

Party: Claimant
Witness: SS Wortley
Statement: First
Exhibits: "SSW1" - "SSW7"
Date: 27.04.21

Claim Number:

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

WITNESS STATEMENT OF

STUART SHERBROOKE WORTLEY

I, STUART SHERBROOKE WORTLEY of One Wood Street, London, EC2V 7WS WILL SAY as follows:-

1. I am a partner of Eversheds Sutherland LLP, solicitors for the Claimants.
2. I make this witness statement in support of the Claimants' application for an injunction to prevent the Defendants from trespassing on the 30 Grosvenor Square Construction Site (as defined in the Particulars of Claim).

3. Where the facts referred to in this witness statement are within my own knowledge they are true; where the facts are not within my own knowledge, I believe them to be true and I have provided the source of my information.
4. I have read a copy of the witness statement of Martin Philip Wilshire.
5. In this witness statement, I provide the following evidence:-
 - 5.1 in paragraphs 8-21, some recent videos and photographs of incidents of trespass uploaded to social media by urban explorers at construction sites in London;
 - 5.2 in paragraphs 22-27, information concerning injunctions which my team has obtained in relation to construction sites and the effectiveness of those injunctions to restrain urban exploring;
 - 5.3 in paragraphs 28-41, information about *Quia Timet* injunctions granted in favour of:-
 - 5.3.1 Canary Wharf Group in February 2018 to restrain trespass on various construction sites at Canary Wharf;
 - 5.3.2 Berkeley Group in November 2018 to restrain trespass on the South Quay Plaza Construction Site;
 - 5.3.3 the First Claimant in July 2020 (and subsequently extended) to restrain trespass at the Bankside Yards Construction Site;
 - 5.3.4 Mace Limited in March 2021 to restrain trespass at 40 Leadenhall Street Construction Site;
 - 5.4 in paragraphs 42-45, I set out my conclusions;
 - 5.5 in paragraphs 46-49, I seek the Courts permission to issue proceedings against Persons Unknown and to dispense with service of the Claim Form and Particulars of Claim.

Continuing Urbex Activity – April 2021

6. In paragraphs 35-38 of his witness statement, Mr Wilshire explains the reasons for the Claimants' continuing concerns about the risks associated with urbex.

7. In paragraph 39, Mr Wilshire makes the point that the Claimants cannot know when the next attempt will be made or by whom (given that urban explorers do not advertise which buildings or construction sites they intend to target in advance). Whilst I know of around 5 instances (in 2018 / 2019) when urban explorers disclosed their intention to climb a particular crane / building in advance, that practice stopped completely once urban explorers discovered that their videos and photographs on social media were being monitored by certain security teams and my firm.
8. There is now produced and shown to me marked "**SSW1**", a document prepared by my colleague Collette Howard which includes URL links to videos uploaded to YouTube since September 2020 and photographs uploaded to Instagram since September 2020. This material demonstrates that urban exploring continues to be a serious problem for construction sites (and tall buildings) in London. Each of these videos / photographs evidences an incident of dangerous trespass.
9. These photographs and videos have been uploaded by the following individuals:-
 - Rikke Brewer
 - Alexander Farrell
 - Ben Gittings (aka Beno)
 - James Kingston
 - Harry Davies
 - Owen Kelly (aka Trikkstar)
 - Person Unknown (aka Air Addiction)
 - James Lampard
 - Usama Quaraishi
 - Seany Ho
 - Person Unknown (aka Majestik.sb)
10. Although Air Addiction, James Lampard, Seany Ho and Majestic.sb are new names to me (further demonstrating that an injunction against named Defendants would be of little value), the others are well-known urban explorers against whom my firm has obtained injunctions previously where there has been evidence of actual or threatened trespass by them.
11. Notably, Alex Farrell and Usama Quaraishi were both the subject of committal proceedings after climbing Newfoundland Tower at Canary Wharf in September 2018. Notwithstanding their apology and the assurance which they gave to the Court to the effect that they would "never again" engage in urban exploring (see

paragraph 9 of the Judgment of His Honour Judge Freedman at exhibit “**SSW2**”) their trespasses persist – including in relation to major construction sites. The exhibit “**SSW1**” demonstrates that they continue to upload videos and photographs to their YouTube and Instagram accounts.

12. A significant number of the photographs at “**SSW1**” were taken on construction sites many of them featuring tower cranes which create a dramatic background.
13. To illustrate the particular risks associated with climbing tower cranes on construction sites (by reference to more recent YouTube content) I respectfully request that the Court watches the YouTube videos in the following links:-

James Kingston
South Bank Tower Crane Climb in London – 24 October 2020
<https://www.youtube.com/watch?v=ApViIRYCyhk&t=23s>

Usama Quaraishi
Climbing high above London City – 26 January 2021
The crane section starts at around 6 minutes 30 seconds
<https://www.youtube.com/watch?v=GcIPEBZuuWE>

Expansion
Crane Climb London - 8 March 2021
https://www.youtube.com/watch?v=6X_mL-su8og

14. Of at least equal (arguably greater) concern is the fact that some individuals are known to operate tower cranes.
15. Many of the videos and photographs uploaded to the social media platforms mentioned above show individuals climbing tower cranes and hanging off them – including some of individuals using the jib as “monkey bars”.
16. In August 2020, Ben Gittings (an urban explorer who is known on-line as “Beno”) uploaded to YouTube a video called ‘Daytime crane drive and surf’. In this video, Ben Gittings is climbing a tower crane on an unidentified construction site and operating the controls. The URL for the video is:-
<https://www.youtube.com/watch?v=rF-k1dosHQM&t=154s>
17. I understand that Ben Gittings has uploaded various other similar videos in the past and I have set out below the URLs to these videos:
<https://www.youtube.com/watch?v=8pplmTVp6nk> - ‘Driving Mr Pigeon’s crane’
<https://www.youtube.com/watch?v=1qPW7nREd-0> - ‘Driving a crane but driver’s seat was backwards’

<https://www.youtube.com/watch?v=TzfkL4BRVGQ> – 'Finding a crane to drive'

18. Subject to what I say in the following paragraph, YouTube pays content providers (i.e. those who upload content by reference to the number of 'followers' or 'subscribers' and/or the number of times their content is viewed). Some urban explorers have many hundreds of thousands of followers on social media and some of their videos have been viewed millions of times. For example, before he was made the subject of a Criminal Behaviour Order in December 2018 Ally Law was one of the most prolific posters of videos of urban exploration. As at 30 March 2021, Mr Law's YouTube channel records him as having 3.3 million subscribers. The video on his channel entitled "*ROOFTOP POLICE ESCAPE *Arrested**", which shows him and others scaling the glass roof of Cabot Circus shopping centre and then running from security, before eventually being arrested, has been viewed over 21 million times.
19. Within the last 18 months, YouTube has "demonetised" the accounts of many prominent urban explorers on the basis that their material breaches their content guidelines. In many instances this has prompted urban explorers to upload content to different platforms.
20. Some urban explorers (including Harry Gallagher and Ryan Taylor) have been able to secure sponsorship from brands which wish to target a young audience – typically fashion brands for clothing and shoes.
21. There have always been people who have scaled tall structures for their own amusement. Whereas this was previously a niche activity involving a small number of individuals, it has become a form of entertainment for others. This is causing particular problems and risks. First, it has promoted the activity more widely and encourages others to participate in "copy-cat" acts, with some sites being repeatedly trespassed. Secondly, the desire for exciting and novel footage encourages urban explorers to engage in increasingly dangerous activities, such as footage of people using the horizontal bars on a crane jib as monkey bars, or performing acrobatic stunts on ledges at extreme height.

Effectiveness of Injunctions

22. Within the last 3 years, my team has obtained injunctions to restrain trespass on construction sites on behalf of:-
 - 22.1 Multiplex (as outlined in paragraphs 19-27 of Mr Wilshire's witness statement);

- 22.2 Canary Wharf Contractors (in relation to a major construction site at Southbank Place);
- 22.3 multiple companies at Canary Wharf (including in relation to the construction sites at Newfoundland Tower and on Bank Street);
- 22.4 Berkeley Group (in relation to construction sites at 250 City Road and South Quay Plaza);
- 22.5 Wates, Sisk, McLaren and MacLaleer & Rushe (in relation to 15 construction sites at Wembley Park);
- 22.6 Sir Robert McAlpine Limited in relation to the re-development of Victoria Square in Woking and 3 construction sites in Manchester; and
- 22.7 Mace Limited in relation to a construction site at 40 Leadenhall Street in the City of London.
23. In my opinion and that of the clients on behalf of whom those injunctions have been sought the injunctions have had a material impact in reducing urban exploring activity. Mr Wilshire confirms this as far as Multiplex is concerned in paragraph 27 of his witness statement.
24. In the vast majority of cases, injunctions to restrain trespass by urban explorers are effective to stop trespass. I am aware of 2 exceptions which resulted in applications for contempt of court:-
- 24.1 in September 2018, 5 individuals (including Messrs Farrell and Quaraishi) trespassed on Newfoundland Tower in breach of the Canary Wharf injunction. In my view, this was a deliberate attempt by urban explorers to test the effectiveness of injunctions to restrain trespass. The decision of His Honour Judge Freedman in November 2018 (in particular paragraph 10 where he said that if he would impose a custodial sentence if any of the relevant individuals breached an injunction again) sent a powerful message to the community of urban explorers. Given the terms of this judgment, urban explorers no longer need to test the boundaries of injunctions to restrain trespass. For that reason, in my view, it is unlikely that anyone would do so again. A copy of this judgment is attached at **"SSW2"**;
- 24.2 in July 2019, George King-Thompson climbed The Shard in breach of an injunction which protects that building (the tallest in Western Europe). This

was an exceptional case in which Mr King-Thompson willingly risked imprisonment in the interests of raising his profile. Although he expressed regret about having breached the injunction at the time, at the time of the committal hearing before The Honourable Mr Justice Murray he was seeking to generate publicity for the stunt (see paras 41 iii) and 49 of the judgment at exhibit "**SSW3**"). Mr King-Thompson continues to seek publicity and there is currently a documentary about this incident on the TV channel All4 "*The Boy Who Climbed The Shard*" (along with various other documentaries about urban exploring in London).

