

[2025] EWHC 1748 (KB)
IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand
London
WC2A 2LL

Date: Friday, 6 June 2025

BEFORE:

ELIZABETH O'NEILL
(sitting as a Deputy Judge of the High Court)

BETWEEN:

HANSON QUARRY PRODUCTS EUROPE LIMITED

Claimant

- and -

PERSONS UNKNOWN

Defendants

MR MICHAEL FRY (instructed by **Knights PLC**) for the Claimant
The **Defendants** did not appear and were not represented

JUDGMENT
(As Approved)

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Elizabeth O'Neill (Sitting as a Deputy High Court Judge)

1. The claimant, Hanson Quarry Products Limited, represented by Michael Fry, is the owner and operator of Craig Yr Hesg Quarry ("the Quarry"). It seeks by this application to renew an existing injunctive order preventing persons unknown from
 - (a) entering or remaining without the consent of the Claimant on any part of the Quarry;
 - (b) deliberately obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the Quarry; or
 - (c) interfering with any sign, fence or gate on the perimeter of or within the Quarry.
2. The renewed injunction is sought for a further 12 months, until 5 June 2026 at 23.59 hours unless extended, varied or discharged.

Background

3. The claimant's Quarry produces premium quality blue pennant sandstone which is used for road surfacing and in a wide range of industries. In June 2022, the Welsh Ministers granted planning permission to extend operations at the Quarry. That decision was opposed by local people and led to entirely lawful protest directed against the Quarry.
4. However, following a number of unknown protesters repeatedly blocking vehicles accessing the Quarry and repeated instances of trespass by protestors, in May 2024, the Claimant applied for an interim injunction order with a view to preventing persons unknown from disrupting its operations.
5. On 20 May 2024, Heather Williams J granted the initial interim injunction following a hearing that was conducted on an urgent, without notice basis ("the May 2024 order"). The May 2024 Order, as the Draft Order that is sought today, prohibited persons unknown from
 - (a) entering or remaining without consent on any part of the Quarry;

(b) deliberately obstructing and/or interfering with the free movement of vehicles, equipment or persons accessing or egressing from the Quarry; or

(c) interfering with signs, fences or gates on the perimeter of or within the Quarry.

6. In the May 2024 Order, Heather Williams J made provision for an on notice, renewed hearing of the application to be held after the Claimant issued its claim form and Particulars of Claim and served these and a notice of hearing on the persons unknown, in a manner prescribed by the May 2024 Order.
7. On 22 May 2024, the Claimant issued a claim against three defined categories of persons unknown, (hereinafter "the Defendant persons unknown") for possession of land on grounds of trespass and for nuisance. The principal relief sought was an injunction preventing the unauthorised access to the Quarry, obstruction of vehicles and interference with signs, fences, or gates.
8. The subsequent "on notice" hearing of 5 June 2024, which reconsidered the injunctive relief granted in the May 2024 Order, was not attended by the Defendant persons unknown despite service having been effected on them in the manner directed by the May 2024 Order. At that hearing, after consideration of the evidence relating to the disruption of the Quarry's operations, Harrison J granted a one year injunction, ("the June 2024 Order") against the Defendant persons unknown in similar terms to those of the May 2024 Order. The substance of the prohibition was as follows;

"2. With immediate effect and until 23.59 on 5 June 2025 unless varied, discharged or extended by further order, the Defendants and each of them are forbidden from doing any of the following:

- (a) entering or remaining without the consent of the Claimant on any part of the Quarry;*
- (b) deliberately obstructing or otherwise interfering with the free movement of vehicles, equipment or persons accessing or egressing the Quarry; or*
- (c) interfering with any sign, fence or gate on the perimeter of or within the Quarry.*

3. Nothing in paragraph 2 of this Order shall

(a) prevent any person from exercising their lawful rights over any open, public right of way over the Quarry; or
(b) prevent any person from exercising their lawful rights over any public highway;
(c) For the avoidance of any doubt, the use of any permissive paths granted by the Claimant over the Quarry for the purposes of passing and repassing, would not be a breach of this Order as such use is with the consent of the Claimant."

