

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

B E T W E E N : -

HANSON QUARRY PRODUCTS EUROPE LIMITED
(t/a Heidelberg Materials UK)

Claimant

and

(1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANT ON, IN, UNDER OR OVER THE CRAIG YR HESG QUARRY WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES

(2) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE CRAIG YR HESG QUARRY WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANT, ITS AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANT

Defendants

CLAIMANT'S SKELETON ARGUMENT
For Urgent Without Notice Application

Preliminary

Suggested pre-reading (t/e: 45m):

1. Claimant's skeleton argument
2. Witness Statement of Mr Radcliffe dated 20 May 2024
3. Draft Order accompanying the application

Hearing time estimate: 1 hour

Introduction

1. This is the Claimant's skeleton argument for an urgent without notice application for an interim injunction to protect the Claimant's quarry, Craig Yr Hesg Quarry ("**Quarry**") from persons unknown who are trespassing on the Quarry and/or obstructing the Claimant's access to and from the Quarry ("**Protestors**").
2. The Claimant is Hanson Quarry Products Europe Limited, which trades as Heidelberg Materials UK. It owns the Quarry as set out in the accompanying witness statement of Mr Radcliffe of today's date.

3. Over the last few months, the Claimant has faced unlawful trespass on the Quarry ("**Trespass**"), and has had the entrance to the Quarry from the public highway blocked by a fluctuating and changing body of persons unknown ("**Obstruction**", together with the Trespass the "**Protests**"). As a result of that activity, the Claimant's large good vehicle ("**LGV**") fleet is being delayed with significant financial consequences and intolerable risks to health and safety.
4. At present, the Claimant is unable to name the persons unknown, but considers that they are mostly local people who are opposed to the expansion of the Quarry and are essentially engaged in direct action protest. That background is highly relevant to the without notice duties which face the Claimant and are addressed later in this skeleton argument.
5. The witness statement of Mr Radcliffe explains the background and business of the Claimant, describes the Protests and their Impact, and focusses on the recent Protest events which have led to this urgent without notice application. The Court is asked to note in particular the Schedule of Incidents which Mr Radcliffe exhibits, which reveals the 33 days of Protest activity since 19 February 2024.

Urgency of the present application

6. No claim form has yet been issued. The Claimant undertakes to file the claim within 48 hours. Unusually for an application of this nature, the preparation of the claim for and the evidence is relatively advanced as the Claimant was intending to issue the claim and seek injunctive relief on a non-urgent basis. However, for the reasons set out in this skeleton argument and in the evidence of Mr Radcliffe, the need for urgent injunctive relief crystallised at the end of last week, on which basis the Claimant seeks the immediate protection of the Court.
7. It is the Obstruction which is the genesis of the urgency. As Mr Radcliffe explains, since 13 May 2024, operations at the Quarry have returned to a normal level – before that date, the Claimant was able to tolerate some delay to its operations as there was a level of flexibility provided as the Quarry was not operating at full capacity. Whilst the Claimant wishes to make clear that prior to 13 May the obstructions were still hugely disruptive and expensive, since 13 May that disruption and expense has increase significantly. As Mr Radcliffe sets out, the turnover of the Quarry is approximately £55,000 a day.
8. Moreover, since resuming full operations, it has become clear to the Claimant that there is urgent need to mitigate a significant and increasing health and safety risk. As a result of the Obstruction, the number of LGVs queuing on the public highway outside the Quarry has increased considerably. As Mr Radcliffe notes, there are/will be 14.5 LGV movements an hour into and out of the Quarry. The

significant of a potential 10 minutes delay to each LGV is obvious. There is a further risk caused by LGVs delivering explosives to the Quarry.

9. There is nowhere for those LGVs to wait, or indeed turn around, safely. As a result, members of the public using the public highways seeking to manoeuvre around the waiting LGVs are putting themselves at risk. Similarly, members of the public on the footpaths alongside the public highway are at risk from manoeuvring vehicles. The Claimant's evidence is that there have been near misses, and it is only a matter of time before there is a serious accident. Further, in seeking to block the LGVs, the Protestors are putting themselves at significant risk of serious harm.
10. Mr Radcliffe highlights protest activity on 16 and 17 May (i.e. at the end of last week) which had an impact on the operation of the Quarry, and carried the attendant health and safety risks. Unfortunately, counsel was unavailable to advise or make an application on 16 and 17 May due to another High Court hearing. Although urgent, given the intervening weekend, it was considered that an out of hours application was not warranted hence the Claimant applying today.