25. In my view, neither of the incidents referred to in paragraph 24.1 and 24.2 is likely to be repeated.
26. I agree with paragraph 37 of Mr Wilshire's witness statement in which he says that the urban exploring community understands the difference between a construction site which is not protected by an injunction and one which is a point which has also recorded by an anonymous urban explorer in a Construction News article.
27. In my respectful opinion, the deterrent effect of an injunction to restrain trespass has been greatly assisted by the clarity of the decisions of His Honour Judge Freedman in the Canary Wharf committal hearing in November 2018 and The Honourable Mr Justice Murray in The Shard committal hearing in October 2019.

Quia Timet Injunctions

28. Since 2017, my firm has obtained 36 injunctions to restrain trespass on construction sites and iconic tall buildings.
29. Whilst in the majority of cases, the Claimants have relied upon evidence of trespass (and / or reconnaissance in advance of trespass) at the relevant site, a number of injunctions have been obtained on a *Quia Timet* basis including the following:-
 - 29.1 in the Canary Wharf case, the injunction was granted on the basis of evidence of trespass across the estate generally (including at construction sites on Bank Street). However, the injunction extended to various construction sites (including Newfoundland Tower) despite there being no evidence of prior trespass there;
 - 29.2 in the Berkeley Group case, the injunction was granted on the basis of evidence of trespass at Saffron Tower in Croydon and at 250 City Road in

Islington. However, the injunction was also granted in relation to the South Quay Plaza construction site despite there being no evidence of prior trespass there.

30. A transcript of the Berkeley Group hearing and a copy of the judgment of Heather Williams QC (sitting as a Deputy High Court Judge) in that case given on 11 February 2019 are now produced and shown to me marked **"SSW4"**.

Bankside Yards

31. On 30 July 2020 The Honourable Mr Justice Soole granted an injunction on a *Quia Timet* basis in favour of Multiplex Construction to restrain trespass on its Bankside Yards construction site in a prominent location on the South Bank. This site is an obvious target for urban explorers (in my view creating an imminent risk) given that it includes a number of tower cranes and occupies a prominent location with views across the river to the City. The evidence in paragraph 32.2, 32.3 and 32.5 of Mr Wilshire's witness statement (detailing 1 incident of trespass and 2 incidents of attempted trespass) demonstrates that he was right.
32. A transcript of the Bankside Yards hearing and a copy of the judgment of Mr Justice Soole are attached at **"SSW5"**.
33. After considering the relevant legal principles and the evidence, the learned judge concluded in paragraph 13:-

"... I am satisfied that the Claimants have made out their case for an interim injunction for a period of 6 months expiring 29th January 2021. The evidence overall sufficiently demonstrates a real risk or strong probability of recurrence of such activities in the absence of a continuing order. On the evidence before me, the general enthusiasm for, and for publicising, this activity appears to continue unabated; but the existing restraints in respect of other properties have had their beneficial effect. The grave dangers of this activity are self-evident and threaten not just the participants but also security staff, emergency services and members of the general public. They also involve potential financial damage to the Claimants with their duties of health and safety. Damages are plainly not an adequate remedy, nor is it likely that any participant would be able to meet any award. The cross-undertaking in damages is scarcely of any moment, but can be fully satisfied. The balance of convenience in my judgment is plainly in favour of an interim injunction."

34. In January 2021, my firm applied to extend this injunction. Part of the reason for doing so was that a number of local authorities are currently challenging the

Canada Goose decision. The Honourable Mr Justice Nicklin heard those applications on 27 and 28 January 2021.

35. On 26 January 2021, the Honourable Mr Justice Bourne extended the injunction until 9 March 2021 (or further order) on the basis that it was expected that Mr Justice Nicklin would deliver his decision in the local authorities case within around 4 weeks.
36. On 4 March 2021, the Honourable Mr Justice Stewart further extended the injunction until 19 May 2021 (or further order) on the basis that Mr Justice Nicklin had not yet delivered judgment in the local authorities case.
37. I strongly suspect that but for the grant of the Bankside Yards injunction there would have been many more incidents of actual or threatened trespass.

Leadenhall Street

38. On 16 March 2021, The Honourable Mrs Justice Stacey granted an injunction on a *Quia Timet* basis in favour of Mace Limited to restrain trespass on its construction site at 40 Leadenhall Street in the City of London until 19 October 2021. This site is another obvious target for urban explorers (creating an imminent risk) given that it includes a number of tower cranes and occupies a prominent location in the City of London.
39. My team acted for Mace in seeking this injunction. The witness statement in support of this application was provided by Andrew Brown (Group Director of Health, Safety and Well-being. Paragraph 32 of Mr Brown's witness statement recorded incidents of trespass at other Mace construction sites (but none at the 40 Leadenhall Street site).
40. A copy of Mrs Justice Stacey's judgment is attached at "**SSW6**".

Conclusion

41. As Mr Wilshire says in paragraph 38 of his witness statement, the Claimants' directors gave careful consideration to the position before deciding to apply for this injunction.
42. I agree with Mr Wilshire's comment in paragraph 39 of his witness statement to the effect that when urban explorers decide to target a construction site, they do not advertise the fact (a point also noted in paragraph 7 above).

43. Having regard to the facts referred to above, the risk of trespass exists now and the Claimants' primary concern is to avoid a tragic accident as noted in paragraph 35.1 of Mr Wilshire's witness statement. Accidents of this sort can and do happen. I refer to the Evening Standard articles at "**SSW7**" concerning the tragic deaths of Sam Clarke and Johnny Turner on construction sites.
44. In my respectful submission, the evidence above (together with the evidence recorded in Mr Wilshire's witness statement) demonstrates that:-
- 44.1 unless an injunction to restrain trespass is granted, the 30 Grosvenor Square Construction Site (in particular the tower cranes) is very likely to be targeted by urban explorers which creates serious health and safety risks;
- and conversely
- 44.2 if an injunction to restrain trespass is granted, the threat of trespass by urban explorers at 30 Grosvenor Square Construction (and the associated health and safety risks) will be significantly reduced.

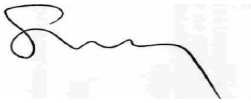
Permission to issue without a named defendant and to dispense with service

45. Given the unusual nature of the proceedings which do not include any named defendants, I respectfully request the Court's permission to:-
- 45.1 issue the Claim Form against Persons Unknown pursuant to CPR Part 8.2A;
- 45.2 dispense with the need for personal service of the Claim Form pursuant to CPR Part 16.6;
- 45.3 serve the proceedings by alternative means pursuant to CPR Part 6.15 by posting warning notices around the 30 Grosvenor Square Construction Site referring to the fact that the relevant Court papers can be found on website and copies obtained from the site office.
46. If an injunction is granted, the procedure which the First Claimant has adopted previously (and which we propose to adopt in this case), is:-
- 46.1 to upload a complete copy of the injunction to a Multiplex website; and
- 46.2 to post copies of a warning notice around the perimeter of the 30 Grosvenor Square Construction Site informing people of the existence and nature of the

injunction; the potential consequences of breaching it; an address at which copies of the proceedings can be sought; and the web address at which the injunction can be viewed.

47. I attach to this statement a suggested form of notice marked "**SSW8**".

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



Stuart Sherbrooke Wortley

27 April 2021

Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants


"SSW1"



This is the exhibit marked "SSW1" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021