9. The June 2024 Order also made provision for alternative means of service of the injunction and related documents on the Defendant persons unknown. Last, it stayed the underlying claim for trespass and nuisance until further order, in the absence of which, the claim would be dismissed at the expiry of the injunction.
10. It is now a year since the June 2024 Order and, in view of its imminent expiry, the Claimant has lodged an application for the renewal of the injunction, to protect the Quarry from trespass and nuisance from the Defendant persons unknown for a further period of 12 months.
11. On 15 May 2025, the Claimant applied for directions including and pursuant to CPR 6.27 provision for alternative service of the application documents. By a Directions Order of 20 May 2025, Goose J dispensed with personal service and provided for service of the application notice to be effected on the Defendant persons unknown by means of the following four steps (in essence, the same alternative means of service that were provided for in the May 2024 Orders and June 2024 Order), paraphrased below for simplicity:
 - (a) Affixing sealed copies of the application documents in a transparent envelope in two prominent and conspicuous specified locations;
 - (b) Positioning four signs of at least 1 metre by 1 metre at conspicuous locations along the Quarry boundary fence, advertising the existence of the Directions Order;
 - (c) Sending electronic copies of the application to identified email accounts.

(d) Uploading the application documents to an electronic folder on the Claimant's website with details of the website page and the Claimant's solicitors' contact details being provided on each of the signs above.

12. A certificate of service has been filed with the court verifying that each of the above steps were undertaken by the Claimant on 21 May 2025. Witness evidence has also exhibited photographs showing the steps taken by way of service.

Proceeding with the hearing in the absence of the Defendant persons unknown

13. In the absence of the Defendant persons unknown at the hearing, the first issue I considered is whether it was, in their absence, fair to proceed with this hearing in which a remedy is sought which has significant consequences upon them. As regards fairness to the Defendant persons unknown, I am satisfied, in light of the certificate of service that has been filed with the court, which indicates that each of the required steps to effect service were undertaken by the Claimant on 21 May 2025, that the Defendant persons unknown have received adequate and timely notice of this application in order to attend and be heard. From an Article 6 ECHR or section 12(2) of the Human Rights Act perspective, the Claimant has taken all practical steps to notify the Defendant persons unknown. I note that the Claimant has received email missives in relation to this matter subsequent to the service of the application notice, which missives are consistent with service having been noticed by certain persons unknown. Although this is not a trial, applying the principles articulated in *Williams v Hinton* [2011] EWCA Civ 1123, I consider that as a matter of case management, the appropriate approach is to proceed with the hearing, having carefully considered the circumstances of the case, fairness to the Defendant persons unknown and the effective administration of justice.

The application before the court

14. Turning to the application before the court, the legal test for the extension of an existing injunction order made against persons unknown was recently considered by Garnham J in *Rochdale MBC v Persons Unknown* [2025] EWHC 1314 (KB). The learned judge stated:

"In my judgment, the correct approach is dictated by the Supreme Court's judgment in Wolverhampton and in particular in 225. This is not a tick box exercise but the matters on which evidence should be adduced and argument focused are (i) how effective the order has been; (ii) whether any reasons or grounds for its discharge have emerged; (iii) whether there is any proper justification for its continuance; and (iv) whether and on what basis a further order ought to be made. The parties should give full disclosure supported by appropriate evidence directed towards those questions."

15. In conducting this analysis, it is important as Ritchie J emphasised in *High Speed 2 (HS2) Limited v Persons Unknown* [2024] EWHC 1277, to fully understand the context and rationale for the previous injunction, to understand the substrata of the order. This is a prerequisite to properly evaluate the answers to questions (ii), (iii) and (iv) above. In this respect, I have closely considered the note of Heather Williams J's judgment granting the May 2024 Order provided to me by the Claimant. Although I do not have a note of Harrison J's judgment granting the June 2024 Order, I understand from Mr Fry, who attended both hearings before Williams J and Harrison J that in giving judgment Harrison J expressly endorsed the rationale adopted by Heather Williams J.
16. In considering the four questions outlined above, I have the benefit, in addition to the Claimant's evidence provided in relation to the earlier applications, of recent witness evidence submitted on behalf of the Claimant by Mr Ratcliffe, the area operations manager responsible for the Quarry, whose earlier witness statements were provided in evidence in relation to the Claimant's earlier applications.
17. The Claimant has indicated that it has given full and frank disclosure and approached the proceedings throughout as it would approach **ex parte** proceedings (although, of course, service has been effected by alternative means).

