

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) LUDGATE HOUSE LIMITED
(INCORPORATED IN JERSEY)
- (3) SAMPSON HOUSE LIMITED
(INCORPORATED IN JERSEY)

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE CLAIMANTS' CONSTRUCTION SITE AT BANKSIDE YARDS WITHOUT
THE CLAIMANT'S PERMISSION

Defendants

SSW1

This is the exhibit marked "**SSW1**" referred to in the witness statement of Stuart Sherbrooke Wortley dated 23 February 2022.



Neutral Citation Number: [2022] EWHC 329 (QB)

Case No: QB-2022-000280

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date of hearing: 2nd February 2022

Before:

MR JUSTICE EYRE

Between:

(1) MACE LIMITED
(2) VANQUISH PROPERTIES GP NOMINEE 1 LIMITED
(3) VANQUISH PROPERTIES GP NOMINEE 2 LIMITED

Claimants

- and -

**PERSONS UNKNOWN ENTERING IN OR
REMAINING AT THE CONSTRUCTION SITE AT
40 LEADENHALL STREET, LONDON, EC3M 2RY
WITHOUT THE CLAIMANTS' PERMISSION**

Defendants

Toby Watkin (instructed by **Eversheds Sutherland (International) LLP**) for the **Claimants**
The **Defendants** did not appear and were not represented

APPROVED JUDGMENT

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

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Web: www.martenwalshcherer.com

MR JUSTICE EYRE :

1. Construction works are underway at 40 Leadenhall Street in the City of London. The First Claimant is the main contractor in respect of those works and the Second and Third Claimants are the title holders. When completed, the building is to be one of the tallest in London. In the course of the construction works several large cranes are already on site. The Claimants have concerns about possible visits to the site by those colloquially known as urban explorers.

2. The phenomenon of urban exploration was described thus by Murray J in the case of *Teighmore Ltd v Bone* [2019] EWHC 2962 (QB) at [5] and [6]:

“Urban exploring is an activity which involves the exploration of buildings and manmade structures within the urban environment. The activity often involves trespassing on parts of buildings to which public access is prohibited, which the public have no licence to access and which are intended to be secure. The term ‘urban exploration’ is commonly abbreviated to ‘urbex’, ‘UE’, ‘bexing’ and ‘urbexing’. One particular feature of urban exploration is known as ‘rooftopping’. This is an activity in which individuals gain access to the roof of a building, generally without the consent of the building owner, in order to take photographs and/or videos. Urban explorers see the tallest buildings as trophy targets.

6. Many urban explorers use social media and other forms of media to promote their activities, with a view to building their social media profile through platforms including YouTube, Facebook, Instagram and Snapchat. Some generate income this way. Some urban explorers have their own channels on YouTube.”

3. Urban exploration creates a number of risks. First, it involves a risk of death or serious injury to those participating. More significantly and more worryingly it creates the risk that others, less skilled than successful urban explorers, will be encouraged to engage in this activity and to put themselves at risk. There is a risk of injury to those on whom urban explorers fall or who are potentially at risk of being hit by items dislodged by urban explorers. I accept, however, that in practical terms this is not a significant risk. There is a risk that members of the police and ambulance services will be diverted from their work of caring for and attending to those injured through no fault of their own. There is a risk of disruption to the works and the diversion of security guards. Indeed there is a potential risk to the safety of security guards on a site as they seek, typically in the hours of darkness, to apprehend and prevent trespassers to the site. I also note that Murray J identified a potential terrorist risk. As he said at [40]:

“...iconic buildings are sometimes the target of terrorists. If such a building is targeted by urban explorers and information regarding ways into and around the building are posted online, the safety and security of those who live in, work in and visit such buildings is potentially at risk.”