Urbex Activity since 21 September 2020


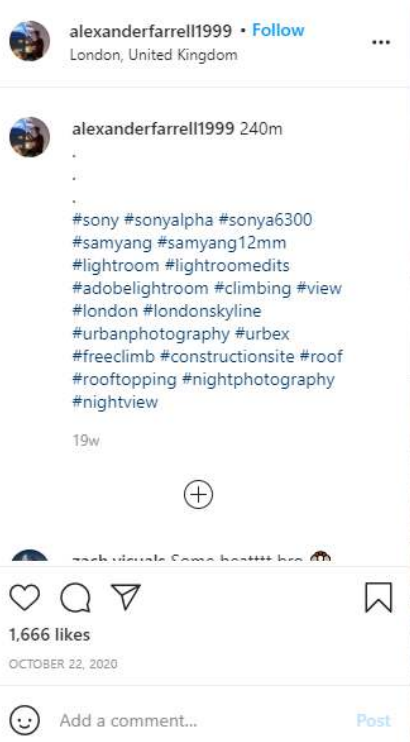
Last updated 19/04/2021

LONDON

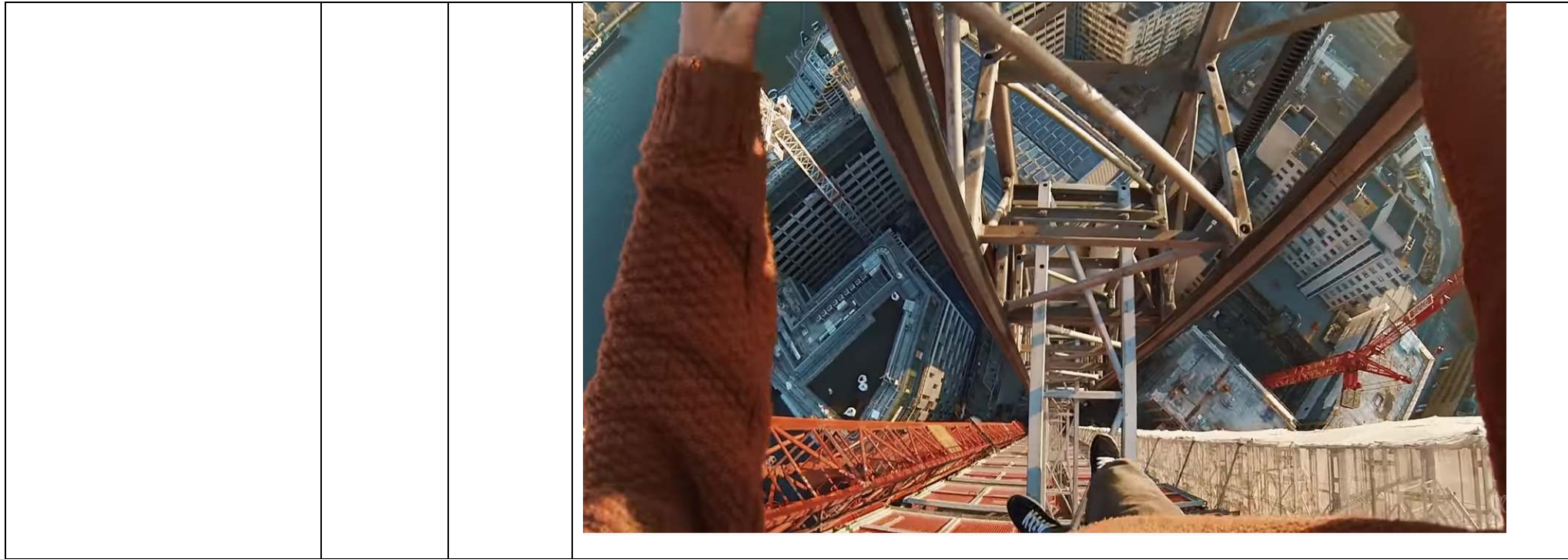
<u>Video/Photo</u>	<u>Account</u>	<u>Date Uploaded</u>	<u>URL Link / Image</u>
"Sneaking into the worlds most guarded construction site"	Rikke Brewer	21 September 2020	https://www.youtube.com/watch?v=1WQ9mXMEz4 


"Reflections"	Alexander Farrell	8 October 2020	 
"Driving a crane but driver's seat was backwards"	Beno	10 October 2020	https://www.youtube.com/watch?v=1qPW7nREd-0&t=209s (Location unknown)




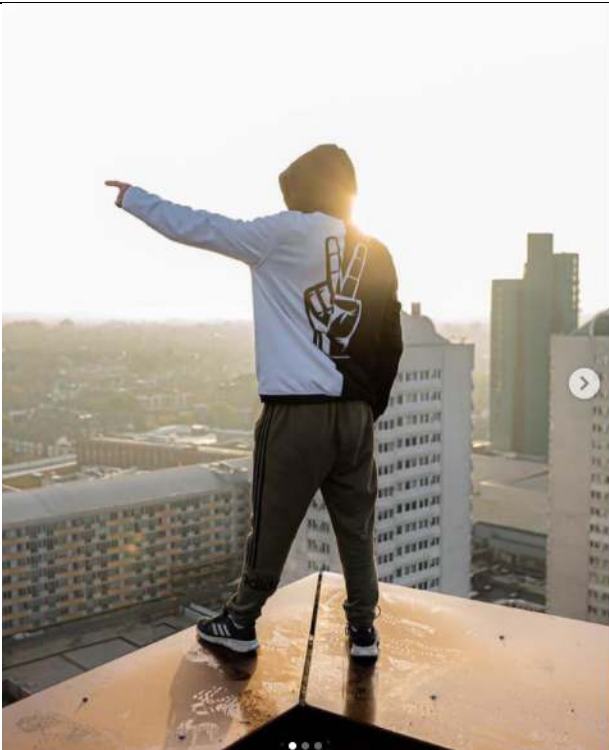










"240m"	Alexander Farrell	22 October 2020	 
"South Bank Tower Crane Climb in London *RAW*"	James Kingston	24 October 2020	https://www.youtube.com/watch?v=ApVilRYCyhk&t=23s










			
"This thing was so WOBBLY!"	James Kingston	27 October 2020	https://www.youtube.com/watch?v=0_c0pQZRvFY













"Live Yours"	Harry Davies Ldn	5 November 2020	 <p>harrydaviestdn • Follow London, United Kingdom</p> <p>harrydaviestdn Live Yours 🌍</p> <p>In Frame: @trikkstar69</p> <p>#rooftop #thisislondon #igroofs #igdaily #visualart #visualsoflife #visualambassadors #heatercentral #citygrammers #visualgrams #citylife #cityscape #streetmobs #visualmobs #lensdistortions #lensbible #way2ill #sonyalpha</p> <p>328 likes</p> <p>NOVEMBER 5, 2020</p> <p>Add a comment... Post</p>
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<p>"Foggy nights with the boys"</p>	<p>Harry Davies Ldn</p>	<p>10 November 2020</p>	 <div data-bbox="1601 188 2204 1024"> <p>harrydaviestdn • Follow London, United Kingdom</p> <p>harrydaviestdn Foggy nights with the boys 🌃</p> <p>In Frame: @james.lampard</p> <p>#visualambassadors #sonyalpha #chasingrooftops #igroofs #igdailview #igdaily #way2ill #milliondollarvisuals #lensculture #lensbible #lensdistortions #heatercentral #shoot2kill #beautifuldestinations #fog</p> <p>352 likes</p> <p>NOVEMBER 10, 2020</p> <p>Add a comment... Post</p> </div>
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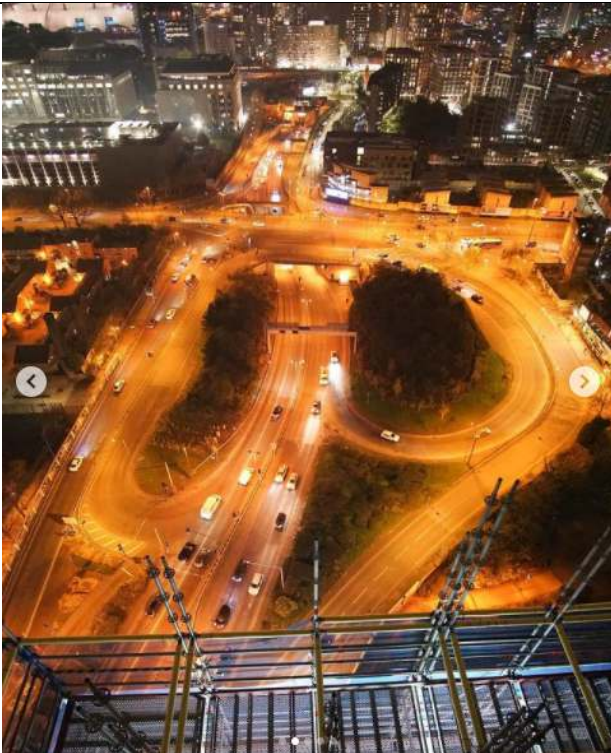