Cause of action

11. In this urgent application, the Claimant seeks an interim injunction on a very tailored and specific basis to prevent a very specific activity.
12. The Claimant's causes of action are in trespass and nuisance, and the Claimant will undertake to file the claim by Wednesday 22 May 2024. Briefly:
 - a. The Claimant owns the Quarry, and no one is permitted without consent to enter the Quarry. Any person without permission who goes onto the Claimant's land with permission is a trespasser.
 - b. The Claimant has a right to enter and leave the Quarry on the public highway without unlawful interruption and obstruction.
13. Trespass: a landowner whose title is not disputed is *prima facie* entitled to an injunction to restrain a threatened or apprehended trespass on his land: Snell's Equity (34th Edition) at [18-012].
14. Public nuisance: an act which inflicts damage, injury or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of operation. It may, however, affect some to a greater extent than others: *Soltau v De Held* (1851) 2 Sim NS 133,142.

15. Private nuisance: any continuous activity or state of affairs causing a substantial and unreasonable interference with a [claimant]'s land or his use or enjoyment of that land: *West v Sharp* [1999] 79 P&CR 327, 332.
16. The unlawful interference with the claimant's right of access to its land via the public highway, where a claimant's land adjoins a public highway, can be a private nuisance: *Cuadrilla Bowland Ltd v Persons Unknown* [2020] 4 WLR 29 at [13], and can be an unlawful interference with one or more of the claimant's rights of way over land privately owned by a third party: *Gale on Easements*, 13-01.
17. In *Ineos Upstream v Persons Unknown* [2017] EWHC 2945 (Ch), Morgan J held at [44] that (i) whether an obstruction amounts to a nuisance is a question of fact; (ii) an obstruction may be so inappreciable or so temporary so as not to amount to a nuisance; (iii) generally, it is a nuisance to interfere with any part of the highway; and (d) it is not a defence to show that although the act complained of is a nuisance with regard to the highway, it is in other respects beneficial to the public.

Interim Injunction

18. The test for an interim injunction is well-known (*American Cyanamid Co v Ethicon Ltd* [1975] AC 396). It requires that there be at least a serious question to be tried and then refers to the adequacy of damages for either party and the balance of justice (or convenience).
19. The threshold for obtaining an injunction is normally lower where wrongs have already been committed by the defendant: *Secretary of State for Transport v Persons Unknown* [2019] EWHC 1437 (Ch).
20. In relation to the test to be applied for precautionary injunctions, in *Ineos Upstream v Persons Unknown* [2017] EWHC 2945 (Ch), Morgan J held at [88] that:

“The general test to be applied by a court faced with an application for a *quia timet* injunction at trial is quite clear. The court must be satisfied that the risk of an infringement of the claimant's rights causing loss and damage is both imminent and real. The position was described in *London Borough of Islington v Elliott* [2012] EWCA Civ 56, per Patten LJ at 29, as follows:

“29 The court has an undoubted jurisdiction to grant injunctive relief on a *quia timet* basis when that is necessary in order to prevent a threatened or apprehended act of nuisance. But because this kind of relief ordinarily involves an interference with the rights and property of the defendant and may (as in this case) take a mandatory form requiring positive action and expenditure, the practice of the court has necessarily been to proceed with caution and to require to be satisfied that the risk of actual damage occurring is both imminent and real. That is particularly so when, as in this case, the injunction sought is a permanent injunction at trial rather than an

interlocutory order granted on *American Cyanamid* principles having regard to the balance of convenience. A permanent injunction can only be granted if the claimant has proved at the trial that there will be an actual infringement of his rights unless the injunction is granted.”