Has the June 2024 Order been effective?

18. Turning to the first question identified by Garnham J it is clear from the evidence that lawful protests against the Quarry have continued since June 2024. However, Mr Ratcliffe's witness evidence establishes that in terms of the disruption of the Claimant's operations, this has been dramatically reduced. Whereas the Claimant

documented 33 separate instances of disruption to its operations by means of trespass, deliberate obstruction of vehicles or interference with signs in the six week period from 19 February to 17 May 2024 (on some occasions, work having to cease for the relevant day), this is to be contrasted with less than ten instances of unlawful disruption over the entire year since the June 2024 Order was made. Further, recent sales tonnage shared by the Claimant establishes that the operations at the Quarry are continuing as the Claimant implements its planning permission. The Quarry has successfully produced high daily sales tonnages requiring extremely frequent large goods vehicles access.

19. Another indication of the effectiveness of the injunction comes from the social media postings of the protesters which revealed that protests organisers are conscious of the prohibitions. Just one example of these, set out at paragraph 21 of Mr Ratcliffe's third witness statement, is an Instagram post advertising a march on 23 April 2025 close to the Quarry stating in capitals "MUST STAY ON PAVEMENT".
20. Further, in one of the considerably fewer instances of unlawful disruption that has occurred since the order took effect, Mr Ratcliffe explains at [22] of his third witness statement that it was by providing a copy of the June 2024 Order to individual protestors that Quarry personnel were able to persuade trespassing individuals to leave the Quarry.
21. In terms of the health and safety risks, there is clear evidence of much reduced instances of trespass, obstruction and traffic queues and blockages at the Quarry entrance. Counsel has submitted it follows there is an attendant reduction of health and safety risks and interaction between lorry drivers and protesters. However, it is apparent from the third witness statement of Mr Ratcliffe that the admittedly reduced instances of trespass do, on occasions, still give rise to safety issues.
22. On the whole, it is clear that the injunction has been extremely effective in that it has deterred unlawful trespass and nuisance, reduced the health and safety risks that were associated with the trespass and regular obstruction of the Quarry entrance and prevented the damage to the Claimant's operations associated with the trespass and nuisance, all of which were factors underpinning the grant of the initial injunction.

Is there a material change of circumstances or have any other reasons or grounds for discharge emerged?

23. Turning to the second question, the Claimant submits that there has been no change of circumstance nor have grounds for discharge emerged. It continues to face vigorous protests and the evidence of Mr Ratcliffe, some of which is mentioned above, evidences the continued threat some protestors pose to the Claimant's operations. Recent social media posting associated with protests such as Facebook post in February 2025 indicating, "the lorries can't be stopped due to the injunction," ([20] of Mr Ratcliffe's third witness statement), support the case that absent the injunction, there remains a real and imminent risk that unlawful protest would once again become a serious issue.

Is there any proper justification for continuance of the order?

24. Turning to the third question, taking into account that this is the continuation of an order **contra mundum**, against persons unknown who are not represented before me today, it is important to consider carefully whether there continues to be a compelling need for the continuance of this order. In the 12 months that have passed since the original injunction, the evidence referred to above and before me establishes that factors underpinning the original order remain pertinent. There remains a very real and continued threat of continued tortious activities by the Defendant persons unknown which compromises the Claimant's operations and give rise to health and safety risks to the Defendant persons unknown, the general public and the Quarry staff. The threatened wrongs and their potential impact and harm have not altered due to any event or the passing of 12 months.
25. Given the nature and impact of the continued unlawful protests, damages remain an inadequate remedy as given the unknown number of the tortfeasors, damages are unlikely to be recovered or to compensate for the considerable losses and disruption to the Claimant's operations. Furthermore, the health and safety risks referred to by Williams J when granting the injunction would not be adequately remedied through damages.