4. It is right to say that it is hard to identify benefits arising from urban exploration. I can identify no benefits which can be said to outweigh or to enter into the balance against those risks other than perhaps the fact that those engaging in urban exploration obtain some degree of pleasure from it. In addition, as Murray J explained, some urban explorers obtain an income from that activity: such income being one derived from their acts of trespass.
5. I need not go into a lengthy exposition of the recent history of the law in respect of these matters. The approach to be taken is that which has been definitively laid down by the Court of Appeal in the case of *Barking & Dagenham LBC v Persons Unknown* [2022] EWCA Civ 13. The position, in short, is that permanent final injunctions against persons unknown can be granted in appropriate circumstances and that it can be appropriate for notice to be by way of notice posted on the site on the basis that such notice alerts to the order those who become defendants by then breaching the order and so makes them a party.
6. The principles to be taken into account are to be found first in the judgment of Longmore LJ in *Inios Upstream v Persons Unknown* [2019] 4 WLR 100 beginning at [34]:
 - “(1) there must be a sufficiently real and imminent risk of a tort being committed to justify quia timet relief;
 - (2) it is impossible to name the persons who are likely to commit the tort unless restrained;
 - (3) it is possible to give effective notice of the injunction and for the method of such notice to be set out in the order;
 - (4) the terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit lawful conduct;
 - (5) the terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do; and
 - (6) the injunction should have clear geographical and temporal limits.”
7. There has been some degree of refinement or elaboration of those principles, in particular in *Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303, [2020] 1 WLR 2802 where the Court of Appeal said that requirements (4) and (5) are not an absolute rule and that the class of persons unknown is to be regarded in non-technical language. There was further clarification from the Court of Appeal in the *Barking & Dagenham* case making the point that there is no jurisdictional difference between interim and final injunctions and that it is necessary to review injunctions against unauthorised encampments.
8. I pause to say that the situation here is very different from that of cases where injunctions against persons unknown are granted with the intention of precluding, prohibiting, or preventing unauthorised encampments typically by members of the travelling community. In those circumstances there is a balancing of rights to be

considered with the need to take account of the rights and interests of that community. In those circumstances it is appropriate for injunctions to be in place for a comparatively short period of time and also, potentially, to be subject to review. Those are considerations which do not apply here. Those who trespass on this site are doing so not because they are driven to do so in order to find accommodation nor because they are sustaining a way of life recognised as worthy of a degree of protection. Rather they are doing so in pursuit of excitement or with a view to combining that thrill-seeking with obtaining money from their trespassing.

9. I am satisfied that an injunction in the terms sought is appropriate in this case. This site is clearly at risk. That is demonstrated not just by the matters I have already set out in respect of the nature of the site and the nature of urban exploration both of which mean it would be a site of particular interest to urban explorers. It is also demonstrated by the evidence before me of at least some attempts by urban explorers to enter the site and to climb the machinery that is there. I already explained the risks and potential dangers which would follow from entry onto the site by urban explorers.
10. I am satisfied that it is not possible to identify particular individuals who should be made defendants to this injunction. I note the point made by Mr Watkin that typically once the scalp has been taken an urban explorer does not go back to a site. That means that the one person who has been identified as having scaled or attempted to scale this site is unlikely to be a person interested in returning to it. I have also taken account of the factors set out by Longmore LJ which I rehearsed a moment or two ago.
11. The site was subject of an earlier order made by Stacey J on 16th March 2021. That order was substantially in the terms now sought by the Claimants but with this difference namely that it was a prohibition of climbing to a height of more than 5m above street level upon any part of the construction. I anticipate that in imposing that limitation Stacey J was motivated by considerations of proportionality as to whether those who climbed to a height of less than 5m should be at risk of the contempt sanctions of the court.
12. I am, however, persuaded by Mr Watkin's argument that in the circumstances of this case that is an artificial distinction and that it is of no practical utility. There is a risk that some of the adverse consequences of urban exploration will follow even if trespassers enter with a view to climbing to a height of less than 5m but, more significantly, those entering on the site even with a view to climbing to a lower level will be trespassers. This is not a case where there is to be a balancing of competing rights or even of competing legitimate interests such that the court has to consider whether the order is a proportionate interference with such rights or interests. The question of what sanctions are proportionate and appropriate for a contempt if the order is breached is best considered at the time of committal proceedings for a particular breach rather than at the time of the imposition of the order. In the light of the considerations I am not going to impose a similar restriction.
13. I am satisfied that in the circumstances here it is appropriate to issue proceedings without identifying a defendant. I am satisfied that the claim form should be modified in the form sought by the Claimants to more fully identify the category of defendants. I am also satisfied that notice on the site by way of attaching it to the hoardings will be adequate service for all purposes. I am satisfied that it is appropriate for the injunction to continue until shortly after the anticipated date for practical completion