"Peace out"	Trikk Star	14 November 2020	 <div> <div>  <div> <div>trikkstar69 • Follow</div> <div>London, United Kingdom</div> </div> </div> <div> <div>  <div> <div>trikkstar69 Peace out 🕊️</div> <div>📷: @harrydavesldn</div> <div>Hoodie from: @freshhoods_official</div> <div>16w</div> </div> </div> <div> <div>  <div> <div>over.bex It's fresh hood 🤔</div> <div>16w 1 like Reply</div> </div> </div> <div> <div>  <div> <div>over.bex 🔥</div> <div>16w Reply</div> </div> </div> <div> <div>  <div> <div>harrydavesldn Freshy</div> <div>16w Reply</div> </div> </div> </div> <div> <div>     </div> <div> <div>305 likes</div> <div>NOVEMBER 14, 2020</div> </div> <div> <div>  <div>Add a comment...</div> </div> <div>Post</div> </div> </div> </div></div></div></div>
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<p>"Quick few pull-ups..."</p>	<p>Air Addiction</p>	<p>23 November 2020</p>	<div data-bbox="936 188 1424 1072">  </div> <div data-bbox="1424 188 2204 1072"> <div data-bbox="1433 207 1904 279">  air.addiction • Follow Original Audio </div> <div data-bbox="1433 295 1904 686"> <p>air.addiction Quick few pull-ups... @messy.london - garms</p> <p>• • •</p> <p>#urbex #rooftop #climbing #parkour #freerunning #flips #pullups #calisthenics #workout #london @bulldoggear @trikkstar69 @majestik.sb @nicoleanika_ @harrydaviessdn @mal</p> <p>15w</p> </div> <div data-bbox="1433 702 1904 853">  gemma_hewitt22 @gemma_hewitt22 </div> <div data-bbox="1433 861 1904 981"> <p>559 likes</p> <p>NOVEMBER 23, 2020</p> </div> <div data-bbox="1433 997 1904 1061"> <p>Add a comment...</p> <p>Post</p> </div> </div>
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<p>"Sunset and a backflip... pretty much all your gonna see on my page"</p>	<p>Air Addiction</p>	<p>24 November 2020</p>	<div data-bbox="936 188 1444 1061">  </div> <div data-bbox="1444 188 2213 1061"> <div data-bbox="1467 215 1915 279">  air.addiction • Follow Original Audio </div> <div data-bbox="1467 327 1915 582"> <p>air.addiction Sunset and a backflip ... pretty much all your gonna see on my page 😊</p> <p>•</p> <p>•</p> <p>🗨️ - @trikkstar69 #bacflip #sunset #fips #rooftop #parkour #urbex #photography #london #stratfor</p> <p>15w</p> <p>spainjake Part of me is waiting for the day one of y'all slip ❤️</p> <p>15w 2 likes Reply</p> <p>albycipriano Canning town! 🔥 ❤️</p> <p>15w 1 like Reply</p> <div data-bbox="1467 885 1915 933">     </div> <p>399 likes</p> <p>NOVEMBER 24, 2020</p> <div data-bbox="1467 1037 1915 1061">  Add a comment </div> </div> </div>
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<p>"Few captures from recently!"</p>	<p>James Lampard</p>	<p>1 December 2020</p>	<div>  </div> <div> <div>  <div> <div>james.lampard • Follow</div> <div>London, United Kingdom</div> </div> </div> <div> <div>  <div> <div>james.lampard</div> <div>Few captures from recently!</div> </div> </div> <div> <div>14w</div> </div> </div> <div> <div>  <div> <div>fin_g</div> <div>Bangers 🔥🔥</div> </div> </div> <div> <div>14w</div> <div>1 like</div> </div> <div> <div>View replies (1)</div> </div> </div> <div> <div>  <div> <div>tommielong_</div> <div>🔥🔥</div> </div> </div> <div> <div>14w</div> <div>1 like</div> </div> <div> <div>View replies (1)</div> </div> </div> <div> <div>  <div> <div>dylznn_</div> <div>Banga's 🔥</div> </div> </div> <div> <div>14w</div> <div>1 like</div> </div> </div> <div> <div>    </div> <div> <div>132 likes</div> <div>DECEMBER 1, 2020</div> </div> <div> <div>Comments on this post have been limited.</div> </div> </div> </div>
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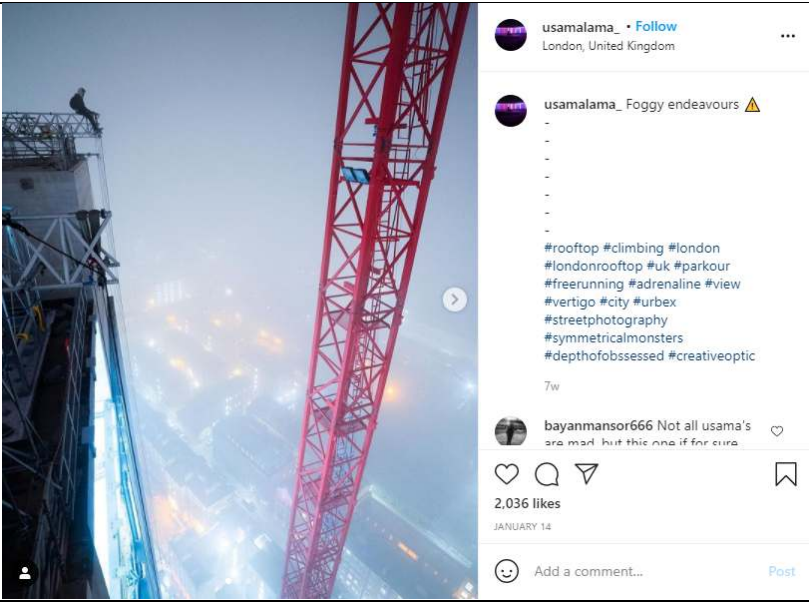
"Weekend Motives..."	Trikk Star	8 December 2020	 <div> <p>trikkstar69 • Follow London, United Kingdom</p> <p>trikkstar69 Weekend Motives... 📷: @harrydavesldn 13w</p> <p>natashha_nicole BADBOI 🔥 13w 1 like Reply</p> <p>wdk3.12 fire dawg 13w 1 like Reply</p> <p>menace.2.societyy Yes my chavvy 13w 1 like Reply</p> <p>328 likes DECEMBER 8, 2020</p> <p>Add a comment... Post</p> </div>
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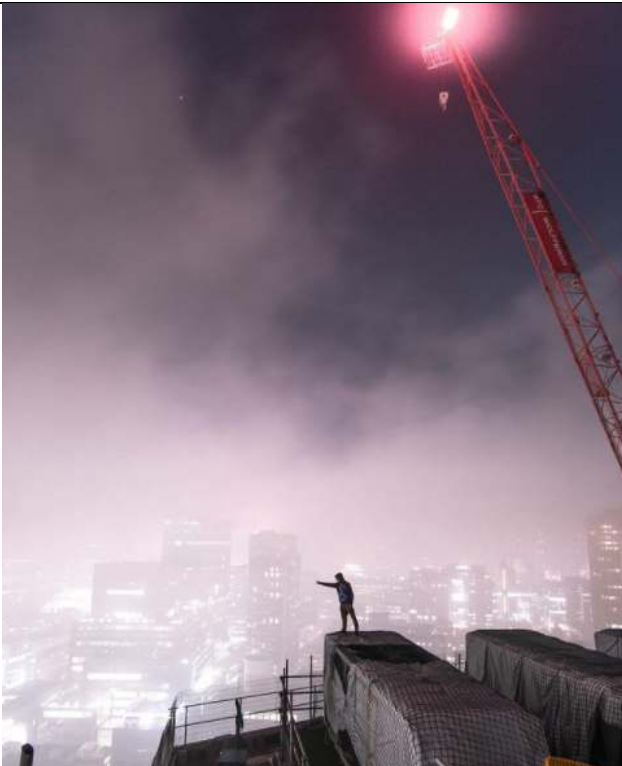














"Foggy London Nights"	Trikk Star	10 December 2020	 <div> <div>  <div> <div>trikkstar69 • Follow</div> <div>London, United Kingdom</div> </div> </div> <div>  <div> <div>trikkstar69 Foggy London Nights 📷</div> <div>📍: @harrydaviestdn</div> </div> </div> <div> <div>12w</div> </div> <div> <div>  <div>gl1pgl0p Mad 🤔</div> </div> <div> <div>12w</div> <div>Reply</div> </div> </div> <div> <div>  <div>wdk3.12 vibinnn</div> </div> <div> <div>12w</div> <div>Reply</div> </div> </div> <div> <div>  <div>krisitay Is that trikkstarrrrrr</div> </div> <div> <div>12w</div> <div>Reply</div> </div> </div> <div> <div>  <div>kylecrick_ Mad bro ❤️👊</div> </div> <div> <div>12w</div> <div>Reply</div> </div> </div> <div> <div>    </div> <div>290 likes</div> <div>DECEMBER 10, 2020</div> <div>  <div>Add a comment...</div> <div>Post</div> </div> </div> </div>
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"Winter nights"	Trikk Star	31 December 2020	 <p>trikkstar69 • Follow London, United Kingdom</p> <p>trikkstar69 Winter nights 📷: @seany.ho 9w</p> <p>paddy_cob 🤔🤔🤔 9w Reply</p> <p>paddy_cob Stunning photo 9w Reply</p> <p>_trekz fuckk🔥 9w Reply</p> <p>_liam_pk Smol 9w Reply</p> <p>245 likes DECEMBER 31, 2020</p> <p>Add a comment... Post</p>
"I found a SLEEPING Crane Driver while CLIMBING!!"	James Kingston	3 January 2021	https://www.youtube.com/watch?v=kWDiFLEjse8 (Location unknown)


