post videos on the Camp Beagle's Instagram pages and therefore I believe they are associated with Camp Beagle."

And:

"I have seen a video on an Instagram account called Animal Freedom Movement, which shows approximately 14 protestors on the Wyton Site. I have seen on livefeeds posted on Camp Beagle's Facebook page that they believe the protestors who broken into the Wyton Site are linked to Animal Freedom Movement. To that end, I have seen an article in the Ely Standard, which states that protestors from a group calling itself Animal Freedom Movement (AFM) occupied the Marshall BioResources MBR Acres dog breeding facility at Wyton near Huntingdon."

22. That article included the following:
- “... The group of 25 protestors are demanding that MBR shut down the facility and re-home the dogs. The group entered the facility early this morning and unveiled a banner reading ‘End Animal Testing’. AFM has said that it has two demands. Firstly for MBR to immediately shut down the facility and re-home all the dogs currently there. Secondly, they demand the British government urgently phase out animal testing and the sale of animal tested products by 2025. They plan to occupy the site until commitment towards their two demands is made by MBR and the government.”
23. There were several other posts on social media relevant to the incident, including a posting on Camp Beagle’s Instagram page. That has assumed some importance today, for reasons that I will go on to explain, but on page 5 of the exhibit SP19, these are the Instagram postings on the Camp Beagle site, which are clearly -- there are three separate photographs. They have all been taken pretty obviously by a drone. The first two photographs are photographs that have been taken from some distance away from the Wyton Site, certainly not directly overhead the Wyton Site. The last picture, which appears to be a video, is, at least in part, judging by the still image that has been produced, recorded by a drone flying overhead the Wyton Site, showing what appear to be warehouses or buildings. So that is the footage or photographs that have been taken by drones.
24. This first incident seems to have been resolved at least by midday on Sunday, and Ms Pressick was informed by the police, at around 11am on Sunday, that the protestors have been removed from the site. So that was the first incident.
25. The second incident happened in the early hours of today. It is not the subject of any formal witness evidence, but Ms Bolton has undertaken, on behalf of the Claimants, to file a witness statement confirming the information that she told the Court today. In summary, there has been a further break-in at the Wyton Site. This one is more serious. I am told that access was gained to the area in which the animals are kept, and five dogs were removed from the facility. I think I was told that a video has been posted online showing the dogs that had been removed.
26. It probably ought not to be necessary to say so, but I will, because it is important that it is understood that those activities over the weekend, and those people who engaged in them, almost certainly constitute serious criminal offences. In respect of the latter incident, it would appear that charges of burglary (at least) could be brought against those involved. If convicted, those involved could face custodial sentences of some length.
27. It is also clear that the act of trespassing on the Wyton Site, which was part and parcel of these two breaches of the facility, were also potentially breaches of the injunction order which expressly prohibited such trespassing on the Wyton Site. If the relevant individuals were sufficiently on notice of the terms of the injunction then, in addition to any criminal charges, they might also have to face proceedings for contempt of court.
28. On the basis of those events over the weekend, Ms Bolton submits that the court ought today to grant the Claimants a variation of the injunction which would have the following effect. First, to impose the Exclusion Zone around the perimeter to a width of

20 metres, excluding the gateway to the road of the B1090 and, secondly, for an order prohibiting trespass by the flying of drones above the Wyton Site below a height of 150 metres.

29. The basis for those two variations, and why it is said to be urgent, is that the events of the last weekend show, Ms Bolton contends, that there is need for further restrictions to be imposed by way of injunction to prohibit the sort of behaviour that has taken place this weekend. Ms Bolton submits that if an Exclusion Zone to a width of 20 metres is imposed around the perimeter, then it will make it more difficult for people to approach the facility and it will make it obvious if anybody is approaching the facility and it will enable the security personnel to take action against those people.
30. In respect of the flying of drones, Ms Bolton submits that the drones have been used to obtain intelligence or information about the site which has been used for the benefit of those who have carried out the, effectively, invasions of the Wyton Site over the weekend. The Claimants previously sought an interim injunction to prohibit trespass by the flying of drones, but that was refused for the reasons explained in the November 2021 judgment.
31. The question for me today is whether, in all the circumstances, it is right to grant those two changes to the injunction order now or whether I think that it would be better to have those matters considered as part of the overall variation of the injunction. Both of those, as noted above, or variations, were effectively part of the variations sought as part of the original application to vary. Ms Bolton says these are the two important ones that should be granted today in order to protect the Claimants and their legitimate interests, pending the hearing on 21 July.