21. Morgan J continued at [91] to state that the *American Cyanamid* test was applicable in precautionary injunction cases, and that the court was bound to apply section 12(3) of the Human Rights Act 1998 and ask what order the court would be likely to make at a trial of the claim. The learned judge concluded at [142] that as he found it likely that the court following trial would grant a permanent injunction to restrain the interferences with the Claimants legal rights, the normal response of a court would be to grant similar interim relief “without further ado.”
22. In the present case, there is undoubtedly a serious issue to be tried: the cause of action is in trespass and nuisance, and the threatened acts correspond to that cause of action.
23. In relation to the adequacy of damages, given the nature and impact of the continuing unlawful Protests, damages would be an inadequate remedy and in any event are very unlikely to be recovered and/or compensate for the considerable total losses suffered. Furthermore, the danger of much of the Protests (to the Protestors and others) further indicates the effects of this conduct cannot be adequately remedied through damages.
24. The Court must have regard to the balance of convenience, and appropriate weight to be had to the Defendants’ Article 10 and 11 rights (freedom of expression and assembly) ‘in the round’. The balance of convenience here is particularly stark:
 - a. As addressed below, Article 10 and 11 are not violated;
 - b. There is only loss to a Defendant is if they are prevented from doing what they wish on the public highway. There is no right to exceed the grant of a right of way. In this case, such prevention is in the Defendant’s best interests.
25. The risk of actual damage is imminent and real. It is already occurring and is set out in the evidence of Mr Radcliffe. The harm, particularly the health and safety risk, cannot be compensated in damages.
26. The balance of convenience lies in allowing the Claimant to continue its lawful business until trial. The countervailing consideration is that the Defendants will lose their right to continue the Obstruction. That is an important point: there is no loss to the Defendants, other than the ability to protest in a certain way. The Defendants remain quite able to protest in other, lawful ways.
27. This is a without notice injunction. That is appropriate, it is submitted, for the following reasons:

- a. There is a current and ongoing risk to life.
- b. There is a current drain on limited emergency services personnel.
- c. There is current harm and damage being caused to the Claimant of significant sums as set out in Mr Radcliffe's witness statement.
- d. The Defendants are unnamed individuals, and the Claimant does not have their names or addresses.
- e. The Defendants are fluctuating group.
- f. At present, not being named to the proceedings is a benefit to a prospective defendant, as they are not at risk of costs. The Claimant's sincere wish is that the existence of the injunction is determinative of the claim in the sense that the unlawful Protests stops and the Claimant is not required to name any individual to the proceedings.

28. In light of the Claimant's duty of full and frank disclosure, it is appropriate to draw the following points to the Court's attention which may tend against the grant of the application. The Claimant considers that it may be argued that:

- a. The Protests are *de minimis*;
- b. The Protestors have a right to protest under Articles 10 and 11 ECHR.
- c. The Obstruction is lawful/on public highway land;
- d. The Trespass is in response to a general concern in respect of wildlife crimes/criminal activity/breach of planning control on the Quarry.
- e. The harm may be compensated.
- f. The injunction is unnecessary as there are criminal offences which might apply, and the police have not arrested anyone for the Protests (noting that the arrest which has been made did not relate directly to the Protests).
- g. Issues may be taken with the persons unknown jurisdiction, the prohibited conduct, the description of the defendants, and/or the proposed alternative service provisions.

29. The Claimant's submissions on those arguments are as follows.

30. First, the effect of the Protests is not *de minimis*. The Claimant's evidence is that there is significant economic damage which is being caused to the Claimant's lawful business. In essence, the purpose of the Protests is to seek to damage the Claimant's business such that it is unable to continue operations at the Quarry. If the Protests truly were *de minimis*, it is submitted that it would be pointless for the Protestors to continue their actions.

31. Even if, as the Claimant does not accept, the Protests are short term in nature or only involve a small proportion of the Claimant's land, the cumulative impacts of several minor acts can be, and are,

extraordinarily significant in effect. In particular, even a short obstruction has a material impact on the health and safety of the Claimant's staff, the Protestors and other road users.