namely until the date in January 2024 sought by the Claimants and to do so without review. As I have already indicated, this is a very different kind of case from that involving members of the travelling community or others in a similar position. In that regard, I also note Mr Watkin's point that for practical purposes the area covered by the injunction will be a diminishing area as the works progress and the area enclosed by hoardings progressively reduces: although as a matter of practicality I suspect that it will reduce, if not in one fell swoop, in a few substantial stages.

14. The order I will approve is to have attached to it a modified form of the notice which was proposed by the Claimants. As I explained in the course of Mr Watkin's submissions the notice is to incorporate language from the orders considered by Murray J in the *Teighmore* case and by HHJ Freedman in *Canary Wharf Investments v Farrell* [2018] EWHC 3418 (QB). In my judgement that language will be more effective in achieving the desired purpose than that proposed. The proposed notice is in clear terms which are entirely if the reader is a lawyer but I do have some reservations as to how fully it removes the risk of ambiguity even accepting, as I do, the fact that urban explorers are aware of and alert to injunctions. Supplementing it with the language to which I have referred will make sure that there is no scope for any misunderstanding and that any person confronted by the notice on the hoardings, or indeed seeing it on social media, will have no doubt what is intended and its effect. The order will, accordingly, be in those terms and I will ask Mr Watkin to prepare a minute in due course.

(For proceedings after judgment see separate transcript)

This judgment has been approved by Eyre J.

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Claimants

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Defendants

SSW2

This is the exhibit marked "**SSW2**" referred to in the witness statement of Stuart Sherbrooke Wortley dated 23 February 2022.





IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

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PERSONS UNKNOWN ENTERING IN OR REMAINING AT
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Defendants


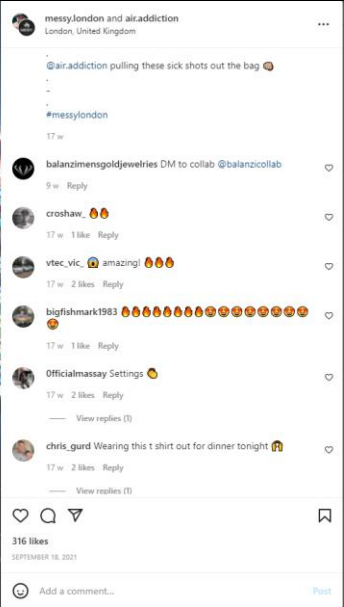

SSW3

This is the exhibit marked "**SSW3**" referred to in the witness statement of Stuart Sherbrooke Wortley dated 23 February 2022.

LONDON

<u>Video/Photo</u>	<u>Account</u>	<u>Date Uploaded</u>	<u>URL Link/Image</u>
"CLIMBING A CRANE IN LONDON!!!**CAUGHT BY ANGRY SECURITY**"	VOL.6	05.05.21	CLIMBING A CRANE IN LONDON!!! **CAUGHT BY ANGRY SECURITY** - YouTube 
"Sitting atop the Stratosphere Previously convicted free-climber scales 36 story tower"	RT UK	04.08.21	Sitting atop the Stratosphere Previously convicted free-climber scales 36 storey tower - YouTube 