Decision

32. I am not satisfied that the Court should grant any further relief today. My reasons for that are as follows.
33. Firstly, although, and as I have indicated, what took place at the weekend was unlawful, those incidents will now be dealt with by the police. They will be investigated and, if there is sufficient evidence to provide realistic prospect of conviction (and it is in the public interest to prosecute) those who took part in them are likely to face criminal charges. At the moment, there is no evidence to suggest that any of the named Defendants were involved in the incident. The evidence suggests that a new group was responsible, the “Animal Freedom Movement”, rather than those protesting at Camp Beagle. More evidence about the incidents over the last weekend may be available at the hearing on 21-22 July 2022.
34. I am unpersuaded, particularly on an *ex parte* basis, that the imposition of an Exclusion Zone around the perimeter is going to have any meaningful impact on the behaviour that took place this weekend. In reality, anybody who is intent on breaking into this facility is highly unlikely to be deterred by a civil injunction that imposes a 20m Exclusion Zone. There is already an injunction to prohibit trespass. That does not necessarily mean the court should not vary the injunction order as the Claimants seek, but it is a factor to be considered in the balancing of the competing interests and particularly whether I should grant something today on an *ex parte* basis, rather than to leave it for proper consideration at the hearing on 20-21 July 2022.

35. In relation to the drones, the evidence seems to me to be highly speculative. There is no evidence before the Court that the drone usage has been used by anyone to obtain any, or any useful, intelligence about the Wyton facility. Ms Bolton has referred me to the photographs I have already described above from the exhibit to Ms Pressick's 13th witness statement. She has also shown me further photographs that have been part of the exhibits to witness statements previously filed in the evidence. There were three examples from August 2021, some further examples in September 2021 and an example from 29 March 2022.
36. That evidence does not demonstrate the collection of evidence for the purposes of intelligence. The photographs from 2021 that I have been shown appear to have been used to illustrate what the protestors wish to highlight as the target of their campaign, which is the plight of the animals at the facility, rather than to gather any intelligence. I accept a drone *could* be used to attempt to obtain some information about the layout of the site, but Ms Bolton made the point that the unidentified drone operators have already obtained substantial footage of the site itself, and so the imposition of a restriction on drone use might be of limited value. She can fairly point to the fact that in response to this incident or these incidents over the weekend, the Claimants may adopt some revised security procedures. If they did, the flying of a drone might enable somebody to identify the ways in which the security arrangements have been strengthened, for example. But this is all very speculative, and, at the moment, there is no evidence to support the contention that anybody who has been previously flying a drone over this site has been doing so for the purposes of obtaining intelligence about the site to assist in carrying out a break in.
37. There are further aspects that make it unsatisfactory for the court to deal with this application to vary on an *ex parte* basis.
38. The first is that the court must consider very carefully the legal basis for the claim and the proportionality and necessity for the variations of injunction that is sought, particularly where those have the effect of interfering with the rights of freedom of expression and protest. There are potential objections to both the width and location of the Exclusion Zone around the perimeter, and also the prohibition of drones, as to whether those restrictions are proportionate. In other words, whether the same objective could be obtained by a less intrusive or less restrictive measure.
39. For example, the flying of drones. At the moment, I remain to be convinced that the flying of a drone in the way that Ms Bolton seeks to restrain it is going to have the objective that she seeks, which is to prevent somebody obtaining information about the Wyton Site that would enable them to use it for nefarious purposes, or that the restrictions that she would seek to impose are proportionate. As the drone photographs already obtained demonstrate, photographs and footage of the site can be obtained without flying a drone directly overhead, and equally there are photographs that have been obtained simply by using a camera from points around the perimeter of the site. The real target, if there is one, is the taking of photographs or recording footage, rather than trespass by the flying of drones.
40. The proportionality is probably best demonstrated by looking at some of the drone pictures that have already been captured. It is clear, from the way in which the protestors have used the photographs that have been obtained from drones, that their purpose is to try to illustrate their protest; to show people who they wish to persuade to join their