32. Second, the Protests may pray in aid their human rights to expression and assembly under Articles 10 and 11, which are addressed above. Reference would be made to the approach of the Supreme Court in *DPP v Ziegler* [2021] UKSC 23. That case makes clear that interference with such convention rights must be balanced against the rights of other members of the public to use an area of land (in that case, a common). Here, as has been set out, the balance of rights would be between unauthorised user of a public highway for the purpose of protesting, against the Claimant's A1P1 rights.

33. The Divisional Court addressed this context in respect of Article 10 and 11 in *DPP v Cuciurean* [2022] EWHC 736 (Admin) at [45]:

45. We conclude that there is no basis in the Strasbourg jurisprudence to support the respondent's proposition that the freedom of expression linked to the freedom of assembly and association includes a right to protest on privately owned land or upon publicly owned land from which the public are generally excluded. The Strasbourg Court has not made any statement to that effect. Instead, it has consistently said that articles 10 and 11 do not "bestow any freedom of forum" in the specific context of interference with property rights (see *Appleby* at [47] and [52]). There is no right of entry to private property or to any publicly owned property. The furthest that the Strasbourg Court has been prepared to go is that where a bar on access to property has the effect of preventing any effective exercise of rights under articles 10 and 11, or of destroying the essence of those rights, then it would not exclude the possibility of a State being obliged to protect them by regulating property rights.

46. The approach taken by the Strasbourg Court should not come as any surprise. articles 10, 11 and A1P1 are all qualified rights. The Convention does not give priority to any one of those provisions. We would expect the Convention to be read as a whole and harmoniously. Articles 10 and 11 are subject to limitations or restrictions which are prescribed by law and necessary in a democratic society. Those limitations and restrictions include the law of trespass, the object of which is to protect property rights in accordance with A1P1. On the other hand, property rights might have to yield to articles 10 and 11 if, for example, a law governing the exercise of those rights and use of land were to destroy the essence of the freedom to protest. That would be an extreme situation. It has never been suggested that it arises in the circumstances of the present case, nor more generally in relation to section 68 of the 1994 Act. It would be fallacious to suggest that, unless a person is free to enter upon private land to stop or impede the carrying on of a lawful activity on that land by the landowner or occupier, the essence of the freedoms of expression and assembly would be destroyed. Legitimate protest can take many other forms.

34. The ratio of *DPP v Cuciurean* is that there is no "freedom of forum" to protest. The Divisional Court held:

76... a protest which is carried out for the purposes of disrupting or obstructing the lawful activities of other parties, does not lie at the core of articles 10 and 11, even if carried out on a highway or other publicly accessible land. Furthermore, it is established that serious disruption may amount to reprehensible conduct, so that articles 10 and 11 are not violated. The intimidation, obstruction or disruption to which section 68 applies is not criminalised unless it also involves a trespass and interference with A1P1. On this ground alone, any

reliance upon articles 10 and 11 (assuming they are engaged) must be towards the periphery of those freedoms.

77... articles 10 and 11 do not bestow any "freedom of forum" to justify trespass on private land or publicly owned land which is not accessible by the public. There is no basis for supposing that section 68 has had the effect of preventing the effective exercise of freedoms of expression and assembly.

35. Third, as has been set out, there is no freedom of forum. The Obstruction goes beyond ordinary permitted user of the public highway. Delaying traffic for c. 10 minutes at a time is not passing or repassing: it is protesting. It goes beyond the grant, and is hence a trespass against the landowner. The nuisance element of the Claimant's case set out above explains why the Obstruction is not lawful.
36. Fourth, in relation to defences to trespass, genuine and bona fide concerns on the part of Protestors do not amount to a defence, and the Court should be slow to spend significant time entertaining these: *Samede* [63]. Such matters have been considered in numerous other similar cases, including the HS2 injunction litigation (per Andrews J (as she then was) in *Secretary of State for Transport and HS2 v Persons Unknown* [2020] EWHC 671 (Ch) at [35] and [42] where the learned judge noted there was no right to undertake these forms of direct-action protest, even if the motives were to protect the environment.
37. Fifth, the Claimant is driven to accept that the economic harm may be compensated, but given the very significant losses the Claimant will experience from continued unlawful Protest, it is not realistic to expect that any Protestor will be able to compensate those losses. Moreover, there are unquantifiable losses such as business reputation and particularly health and safety risks which mean that the harm cannot be compensated.
38. Sixth, there is no principle that civil remedies are not appropriate even where criminal proceedings may be brought.
39. Seventh, the Claimant considers that the potential argument as regards the drafting of the Order, the service provisions and the descriptions contained with the proposed Order need full explanation as follows.