<p>"CLIMBING ONE THAMES CRANE -210M (LONDON)"</p>	<p>DAVIES VLOGS</p>	<p>31.08.21</p>	<p>CLIMBING ONE THAMES CRANE - 210M (LONDON) - YouTube</p> 
<p>"London Sunrise Rooftop Free Climbing POV"</p> <p>"Me and a couple friends free climbed up one of the tallest construction sites in London".</p>	<p>ChaseTO</p>	<p>03.09.2021</p>	<p>London Sunrise Rooftop Free Climbing POV - YouTube</p> 

<p>"Pulling these sick shots out the bag"</p>	<p>Air Addiction</p>	<p>18.09.21</p>	<div data-bbox="1046 193 1653 802">  </div> <div data-bbox="1653 193 1995 802">  </div>
<p>"Chill rooftop climb in London"</p>	<p><u>Tjvss</u></p>	<p>7.10.2021</p>	<p>Chill rooftop climb in London - YouTube</p> <div data-bbox="1120 847 1910 1238">  </div>

"Stole the stage..."

Cp.xl

15.10.21



cp.xl • [Follow](#)
London, United Kingdom



cp.xl Stole the stage ...

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#urbex #urbexpeople #urbexphotography
#urbexworld #urbexplaces #urbexphoto
#urbexchampions #urbanrogues #urban





389 likes

OCTOBER 15, 2021



Add a comment...

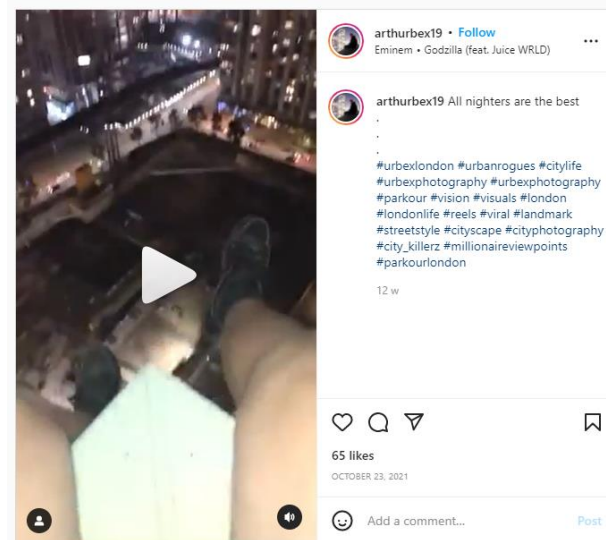
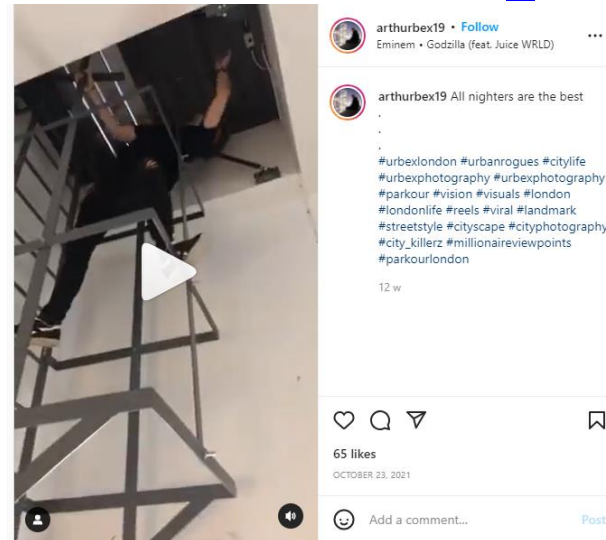
<p>"City of London crane climb (120m)"</p>	<p>Mxxrgn</p>	<p>20.10.221</p>	<p>City of London crane climb (120m) - YouTube</p> 
<p>"*INSANE POLICE ESCAPE* SKYSCRAPER CLIMB IN CANARY WHARF"</p>	<p>Mike Siurek</p>	<p>23.10.21</p>	<p>*INSANE POLICE ESCAPE* SKYSCRAPER CLIMB IN CANARY WHARF - YouTube</p> 