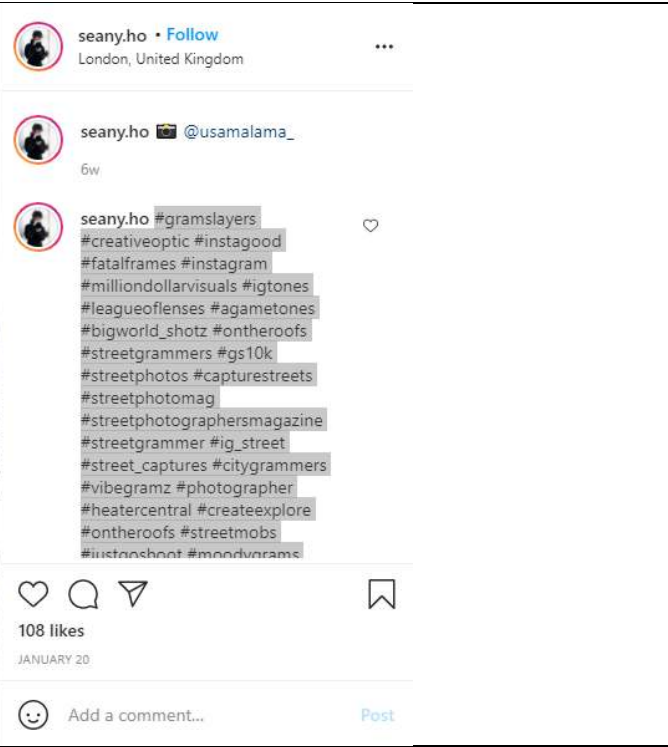


<p>"Just regular shit in Canning Town"</p>	<p>Trikk Star</p>	<p>6 January 2021</p>	 <div data-bbox="1568 188 2213 979"> <p> trikkstar69 • Follow London, United Kingdom</p> <hr/> <p> trikkstar69 Just regular shit in Canning Town : @harrydavesldn</p> <p>8w</p> <p> jxst_charzaaxospamm banger🔥 </p> <p>8w Reply</p> <p> tw.visions 🔥 </p> <p>8w Reply</p> <p> christine.xk Activee hehe </p> <p>8w Reply</p> <p> soeslife Good stuff bro </p> <hr/> <p>   </p> <p>380 likes</p> <p>JANUARY 6</p> <hr/> <p> Add a comment... Post</p> </div>
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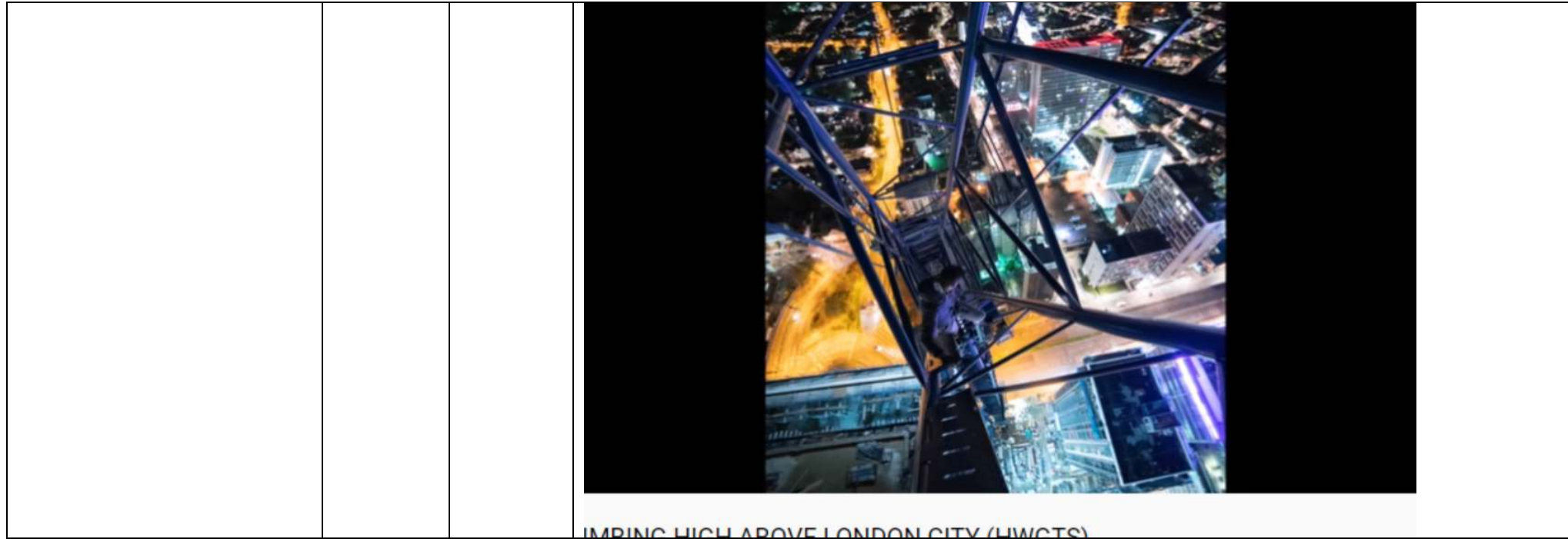
"Foggy endeavours"	Usama Lama	14 January 2021	 <p>usamalama_ • Follow London, United Kingdom</p> <p>usamalama_ Foggy endeavours ⚠</p> <p>#rooftop #climbing #london #londonrooftop #uk #parkour #freerunning #adrenaline #view #vertigo #city #urbex #streetphotography #symmetricalmonsters #depthofbobsessed #creativeoptic</p> <p>7w</p> <p>bayanmansor666 Not all usama's are mad, but this one is for sure</p> <p>2,036 likes JANUARY 14</p> <p>Add a comment... Post</p>
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<p>"Our nights out are a lot different to an average persons night out..."</p>	<p>Trikk Star</p>	<p>14 January 2021</p>	<div data-bbox="936 188 1556 962">  </div> <div data-bbox="1556 188 1989 962"> <div data-bbox="1570 204 1989 279">  <div data-bbox="1630 209 1816 258"> <p>trikkstar69 • Follow</p> <p>London, United Kingdom</p> </div> <div data-bbox="1944 225 1989 240">...</div> </div> <div data-bbox="1570 304 1989 384">  <div data-bbox="1630 309 1989 384"> <p>trikkstar69 Our night outs are a lot different to an average persons night out....</p> </div> </div> <div data-bbox="1630 405 1859 469"> <p>: @alexanderfarrell1999</p> <p>7w</p> </div> <div data-bbox="1570 491 1989 587"> <div data-bbox="1570 491 1624 550">  </div> <div data-bbox="1630 496 1960 587"> <p>valuedesire_ Some Movie Shittt  </p> <p>6w Reply</p> </div> </div> <div data-bbox="1570 608 1989 683"> <div data-bbox="1570 608 1624 667">  </div> <div data-bbox="1630 612 1960 683"> <p>rftp.png Damnnn  </p> <p>5w Reply</p> </div> </div> <div data-bbox="1570 783 1989 890"> <div data-bbox="1570 783 1713 826">    </div> <div data-bbox="1570 831 1653 858"> <p>259 likes</p> </div> <div data-bbox="1570 863 1653 890"> <p>JANUARY 14</p> </div> <div data-bbox="1937 783 1989 826">  </div> </div> <div data-bbox="1570 911 1989 954"> <p> Add a comment... Post</p> </div> </div>
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"Icy"	Majestik.sb	16 January 2021	 <div> <div>  <div> <div>majestik.sb • Follow</div> <div>London, United Kingdom</div> </div> </div> <div>  <div> <div>majestik.sb Icy❄️</div> <div>  @usamalama_ </div> </div> </div> <div> <div>#london #londonphotographer #photography #drone #travelphotography #portraitphotography #pakwheels #carsofpakistan #londonlife #ukshooters #uk #urbex #urbanphotography #travel #sony #ziess</div> <div>7w</div> <div>  <div> <div>night.raider7 Beautiful 🥰🥰🥰</div> <div>  </div> </div> </div> <div> <div>     </div> <div>142 likes</div> <div>JANUARY 16</div> <div>  Add a comment... <div>Post</div> </div> </div> </div></div>
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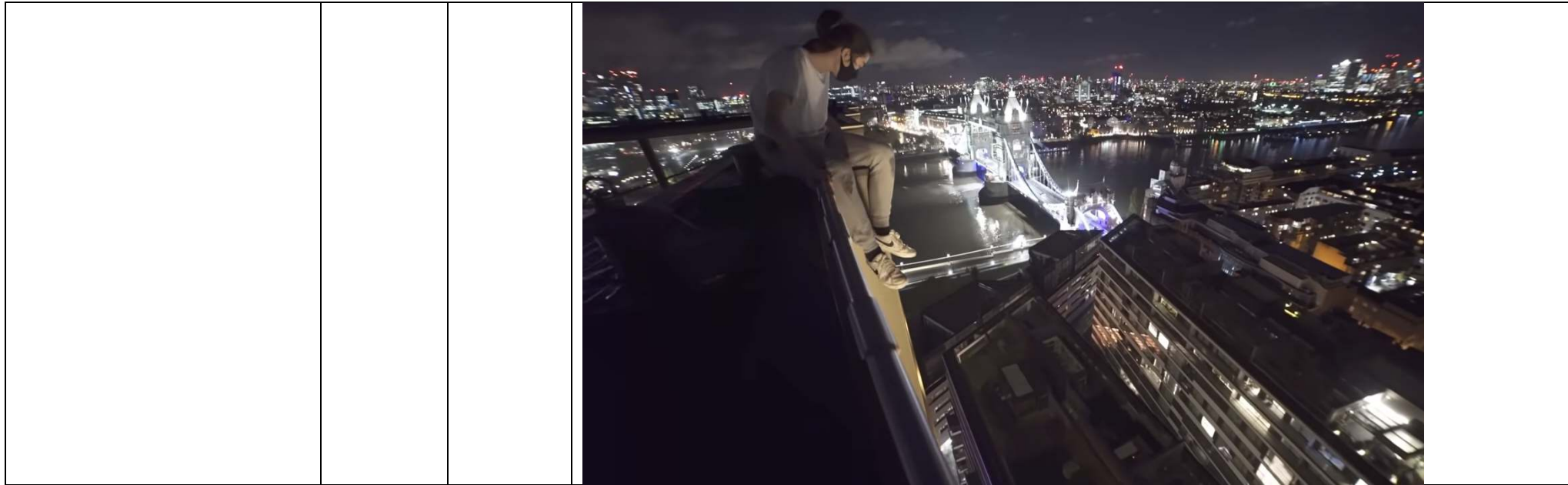
<p> "#gramslayers #creativeoptic #instagood #fatalframes #instagram #milliondollarvisuals #igtones #leagueoflenses #agametones #bigworld_shotz #ontheroofs #streetgrammers #gs10k #streetphotos #capturestreets #streetphotomag #streetphotographersmagazine #streetgrammer #ig_street #street_captures #citygrammers #vibegramz #photographer #heatercentral #createexplore #ontheroofs #streetmobs #justgoshoot #moodygrams #depthobsessed" </p>	Seany Ho	20 January 2021	 
<p>"CLIMBING HIGH ABOVE LONDON CITY (HWGTS)"</p>	Usama Lama	26 January 2021 (crane climb starts at 6:44)	https://www.youtube.com/watch?v=GcIPEBZuuWE
