Persons unknown

40. There has been much recent consideration of the availability of injunctions against persons unknown in a protest context by the Court of Appeal, in: *Boyd v Ineos Upstream Limited* [2019] EWCA Civ 515; *Cuadrilla v Persons Unknown* [2020] EWCA Civ 9 and *Canada Goose v Persons Unknown* [2020] EWCA Civ 303. All were considered by the Court of Appeal in *London Borough of Barking*

and *Dagenham v Persons Unknown & Ors* [2022] EWCA Civ 13, and then by the Supreme Court in *Wolverhampton v London Gypsies* [2023] UKSC 47.

41. The guidance from *Canada Goose* at [82] remains applicable:

“Building on *Cameron* and the *Ineos* requirements, it is now possible to set out the following procedural guidelines applicable to proceedings for interim relief against "persons unknown" in protester cases like the present one:

(1) The "persons unknown" defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The "persons unknown" defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also Newcomers, that is to say people who in the future will join the protest and fall within the description of the "persons unknown".

(2) The "persons unknown" must be defined in the originating process by reference to their conduct which is alleged to be unlawful.

(3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify quia timet relief.

(4) As in the case of the originating process itself, the defendants subject to the interim injunction must be individually named if known and identified or, if not and described as "persons unknown", must be capable of being identified and served with the order, if necessary by alternative service, the method of which must be set out in the order.

(5) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant's rights.

(6) The terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do. The prohibited acts must not, therefore, be described in terms of a legal cause of action, such as trespass or harassment or nuisance. They may be defined by reference to the defendant's intention if that is strictly necessary to correspond to the threatened tort and done in non-technical language which a defendant is capable of understanding and the intention is capable of proof without undue complexity. It is better practice, however, to formulate the injunction without reference to intention if the prohibited tortious act can be described in ordinary language without doing so.

(7) The interim injunction should have clear geographical and temporal limits. It must be time limited because it is an interim and not a final injunction. We shall elaborate this point when addressing *Canada Goose's* application for a final injunction on its summary judgment application.”

42. In respect of (1), the Claimant has sought to take a balanced approach and will undertake to name persons unknown. At the present stage, the Claimant is unable to name any individual who has or will take part in the Protests.

43. In respect of requirements (2) to (7) of *Canada Goose*, the Claimant submits these are, in relation to defendants identified as ‘persons unknown’, met in this case:

- a. The identification of persons unknown meets the requirements of (2). It is sufficiently precise to identify the relevant defendants as it targets their conduct.
- b. As to (3), torts have already been committed in respect of the Trespass and Obstruction. There is a sufficient risk of torts being committed to justify precautionary relief for the purposes of (3).
- c. Those to be subject to the interim injunction are those falling within the definitions of the Defendants from time to time, and as per the draft Orders, and will be served by means of alternative service. (4) is thus satisfied.
- d. The concern in the guidance at (5) is not acute in the case of Trespass and Obstruction, where defining the unlawful conduct is straightforward – including in respect of the public highway for the reasons set out. (5) is therefore satisfied.
- e. (6) is similarly satisfied: the prohibited conduct and description of persons unknown uses non-technical language, and is clear in its scope and application.
- f. The geographical limit required in (7) is also straightforward in this case; it is simply the Quarry. The requirement for a temporal limit is also satisfied here, since the draft order has a sunset clause of 28 June 2024 to allow time for the return date hearing.

44. Finally, the Court's attention is drawn to section 12 of the HRA 1998. It provides:-

“(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."

45. The relief sought will arguably affect the Defendants' rights to freedom of expression and assembly.

46. The question, for provision of notice, is whether all practicable steps have been taken to notify “the person” against whom relief is sought. Given that this is an urgent injunction without notice, those practical steps cannot be taken, but will be taken.

47. The Claimant will seek to draw the application to the attention of the Defendants by means of alternative service (see further below), and particularly the date of the return date hearing.