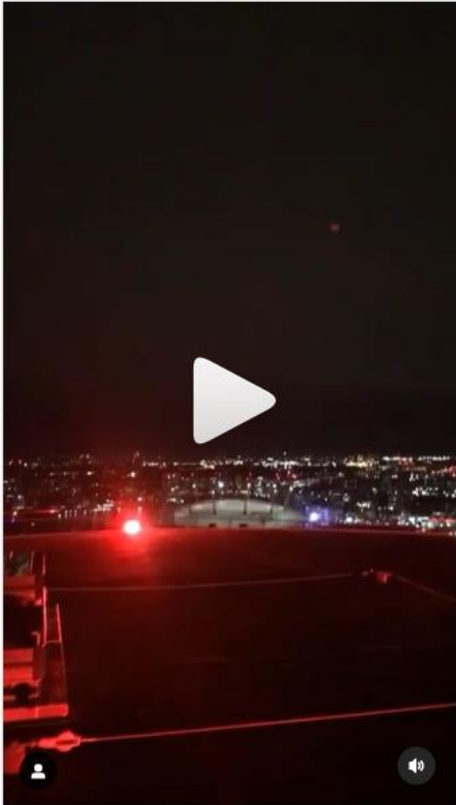
"All nighters are the best"

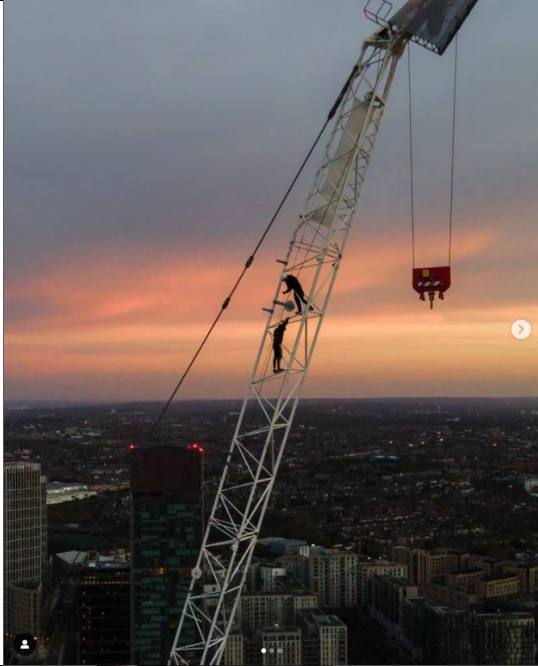
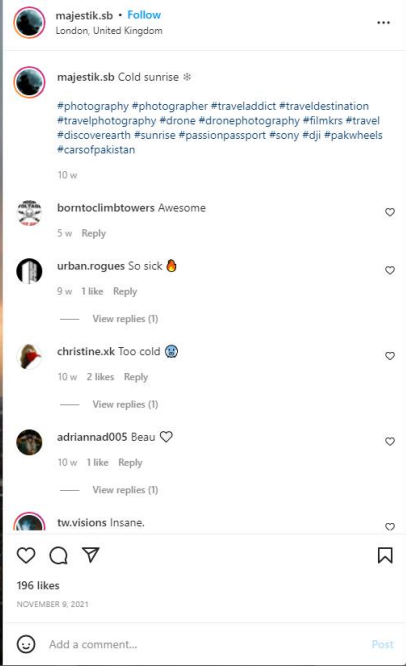