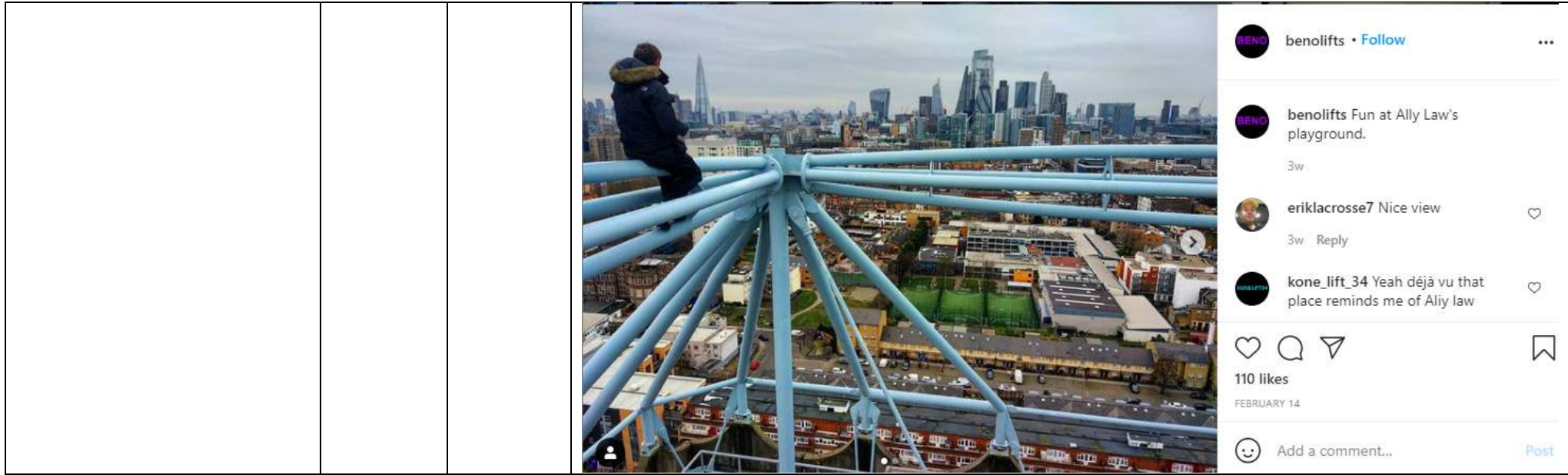
IMBING HIGH ABOVE LONDON CITY (LWCTS)



<p>"#gramslayers #creativeoptic #instagood #fatalframes #instagram #milliondollarvisuals #igtones #leagueoflenses #agametones #bigworld_shotz #ontheroofs #streetgrammers #gs10k #streetphotos #capturestreets #streetphotomag #streetphotographersmagazine #streetgrammer #ig_street #street_captures #citygrammers #vibegramz #photographer #heatercentral #createexplore #ontheroofs #streetmobs #justgoshoot #moodygrams #depthobsessed"</p>	Seany Ho	31 January 2021	 <p>seany.ho • Follow London, United Kingdom</p> <p>seany.ho #gramslayers #creativeoptic #instagood #fatalframes #instagram #milliondollarvisuals #igtones #leagueoflenses #agametones #bigworld_shotz #ontheroofs #streetgrammers #gs10k #streetphotos #capturestreets #streetphotomag #streetphotographersmagazine #streetgrammer #ig_street #street_captures #citygrammers #vibegramz #photographer #heatercentral #createexplore #ontheroofs #streetmobs #justgoshoot #moodygrams #depthobsessed</p> <p>5w Reply</p> <p>108 likes JANUARY 31</p> <p>Add a comment... Post</p>
"ABOVE TOWER BRIDGE (HWGTS)"	Usama Lama	2 February 2021	https://www.youtube.com/watch?app=desktop&v=ZrI2XD3Ri4I&t=191s











<p><i>"the eye is not blind but its their hearts"</i></p>	<p>Majestik.sb</p>	<p>11 February 2021</p>	 <div data-bbox="1601 186 2213 1015"> <div>  <div> <div>majestik.sb • Follow</div> <div>London</div> </div> </div> <div> <div>  <div> <div>majestik.sb the eye is not blind but its their hearts.</div> <div>  @alexanderfarrell1999 </div> </div> </div> <div> <div>#photography #drone</div> <div>#travelphotography</div> <div>#rooftopphotography #pakwheels</div> <div>#carsofpakistan #islamabad</div> <div>#carphotography #sony #sonyalpha</div> <div>#city #citylife #view #dubai #travel</div> </div> <div>3w</div> <div> <div>  <div> <div>james.lampard Cmon bro hard shot🔥</div> </div> </div> <div>3w 1 like Reply</div> </div> <div> <div>    </div> <div>139 likes</div> <div>FEBRUARY 11</div> <div>  Add a comment... <div>Post</div> </div> </div> </div> </div>
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"Fun in London"	Beno	14 February 2021	 <p>Instagram post by benolifts. The image shows a person standing on a rooftop with a city skyline in the background. The post has 99 likes and was posted on February 14.</p> <p>Comments:</p> <ul style="list-style-type: none"> jaydenlai507 cool yanstheman201_ Imagine sliding down the gherkin 🤔🤔
"Fun at Ally Law's playground"	Beno	14 February 2021	 <p>Instagram post by benolifts. The image shows a person sitting on a blue metal structure with a city skyline in the background. The post has 110 likes and was posted on February 14.</p> <p>Comments:</p> <ul style="list-style-type: none"> eriklacrosse7 Nice view kone_lift_34 Yeah déjà vu that place reminds me of Aliy law












"Canary Wharf"	Alexander Farrell	17 February 2021	 
"CRANE CLIMB LONDON"	Expansion	8 March 2021	https://www.youtube.com/watch?v=6X_mL-su8og