48. The Claimant has to demonstrate that it is likely that they would obtain the relief it seeks at trial. For the reasons set out, the Claimant submits that this test is met.

Service

49. The Claimant cannot presently name the any potential defendant. It does know any potential defendant's address. As has been noted, the number of Protestors fluctuates, and the Claimant cannot be sure (a) how many Protestors there are; or (b) which Protestors will take part in any given Protest.

50. The inability to personally serve immediately, means that without alternative service, the Claimant will be forced to endure further Trespass and Obstruction before any personal service can take place: the only way for the Claimant to personally serve will be to hand out physical copies of the Order to any Protestor taking part in the Protests. In effect, that would give a Protestor a "free go", which, if the Court is persuaded by the Claimant's evidence, implies that the harm, particularly the health and safety risks would be allowed the realise at least once, which ought not to be acceptable.

51. The reality is that the Claimant is very unlikely to bring committal proceedings in respect of the single breach of the Order, and the draft Order contains a provision that the Claimant will try to effect personal service on any Protestor, albeit that is expressed as an intention, rather than a mandatory requirement of service.

52. The Claimant therefore seeks an order that the Order be served by an alternative method pursuant to CPR 6.27 (in addition to continuing to attempt personal service where possible). The essential requirement for any form of alternative service is that the mode of service should be such as could reasonably be expected to bring the proceedings to the attention of the defendant (Cameron at [12]).

53. The proposed alternative service provisions are to place hard copy documents in areas where the Protestors are or have been operating, particularly at the walls which are on either side of the Claimant's access road where the Protesters carry out the Obstruction. There will be electronic versions of the Order and documents in the proceedings available online and the address of that website will be advertised on signs on the Quarry land.

54. Given the Claimant's assessment that the majority of the Protestors are local people, it is submitted that the suggested methods are highly likely to bring the proceedings and the Order to the attention of the Defendants. Indeed, it is hoped that the signs and online provision of the claim documents will allow them to be easily accessible to anyone who is interested in the proceedings, in order that they may review the documents and raise any defences to the Order at the return date hearing.

The Draft Order

55. The Draft Order is straightforward. So far as applicable to an interim order made on a without notice basis, it responds to the protections and limits confirmed by the Supreme Court in *Wolverhampton*.
56. Paragraph 1 defines terms.
57. Paragraph 2 sets out the terms of the Order, and states clearly that the long-stop date is 28 June 2024. It does not depend on intention but relates to actions which amount to the tort of trespass or nuisance.
58. Paragraphs 3 and 4 are intended to assist potential defendants in explaining what matters are outside the scope of the prohibitions in paragraph 3, whereas 4 is an open list intended to provide guidance as to what actions and activities may be in breach of the prohibition.
59. Paragraphs 5 - 9 set out the steps the Claimant will take to bring the Order to the attention of the Defendants. Paragraph 8 in particular makes provision for the Claimant to take all reasonably practicable steps to effect personal service when possible.
60. Paragraphs 10 – 11 provide for the ability and procedure for the Defendants, or any other person affected, to apply to the Court to vary or discharge the order, and to be joined to the proceedings.
61. Paragraph 12 provides the Claimant with permission to apply to extend or vary the Order,
62. Paragraph 13 sets the date for the return date hearing in person. Given the assessment of the local nature of the Protestors, the Court is respectfully invited to transfer these proceedings to the High Court in Cardiff.
63. Paragraph 14 makes plain that any party is able to take part in the return date hearing without having to undertake procedural steps.
64. Paragraph 15 reserves costs.
65. Paragraph 16 provides the Claimant's solicitors' contact details.
66. Appended to the draft Order are:
 - a. guidance notes to assist Defendants;

- b. at Schedule A, the Plan of the Quarry;
- c. at Schedule B, the witness statement of Mr Radcliffe
- d. at Schedule C, the usual undertakings that a Claimant in these proceedings should offer the Court.

Conclusion

67. Subject to any modifications the Court considers appropriate, the Claimant respectfully asks that the Court make the Order in the terms sought.

MICHAEL FRY
Francis Taylor Building

20 May 2024