Arthurbex
19


23.10.21







https://www.instagram.com/arthurbex19/reel/CVX44MSj2Yu/?utm_medium=copy_link


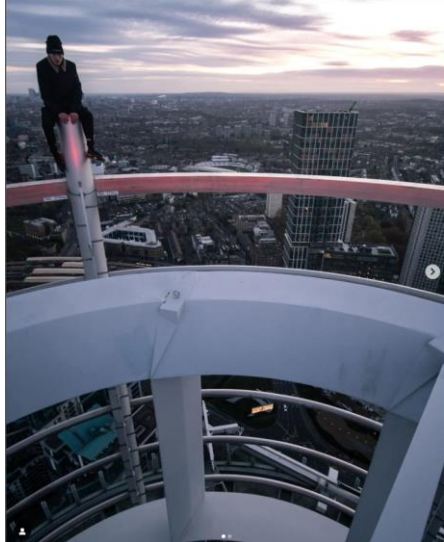


<p>"Red Light Green Light"</p>	<p>Arthurbex 19</p>	<p>28.10.21</p>	<p>https://www.instagram.com/reel/CVjMEw8ovrl/?utm_medium=copy_link</p>  <p>arthurbex19 • Follow Digga D • Red Light Green Light</p> <p>arthurbex19 Red light green light 🚦</p> <p>#urbanrogues #citylife #liftsurfing #urbex #urbexlondon #urbexworld #parkour #canarywharf #london #londonlife #trainsurfing #chasingcranes #chasingrooftops #citykillerz #citygrammers #visualart #viral #vintage #reels #reelsinstagram #urbexphotography #urbex_supreme #urbexpeople</p> <p>12 w</p> <p>alfw6 Uno how we leaving the scene like.....</p> <p>67 likes OCTOBER 28, 2021</p> <p>Add a comment... Post</p>
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<p><i>"Cold sunrise"</i></p>	<p>Majestik.sb</p>	<p>09.11.21</p>	<div data-bbox="1050 194 1585 863">  </div> <div data-bbox="1585 194 1989 863">  </div>
<p><i>"Night Street Photography POV - LONDON Rooftop (SONY A7III)"</i></p>	<p>Bobby Vasilev</p>	<p>26.11.21</p>	<p>Night Street Photography POV - LONDON Rooftop (SONY A7III) - YouTube</p> <div data-bbox="1005 898 2045 1383">  </div>

(untitled)	t.w.visions	15.12.21	 <p>tw.visions London, United Kingdom</p> <p>1/2</p> <p>332 likes</p> <p>tw.visions · ... more</p> <p>View all 15 comments</p> <p>15 December 2021</p>	
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<p>"Easy Life..."</p>	<p>Arthurbex 19</p>	<p>22.12.21</p>	<div data-bbox="1008 191 1724 1484"> <div>  <div> <div>arthurbex19</div> <div>London, United Kingdom</div> </div> </div> <div>  </div> <div> <div>    </div> <div> <div>95 likes</div> <div>arthurbex19 Easy life... more</div> <div>View all 16 comments</div> <div> schafi.on.the.run Dope  </div> <div> <div>arthurbex19</div> <div>@schafi.on.the.run cheers bro</div> </div> <div>22 December 2021</div> </div> </div> </div>	
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<p><i>"Looks very different during the day"</i></p>	<p>Benolifts Beno</p>	<p>24.12.21</p>	 <p>benolifts • Follow</p> <p>benolifts Looks very different during the day 3 w</p> <p>theoddestshow Fresh view of skyscrapers! 🤔 3 w Reply</p> <p>joshuadearden_ I go past these construction sites at South key daily and I've always wanted to go in 🤔 3 w Reply</p> <p>prestissimomaster Yeah! 3 w</p> <p>121 likes DECEMBER 24, 2021</p> <p>Add a comment... Post</p>
<p><i>"Merry Christmas"</i></p>	<p>Alexander Ferrell Alexanderferrell1999</p>	<p>25.12.21</p>	 <p>alexanderferrell1999 • Follow London, United Kingdom</p> <p>alexanderferrell1999 Merry Christmas</p> <p>#sony #sonyalph #sonya3300 #lightroom #lightroomcredits #rooftop #cold #climb #sunrise #view #photography 3 w</p> <p>borntoclimbtowers Sick 4 d Reply</p> <p>benhemingway652 Hi mate 3 w Reply</p> <p>lamarriaofrobeat Nasty 🤔 3 w Reply</p> <p>m1_ltmless Need them New Years banger with ally and usamalama and the other boys 3 w 1 like Reply</p> <p>urban_disturban Merry Christmas Lad 3 w Reply</p> <p>_fukq Dajavu 3 w 2 likes Reply</p> <p>692 likes DECEMBER 25, 2021</p> <p>Add a comment... Post</p>