<p>"Daily covid exercise"</p>	<p>Usama Lama</p>	<p>15 March 2021</p>	<div data-bbox="936 193 1456 1093"> </div> <div data-bbox="1456 193 1955 1093"> <div data-bbox="1473 215 1955 279">  usamalama_ • Follow Original Audio ... </div> <div data-bbox="1473 327 1955 534">  usamalama_ Daily covid exercise 🧑‍🦺 <p>-</p> <p>-</p> <p>-</p> <p>-</p> <p>-</p> </div> <div data-bbox="1556 550 1848 614"> <p>#rooftop #explore #climbing #carefree #london #thrill</p> </div> <div data-bbox="1556 630 1601 662"> <p>4w</p> </div> <div data-bbox="1473 694 1955 853">  mymumwasahippie Fuckkk ! <p>Watching you sitting there half side gave me so much anxiety bro 🤪</p> <p>4w 12 likes Reply</p> </div> <div data-bbox="1473 901 1955 1029"> <div>     </div> <p>1,829 likes</p> <p>MARCH 15</p> </div> <div data-bbox="1473 1045 1955 1093">  Add a comment... Post </div> </div>
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<p>"Early morning rooftop before workers roll through"</p>	<p>Trikk Star</p>	<p>29 March 2021</p>	 <div data-bbox="1590 193 2190 997"> <div>  <div> <div>trikkstar69 • Follow</div> <div>London, United Kingdom</div> </div> </div> <div>  <div> <div>trikkstar69</div> <div>Early morning rooftop before workers roll through</div> <div>  @seany.ho </div> <div> #london #roof #rooftop #urbex #trespass #breakfasttime #dowhatwewant #view #heights #dontfall #weekend </div> <div>2w</div> </div> <div>  <div> <div>roofing_official</div> <div>Hols Moly that is a good one</div> <div>2w Reply</div> </div> </div> <div>  <div> <div>rftp.png</div> <div>Nice one 🔥🔥</div> <div>2w Reply</div> </div> </div> <div> <div>    </div> <div>315 likes</div> <div>MARCH 29</div> <div>  <div>Add a comment...</div> <div>Post</div> </div> </div> </div> </div>
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<p>"It's rooftop season"</p>	<p>Trikk Star</p>	<p>30 March 2021</p>	 <p>trikkstar69 • Follow</p> <p>trikkstar69 It's rooftop season 🏠 📍: @seany.ho</p> <p>2w</p> <p>paddy_cob Wicked photo x 2w Reply</p> <p>killy6summers 🍌🍌🍌 2w Reply</p> <p>arronwatling Yesss🍌🍌 good things are coming🙏 2w Reply</p> <p>riga.rooftops 🙌</p> <p>300 likes MARCH 30</p> <p>Add a comment... Post</p>
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<p>"Chilling up in Barbican"</p>	<p>Trikk Star</p>	<p>1 April 2021</p>	<div data-bbox="936 188 1597 1005">  </div> <div data-bbox="1597 188 2204 1005"> <div data-bbox="1597 188 2204 284">  trikkstar69 • Follow ... </div> <div data-bbox="1597 284 2204 810"> <p> trikkstar69 Chilling up in Barbican...</p> <p>: @ayzsnap</p> <p>2w</p> <div data-bbox="1597 459 2204 810"> <div data-bbox="1597 459 2204 539">  itz_hope_check 🍌🍌🍌 ♡ 2w Reply </div> <div data-bbox="1597 555 2204 635">  kryphoe 🔥🔥🔥 ♡ 2w Reply </div> <div data-bbox="1597 651 2204 730">  ph.otographer480 🔥🔥 ♡ 2w Reply </div> <div data-bbox="1597 746 2204 810">  sandy_a0903 Epic 🙌 ♡ </div> </div> </div> <div data-bbox="1597 810 2204 938"> <div data-bbox="1597 810 2204 874"> ♡ 💬 📌 🔖 </div> <p>340 likes</p> <p>APRIL 1</p> </div> <div data-bbox="1597 938 2204 1005"> <div data-bbox="1597 938 2204 1005"> 😊 Add a comment... Post </div> </div> </div>
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<p>"Could've been in cells instead we're dashing out da fire exit"</p>	<p>Trikk Star</p>	<p>2 April 2021</p>	<div data-bbox="936 188 1608 1018">  </div> <div data-bbox="1608 188 2190 1018"> <div data-bbox="1630 212 2078 284">  <div> <p>trikkstar69 • Follow</p> <p>London, United Kingdom</p> </div> </div> <div data-bbox="1630 323 2078 379">  <p>trikkstar69 Could've been in cells instead we're dashing out da fire exit</p> </div> <div data-bbox="1709 403 1843 427"> <p>📷: @seany.ho</p> </div> <div data-bbox="1709 451 1731 467"> <p>2w</p> </div> <div data-bbox="1641 499 2056 555">  <p>somewhereinheath Not 4 the faint hearted.....</p> </div> <div data-bbox="1709 579 1843 595"> <p>2w 1 like Reply</p> </div> <div data-bbox="1641 627 2056 683">  <p>sandy_a0903 🤔</p> </div> <div data-bbox="1709 707 1798 722"> <p>2w Reply</p> </div> <div data-bbox="1641 754 2056 810">  <p>riga.rooftops 🏠</p> </div> <div data-bbox="1709 834 1798 850"> <p>2w Reply</p> </div> <div data-bbox="1641 850 2078 890"> <div>    </div> <div> <p>387 likes</p> <p>APRIL 2</p> </div> </div> <div data-bbox="1641 986 2078 1018"> <div>  <p>Add a comment...</p> </div> <div> <p>Post</p> </div> </div> </div>
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"Council block chimney"	Trikk Star	4 April 2021	 <div> <div>  <div> <div>trikkstar69 • Follow</div> <div>London, United Kingdom</div> </div> </div> <div>  <div> <div>trikkstar69 Council block chimney</div> <div>  @seany.ho Beanie: @xplorersknow </div> </div> </div> <div> <div>2w</div> <div>  <div> <div>rk_fit_fitness38 LOVE IT DM us</div> <div>@ig_fit_model_</div> </div> </div> <div> <div>2w</div> <div>Reply</div> </div> <div>  <div> <div>riga.rooftops</div> </div> <div> <div>2w</div> <div>Reply</div> </div> <div>  <div> <div>daprialwolf Stick of weed up there</div> </div> <div> <div>2w</div> <div>Reply</div> </div> </div> <div> <div>    </div> <div>389 likes</div> <div>APRIL 4</div> <div>  Add a comment... <div>Post</div> </div> </div> </div></div></div>
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<p>"Mans just about tbh"</p>	<p>Trikk Star</p>	<p>5 April 2021</p>	<div data-bbox="936 188 1626 1048">  </div> <div data-bbox="1626 188 2204 1048"> <div data-bbox="1641 212 2094 272">  <div data-bbox="1715 212 2094 272"> <p>trikkstar69 • Follow</p> <p>London, United Kingdom</p> </div> </div> <div data-bbox="1641 320 2094 424">  <div data-bbox="1715 320 2094 424"> <p>trikkstar69 Mans just about tbh</p> <p>📷: @seany.ho</p> <p>1w</p> </div> </div> <div data-bbox="1641 456 2094 528">  <div data-bbox="1715 456 2094 528"> <p>kryphoe Fresh asf🔥</p> <p>1w Reply</p> </div> </div> <div data-bbox="1641 560 2094 632">  <div data-bbox="1715 560 2094 632"> <p>stream102_ Love ya trainers!😁</p> <p>1w Reply</p> </div> </div> <div data-bbox="1641 663 2094 735">  <div data-bbox="1715 663 2094 735"> <p>x_isaac your contents🔥🔥🔥</p> <p>1w Reply</p> </div> </div> <div data-bbox="1641 767 2094 839">  <div data-bbox="1715 767 2094 839"> <p>olivialondonx Oh shit🤔🤔</p> <p>1w Reply</p> </div> </div> <div data-bbox="1641 863 2094 903"> <div data-bbox="1641 863 2094 903">     </div> </div> <div data-bbox="1641 911 2094 935"> <p>286 likes</p> </div> <div data-bbox="1641 943 2094 967"> <p>APRIL 5</p> </div> <div data-bbox="1641 999 2094 1038"> <div data-bbox="1641 999 2094 1038">  <p>Add a comment...</p> </div> <div data-bbox="2049 1007 2094 1031"> <p>Post</p> </div> </div> </div>
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<p>"Local roofs"</p>	<p>Trikk Star</p>	<p>6 April 2021</p>	<div data-bbox="936 188 1565 975">  </div> <div data-bbox="1568 188 2210 975"> <div data-bbox="1579 212 1989 268">  <div data-bbox="1646 212 1832 268"> <p>trikkstar69 • Follow</p> <p>London, United Kingdom</p> </div> <div data-bbox="1960 228 1989 244">...</div> </div> <div data-bbox="1579 308 1989 427">  <div data-bbox="1646 308 1841 339"> <p>trikkstar69 Local roofs</p> </div> <div data-bbox="1646 363 1780 387"> <p>📷: @seany.ho</p> </div> <div data-bbox="1646 403 1680 427"> <p>1w</p> </div> </div> <div data-bbox="1579 451 1989 587">  <div data-bbox="1646 451 1915 507"> <p>paddy_cob That's pioneer point 📍near Sainsbury's</p> </div> <div data-bbox="1937 459 1989 483">  </div> <div data-bbox="1646 515 1792 547"> <p>1w 2 likes Reply</p> </div> <div data-bbox="1646 563 1792 587"> <p>— Hide replies</p> </div> </div> <div data-bbox="1579 611 1989 683">  <div data-bbox="1646 611 1818 643"> <p>over.bex Glide time</p> </div> <div data-bbox="1937 619 1989 643">  </div> <div data-bbox="1646 659 1736 683"> <p>1w Reply</p> </div> </div> <div data-bbox="1579 707 1989 778">  <div data-bbox="1646 707 1792 738"> <p>it.1ve Dope spot</p> </div> <div data-bbox="1937 715 1989 738">  </div> <div data-bbox="1646 754 1736 778"> <p>1w Reply</p> </div> </div> <div data-bbox="1579 802 1989 834"> <div data-bbox="1579 802 1736 834">    </div> <div data-bbox="1937 802 1989 834">  </div> </div> <div data-bbox="1579 842 1668 866"> <p>339 likes</p> </div> <div data-bbox="1579 874 1646 898"> <p>APRIL 6</p> </div> <div data-bbox="1579 930 1989 962"> <div data-bbox="1579 930 1624 962">  </div> <div data-bbox="1635 930 1792 962"> <p>Add a comment...</p> </div> <div data-bbox="1937 930 1989 962"> <p>Post</p> </div> </div> </div>
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"Sunshine gliding"	Trikk Star	7 April 2021	 <p>Instagram post by trikkstar69 (London, United Kingdom) titled "Sunshine gliding". The post shows a person in a black jacket and grey beanie gliding over a cityscape. The post has 310 likes and several comments.</p> <p>Comments:</p> <ul style="list-style-type: none"> @seany.ho majestik.sb Dm us for a collaboration rioatitan_1434 Have you ever almost fallen off of one of these things? manorbullies
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<p>"Idk what to say but love for 12k"</p>	<p>Trikk Star</p>	<p>8 April 2021</p>	 <div data-bbox="1630 188 2213 1050"> <p> trikkstar69 • Follow London, United Kingdom</p> <p> trikkstar69 Idk what to say but love for 12k 📷: @seany.ho</p> <p>1w</p> <p> paddy_cob Well done 🙌❤️</p> <p>1w Reply</p> <p> _t.vz_ Congrats on 12k but u be living the life damnnn👁👁👁👁</p> <p>1w Reply</p> <p> killy6summers It's only right my broski 12k 🍕🍕🍕🍕😂</p> <p>1w Reply</p> <p>241 likes APRIL 8</p> <p> Add a comment... Post</p> </div>
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<p>"Just sitting here"</p>	<p>Trikk Star</p>	<p>10 April 2021</p>	<div>  </div> <div> <div>  <div> <div>trikkstar69 • Follow</div> <div>London, United Kingdom</div> </div> </div> <div> <div>  <div> <div>trikkstar69 Just sitting here</div> <div>📷: @seany.ho</div> </div> </div> <div>1w</div> <div> <div>  <div> <div>foe.87 Winterton House 🔥</div> <div>1w Reply</div> </div> </div> <div> <div>  <div> <div>lux.gaffs 🦋🦋🦋</div> <div>1w Reply</div> </div> </div> <div> <div>  <div> <div>sandy_a0903 🤔🔥👉</div> <div>1w Reply</div> </div> </div> <div> <div>  <div> <div>riga.rooftops 🔥</div> <div>1w Reply</div> </div> </div> </div> <div> <div>    </div> <div>268 likes</div> <div>APRIL 10</div> <div> <div>  <div>Add a comment...</div> </div> <div>Post</div> </div> </div> </div> </div></div></div></div>
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<p>"Casual Sunday Trespass"</p>	<p>Trikk Star</p>	<p>13 April 2021</p>	<div data-bbox="936 188 1601 1016">  </div> <div data-bbox="1601 188 2204 1016"> <div data-bbox="1617 209 2063 268">  <div data-bbox="1686 209 2063 268"> <p>trikkstar69 • Follow</p> <p>London, United Kingdom</p> </div> </div> <div data-bbox="1617 316 2063 375">  <div data-bbox="1686 316 2063 375"> <p>trikkstar69 Casual Sunday Trespass</p> <p>📷: @seany.ho</p> </div> </div> <div data-bbox="1686 391 1713 411"> <p>6d</p> </div> <div data-bbox="1617 443 2063 539">  <div data-bbox="1686 443 2063 539"> <p>roomcdaid 🤔🤔 ur v brave or confident ldk which one</p> <p>6d 1 like Reply</p> </div> </div> <div data-bbox="1617 563 2063 635">  <div data-bbox="1686 563 2063 635"> <p>urbex.unknown 🔥🔥 cmonnn</p> <p>5d 1 like Reply</p> </div> </div> <div data-bbox="1617 659 2063 730">  <div data-bbox="1686 659 2063 730"> <p>lucieluc137 🔥🔥🔥</p> <p>6d 1 like Reply</p> </div> </div> <div data-bbox="1617 754 2063 818">  <div data-bbox="1686 754 2063 818"> <p>syedsb_ Risking ur life for a photo, what has this generation</p> </div> </div> <div data-bbox="1617 834 2063 938"> <div data-bbox="1617 834 2063 874">     </div> <div data-bbox="1617 882 1704 903"> <p>442 likes</p> </div> <div data-bbox="1617 914 1704 935"> <p>6 DAYS AGO</p> </div> </div> <div data-bbox="1617 970 2063 1007"> <div data-bbox="1617 970 2063 1007">  <p>Add a comment...</p> <p>Post</p> </div> </div> </div>
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<p>"In my element"</p>	<p>Trikk Star</p>	<p>14 April 2021</p>	<div data-bbox="936 188 1617 1024">  </div> <div data-bbox="1617 188 2204 1024"> <div data-bbox="1630 209 2078 284">  <div data-bbox="1697 209 2078 284"> <p>trikkstar69 • Follow</p> <p>London, United Kingdom</p> </div> </div> <div data-bbox="1630 316 2078 422">  <div data-bbox="1697 316 2078 422"> <p>trikkstar69 In my element... 📍: @seany.ho</p> <p>5d</p> </div> </div> <div data-bbox="1630 446 2078 566">  <div data-bbox="1697 446 2078 566"> <p>over.bex Glide till we die 🔥</p> <p>5d 1 like Reply</p> <p>View replies (1)</p> </div> </div> <div data-bbox="1630 590 2078 670">  <div data-bbox="1697 590 2078 670"> <p>rftp.png 🙌🔥🔥🔥</p> <p>5d 1 like Reply</p> </div> </div> <div data-bbox="1630 694 2078 798">  <div data-bbox="1697 694 2078 798"> <p>sandy_a0903 Our East London Alain Roberto 🔥💙</p> <p>5d Reply</p> </div> </div> <div data-bbox="1630 837 2078 957"> <div data-bbox="1630 837 2078 885">     </div> <div data-bbox="1630 885 2078 957"> <p>235 likes</p> <p>5 DAYS AGO</p> </div> </div> <div data-bbox="1630 981 2078 1024"> <div data-bbox="1630 981 2078 1024">  <p>Add a comment...</p> </div> <div data-bbox="2022 981 2078 1024"> <p>Post</p> </div> </div> </div>
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"Filthy Free"	Trikk Star	16 April 2021	 <p>Instagram post by trikkstar69 (London, United Kingdom) titled "Filthy free" with 252 likes. The post shows a person in a black hoodie standing on a rooftop ledge, looking down at a city. Comments include: riga.rooftops (3d), sandy_a0903 (3d), and therealadamhaq (23h).</p>
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	Seany Ho	17 April 2021	 An Instagram post by user 'seany.ho' showing a person in a dark hoodie standing on a rooftop at night, leaning on a metal railing. The background features a city skyline with illuminated buildings and a construction crane. The post has 68 likes and was posted 2 days ago. The interface includes a heart icon, a comment icon, a share icon, and a bookmark icon. The text '68 likes' and '2 DAYS AGO' are visible. At the bottom, there is a text input field with a smiley face icon and the text 'Add a comment...' and a 'Post' button.
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	Seany Ho	18 April 2021	<div><div><div><div>seany.ho • Follow</div><div>...</div></div><div><div></div><div>25 likes</div><div>22 HOURS AGO</div><div><div> Add a comment...</div><div>Post</div></div></div></div></div>
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	Seany Ho	18 April 2021	<div><div><div><div><div><div>seany.ho</div><div>Follow</div></div><div>...</div></div><div><div><div><div><div>lbuildings03</div><div>I hve never seen this shot before 🔥🔥</div></div></div><div><div>17h</div><div>1 like</div><div>Reply</div></div></div><div><div><div><div><div>kryphoe</div><div>Sick 🔥</div></div></div><div><div>16h</div><div>Reply</div></div></div></div><div><div><div></div><div>48 likes</div><div>17 HOURS AGO</div></div><div><div></div><div>Add a comment...</div><div>Post</div></div></div></div></div></div></div>
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	Seany Ho	19 April 2021	 An Instagram post by user 'seany.ho' showing a person sitting on the edge of a skyscraper, looking down at a city. The post has 12 likes and was posted 2 hours ago. The interface includes a heart icon, a comment icon, a share icon, and a bookmark icon. The text '12 likes' and '2 HOURS AGO' are visible. At the bottom, there is a text input field with a smiley face icon and the text 'Add a comment...' and a 'Post' button.
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	Seany Ho	19 April 2021	<div><div></div><div><div>seany.ho • Follow...</div><div><div></div><div><div>10 likes</div><div>2 HOURS AGO</div></div><div><div>Add a comment...</div><div>Post</div></div></div></div></div>
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Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW2"