cause in opposition to the Claimants and that it is objectionable to use animals in medical research. That is a legitimate part of their efforts to persuade people to join their campaign to change the law to outlaw the use of animals in medical research.

41. Of course, the protestors will encounter opposition from other who will argue that Parliament should not take that course and that there are compelling reasons why medical research on animals is still necessary. Ultimately, it is for Parliament, not the Courts, to decide that issue and what restrictions or conditions should be imposed on animal research to permit, on what animals and on what terms. But these are matters of legitimate public debate and upon which people have different views.
42. In a democracy like ours, people may campaign for changes in the law. They can use all lawful methods to do so. The photographs that I have seen obtained from drone footage are inoffensive. As I have said, they appear to me to be designed simply to highlight the plight of the animals. They do not appear to have been obtained and published in an effort to intimidate or to threaten the individual employees or to obtain information.
43. The effect of the order that I was being asked to make on an *ex parte* basis today would effectively prevent or largely make it much more difficult for the protestors to obtain photographs to illustrate their campaigning activities.
44. The Claimants must show to me that it is necessary to prohibit the obtaining of those photographs, and at the moment I remain to be convinced that the terms of the injunction order that they are seeking by way of revision are not disproportionate. At the moment, I think there are credible arguments that an order in those terms would be disproportionate.
45. But this is a point that is best dealt with at the hearing on 21 July, when both sides will be able to deploy their full case. And, if everything goes to plan, then the presently unrepresented Defendants will have the advantage of a professional advocate to make submissions on their behalf, together with Mr Tear, who is also here to represent other Defendants in the proceedings. That hearing will enable the arguments to be advanced on behalf of both sides fully and fairly.
46. As I have said, I have simply seen no evidence that suggests that drones have been used to any material extent to assist the events that took place over this weekend, and it does not seem to me that the imposition of an Exclusion Zone around the entire perimeter would have prevented what took place this weekend.
47. The proposed extension of the Exclusion Zone has its own potential problems which would benefit from further submissions and consideration. The current Exclusion Zone, at the front of the Wyton site, was imposed only in part on the grounds of trespass. That part of the Exclusion Zone, which extends beyond land owned by the First Claimant, was imposed to prevent obstruction of access to the Wyton Site. The Claimants cannot justify an Exclusion Zone 20 metres around the entire perimeter of the Wyton Site on the basis of trespass, some other cause of action would have to be identified to provide the foundation.
48. Ms Bolton submits that the power to grant an interim injunction, and the exercising of that power, is not dependent on the existence of a claim for substantive relief which the

court has jurisdiction to grant: ***Broad Idea International Limited -v- Convoy Collateral Ltd*** [2021] UKPC 24 [114]-[120]. I recognise that there are limited circumstances where the court is willing to do so. They are defined quite narrowly, and I consider they are examples of occasions on which the court is satisfied that it is necessary to grant further relief by way of injunction so as to make its orders effective, or in aid of the administration of justice.