<p><i>"One of the coldest mornings of my life..."</i></p>	<p>Cp.xl</p>	<p>25.12.21</p>	<div data-bbox="1005 336 1576 1051"> </div> <div data-bbox="1576 336 2045 1051"> <p>cp.xl • Follow London, United Kingdom</p> <p>cp.xl One of the coldest mornings of my life...</p> <p>#urbex #urbexpeople #urbexphotography #urbexworld #urbexplaces #urbexchampions #urbanphotography #urbanrogues #urban #urbandictionary #urbandecay #urbanoutfitter #way2ill #moodygrams #cityscape #rooftop #london</p> <p>324 likes DECEMBER 25, 2021</p> <p>Add a comment...</p> </div>
<p><i>"High up in London – Overlooking Canary Wharf"</i></p>	<p>Luke Badharee</p>	<p>26.12.2021</p>	

Signature.
photoartist



<p><i>"The TERRIFYING jump...OFF THE ROOF"</i></p>	<p>Usamalama</p>	<p>27.12.2021</p>	<p>The TERRIFYING jump... OFF THE ROOF!!! - YouTube</p> 
<p><i>"Free Climbing Stratosphere (120 METERS)"</i></p>	<p>Trikkstar69 Owen Reece</p>	<p>29.12.21</p>	<p>Free Climbing Stratosphere (120 METERS) - YouTube</p> 

<p>"Central london rooftop climb"</p>	<p>Tvjss</p>	<p>04.01.22</p>	<p>Central london rooftop climb - YouTube</p> 
<p>"Breezy"</p>	<p>Cp.xl</p>	<p>05.01.22</p>	  <p>cp.xl • Follow London, United Kingdom</p> <p>cp.xl Breezy🌀</p> <p>#urbex #urbexphotography #urbexworld #urbexexploration #urbexchampions #urbanphotography #urban #urbandecay #urbanrogues #photoshop #computergeneratedimages #citykillerz #cityscape</p> <p>381 likes JANUARY 5</p>

"Keeping the dream
alive"

t.w.visions

07.01.22



"Active Member"

Owen
Reece

07.01.22

Trikkstar69



trikkstar69 • Follow
London, United Kingdom

trikkstar69 Active Member

@cp.xl

1 w

eldialtd Jesus christ

1 w Reply

c.denmon_bw.photo Beautiful shot. That reflection is awesome.

1 w Reply



254 likes

JANUARY 7

Add a comment...

"London Crane Climb"

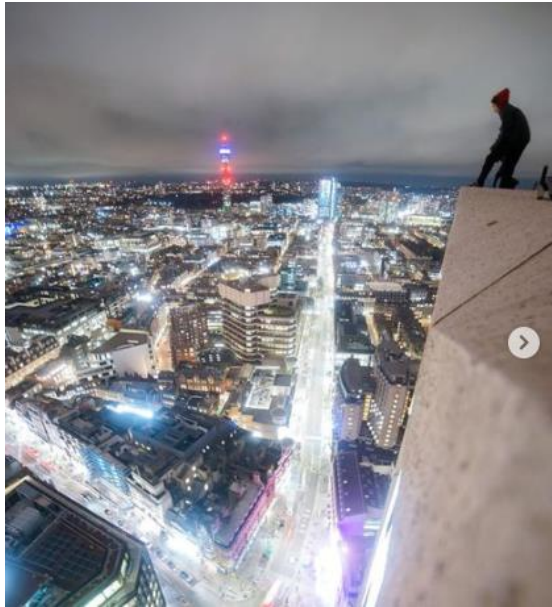





"we are well aware of the risks".