26. As regards the Defendant persons unknown's Convention rights, which were drawn to my attention by the Claimant as part of its duty of full and frank disclosure, if anything, in the time since the injunction was originally granted, the continued lawful protest which is before me demonstrates that the injunction, as originally drawn, strikes the right balance in permitting lawful protests and freedom of expression whilst simultaneously protecting other highway users and the Claimant from trespass and nuisance.
27. In terms of proportionality, I considered whether there might now be a lesser measure available to the Claimant which is capable of achieving the same effect. The recent incident related by Mr Ratcliffe in which trespassers were persuaded to leave by reference to the June 2024 Order provides evidence that the general constraints of criminal law continue not to be sufficient to deter trespass and obstruction.
28. I noted that two of the protestors have recently become known to the Claimant. The Claimant has assured me that it is taking steps to join the two individuals as named parties to the proceedings but it relies on the evidence before the court which establishes that the protests involve a considerable number of unknown persons to submit that the joining of these two individuals will be insufficient to reduce the real and continued threat of tortious conduct. I agree that the evidence before me supports this. Although the Claimant is taking steps to join known Defendants to the case, the threat from persons unknown is significant and an injunctive order in these terms therefore remains required to address the real and imminent threats of tortious action.

Whether and on what basis an order ought to be made

29. Fourthly, turning to whether and on what basis a further order ought to be made, the Draft Order seeks to renew the injunction for a period of 12 months. I am satisfied that this is an appropriate duration given the ongoing vigour of the opposition to the Quarry's operations and in particular, the recent evidence, mentioned above, of the need for the injunction to keep protestors off the road.
30. As for the terms of the proposed extension order, the substance of the prohibition remains the same and the ancillary terms replicate those of the May 2024 Order and

June 2024 Order. The Draft Order is addressed to defined categories of persons unknown, identified as precisely as possible in this case by reference to the prohibited actions. Accordingly, the Draft Order is directed at three categories of persons unknown. (a) Persons unknown entering or remaining without the consent of the Claimant on any part of the Quarry. (b) Persons unknown deliberately obstructing and/or interfering with the free movement of vehicles, equipment or persons accessing or egressing from the Quarry and (c) Persons unknown interfering with signs, fences or gates on the perimeter or within the Quarry.

31. The Draft Order is drafted in clear, non-technical language and contains clear temporal and geographic limitations. The evidence before me is that the effect of the June 2024 Order is well understood with protestors understanding what is prohibited, for example, protests no longer taking place on the road, but on the pavement.
32. Like the June 2024 Order, the Draft Order protects the rights of the Defendant persons unknown, including their rights of access to the court, by providing for alternative service of the injunction and associated documents. Again, the evidence is that this has proven effective in the past with social media postings revealing an awareness of the previous orders served in this manner. The Draft Order provides ample liberty for the Defendant persons unknown to apply to the courts.
33. I have, however, suggested one addition to enhance the Defendant persons unknown's access to the courts. In the renewed Order, the Claimant now additionally undertakes to make available to the Defendant persons unknown a copy of the transcript of this judgment whenever it becomes available.
34. In conclusion, although for the reasons set out above I did not consider it appropriate to undertake a full *Wolverhampton* assessment, it can be seen from the above that in considering whether there was justification for continuance of the existing order and if so, the basis and terms of the order, I have looked very closely at the *Wolverhampton* requirements and consider that they are met. I have set this out in more detail than I might have otherwise, due to the absence of any reported judgment in relation to the previous two injunctions.

35. Taking all of the above into consideration and subject to the small change mentioned above relating to making this judgment available to the Defendant persons unknown, I consider that it is just and convenient to grant the application and renew the injunction for a further 12 months to 23.59 hours on 5 June 2026.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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