49. The fundamental principles are however well-established. When considering the grant of an interim injunction, the Court applies familiar test from ***American Cyanamid -v- Ethicon Ltd (No.1)*** [1975] AC 396: (a) is there a serious issue to be tried? (b) would damages be an adequate remedy? (c) does the balance of convenience favour the grant of an injunction? That requires the applicant to demonstrate that he has a civil claim with sufficient arguable merit to demonstrating a serious issue to be tried. Without an arguable civil claim, there can be no serious issue to be tried. These are fundamental principles in civil proceedings. They exist to ensure that the court operates strictly in accordance with established precedent and does not arrogate to itself an exorbitant jurisdiction to grant relief by way of interim injunctions without being based on an identified underlying cause of action. There may be limited occasions where the court will travel outside what is strictly justified by causes of action, but those are exceptional steps require clear justification. I am not presently satisfied that this is such a case, but the best place to decide whether it is will be at the *inter partes* hearing on 21-22 July.
50. The question for me today is whether the Claimants have persuaded me that, in the short period between now and the hearing on 21 July, I should exercise my discretion to impose further terms in the interim injunction sought by Ms Bolton today on an *ex parte* basis. They have not done so.
51. For the reasons that I have set out, I remain unpersuaded on the basis of the evidence today that there is a compelling reason to grant an injunction now before the court can properly deal with the matter on the basis, as I have said, on an *inter partes* hearing on 21-22 July.
52. There is one further point which militates against the granting of these injunction terms today. The Claimants will need to demonstrate that an injunction in these terms is justified, not only against “Persons Unknown” but also against the named Defendants. Ms Bolton’s argument, in summary, is that an injunction can be granted against the named Defendants in these proceedings, even without evidence that any of these people has in the past, for example, flown a drone over the Wyton Site or is threatening credibly to do so in the future. I have struggled understanding Ms Bolton’s arguments as to the jurisdictional basis to grant such an order.
53. In the Amended Particulars of Claim, there is currently no claim made against any of the named Defendants for alleged wrongdoing arising from the flying of a drone. Ms Bolton says that is because evidence of who has been responsible for flying drones has been only recently available to the Claimants. The only claim currently included in the Amended Particulars of Claim, in relation to drone usage, is that made against the 33rd Defendant “Persons Unknown”, defined as:

“Persons unknown who are, without the consent of the First Claimant, trespassing on the first claimant’s land by flying drones over the first claimant’s land and buildings outlined in red on the plans at annex 1 to the amended claim

form, that being land and buildings owned by MBR Acres Limited, Wyton, Huntingdon, PE28 2DT.”

54. I am unpersuaded that there is a proper basis to grant any relief against any named Defendant pending the hearing on 21 July. Save perhaps in relation to Mr Curtin (as to which the evidence is presently unclear), there is scant evidence that any of the named Defendants has been involved thus far in any activities related to drones. Basic fairness, and the established principles of civil litigation, require that, insofar as it is to be alleged that any of the named Defendants has been guilty in the past of flying drones over the Wyton site, or that there is evidence that s/he is credibly threatening to do so in the future, then such allegations must be properly pleaded, so that each Defendant knows what is alleged against him/her and has an opportunity to put forward his/her case in answer.
55. In parts of her submissions, Ms Bolton appeared to submit that the Claimants would be entitled to pursue a claim relating to alleged trespass by drone use on the basis that the various Defendants are alleged to have committed other acts of trespass. That will not do. The acts of trespass that are alleged against various named Defendants are of limited compass and date range and consist of allegations of trespass on the immediate gateway to the Wyton Site. That is a completely different allegation of trespass than one being made in respect of the flying of drones. It would not be fair to seek to broaden a case that is pleaded on one basis, i.e. physical trespass at the gateway, to encompass an entirely different form of trespass, that of flying drones. If a claim is going to be pursued against any individual named Defendants that s/he has in the past flown a drone over the Wyton site, or credibly threatens to do so in the future, then that must be pleaded against the relevant Defendant, so that each Defendant has a fair opportunity to deal with those allegations.
56. The real target, one apprehends, of the prohibition on drone usage, is not so much the named Defendants, but “Persons Unknown”. Those are matters which would be better and more fairly addressed at the hearing on 21-22 July.
57. So, for those reasons, I am not going to grant the variations to the interim injunction order that were sought by the Claimants today. Those variations are not being refused, I am simply not going to grant them today. The Claimants can renew their applications, both in respect of the variations sought today, and the further restrictions that they seek to add, at the hearing on 21-22 July at which the Defendants will have an opportunity to put forward their submissions.