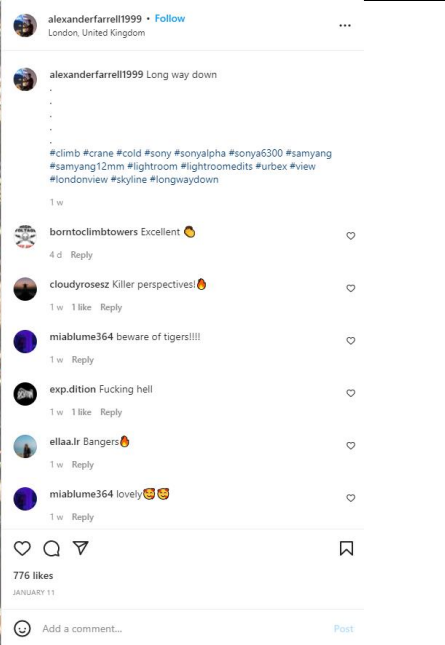

Chasing
MomentZ

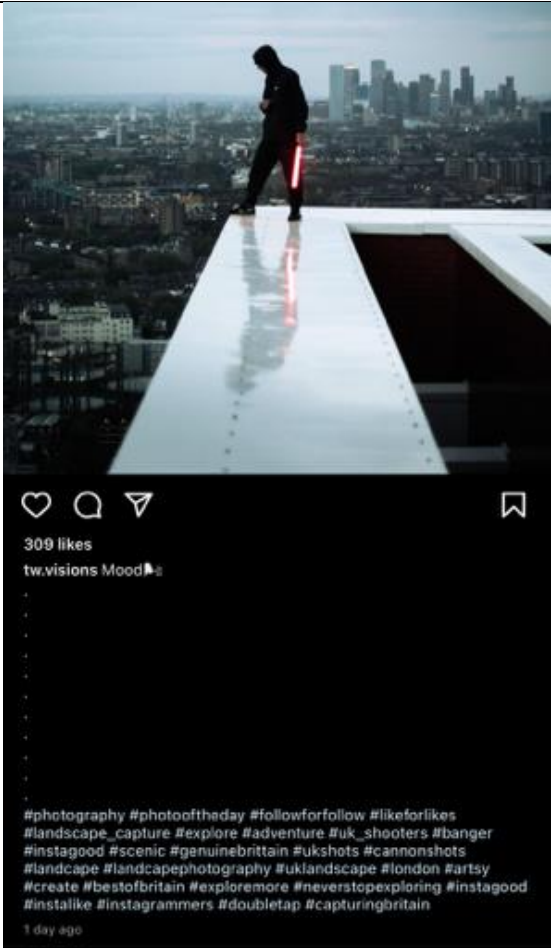
08.01.22

[London Crane Climb - YouTube](#)



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<p><i>"Long way down"</i></p>	<p>Alexander Ferrell</p> <p>Alexanderferrell1999</p>	<p>11.01.22</p>	<div data-bbox="1079 194 1599 842">  </div> <div data-bbox="1599 194 2042 842">  </div>
<p><i>"London Rooftopping 2021"</i></p>	<p>Mxxrgn</p>	<p>16.01.22</p>	<p>London Rooftopping 2021 - YouTube</p> <div data-bbox="1048 879 1986 1366">  </div>

"Moods"	t.w.visions	19.01.22	 <p>Instagram post by tw.visions showing a person standing on a rooftop edge with a city skyline in the background. The post has 309 likes and various hashtags.</p>
28DL Urban Exploration			<p>Discussion forum for Urban Exploration 81,674 members 28DaysLater.co.uk</p>