This is the exhibit marked "SSW2" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021

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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
[2018] EWHC 3418 (QB)



No. ATC 18/0626

Royal Courts of Justice

Monday, 26 November 2018

Before:

HIS HONOUR JUDGE FREEDMAN (SITTING AS A JUDGE OF THE HIGH COURT)

B E T W E E N :

CANARY WHARF INVESTMENTS LIMITED & OTHERS

Applicants

- and -

- (1) ALEXANDER FARRELL
- (2) OWEN KELLY
- (3) ELLIOT HENSFORD
- (4) FINDLEY GLEESON
- (5) USAMA QUARISHI

Respondents

MR D. FORSDIC QC (instructed by Eversheds Sutherland) appeared on behalf of the Applicants.

MS BRUCE-JONES appeared on behalf of the Second Respondent

MR A. FARRELL, MR E. HENSFORD, MR F. GLEESON and MR U. QUARISHI appeared as Litigants in Person.

J U D G M E N T

HIS HONOUR JUDGE FREEDMAN (SITTING AS A JUDGE OF THE HIGH COURT):

- 1 Alexander Farrell, Owen Kelly, Usarma Quarishi, Elliot Hensford and Findley Gleeson have been brought to this court because they are in contempt of court and they are therefore the subject of committal proceedings. That is so because each of them has breached an injunction made in the High Court on 23 February 2018 by Mr Justice Warby.
- 2 That order was made against certain named defendants but also against persons unknown who might be minded to enter the Canary Wharf Estate. The terms of the order were that nobody was allowed to trespass in the Canary Wharf Estate and should they do so, in breach of the order, they were at risk of being sent to prison. I am satisfied that each of the five respondents was well aware of the existence of that order and indeed, in the case of Alexander Farrell, he had given an undertaking to this court that he would not trespass within the Canary Wharf Estate.
- 3 Notwithstanding their knowledge of the existence of that order, on 22 September of this year, all five of them broke through a secure door and entered a building under construction known as Newfoundland which has in excess of 50 storeys. When they broke into the building, they climbed past a sign, a sign which made it clear that it was dangerous for them to enter the building and, moreover, if they entered the building they were in breach of the court injunction. They took no notice and they scaled the height of the building passing signs on their way which they chose to ignore. That they had trespassed in this building became clear from their posts on social media.
- 4 They are, all of them, or were at the time, what is colloquially called 'urban explorers'. They were engaged in activities known as roof topping, carrying out acrobatic stunts, sitting or standing in exposed and precarious positions which were then filmed either on camera or on video and then posted on social media.
- 5 The activities of urban explorers cause considerable harm and could result in very serious danger. Indeed, before I go any further, I should observe that on 2 January this year, a young man by the name of Sam Clarke died at Canary Wharf as a result of falling from a high rise building.
- 6 First and foremost, in doing these antics on high rise buildings they expose themselves to considerable potential harm and indeed any one of them could have fallen on the night in question. It does not stop there. Security in the Canary Wharf site is of maximum importance. It is, as I am told, a matter of national significance. Security guards, coupled no doubt with other sections of the security forces, patrol and supervise the site for reasons of anti-terrorism. If people like the respondents break into buildings for their own gratification, that has the potential to compromise matters of national security. Moreover, it imposes an increasing and unnecessary burden on the security staff who are there to protect the national interest. Your activities have other implications. Were you to fall from a building, anybody in the vicinity of that building could be injured by you falling. Your activities also potentially place demands on the emergency services.
- 7 The prevalence of this activity caused the owners, after much reflection, to obtain the injunction. They did so to stop you from targeting these iconic trophy buildings. You

ignored that order. It is a grave matter. Each of you tell me that you did not appreciate the seriousness of the injunction. I find that hard to believe because anybody who sees written on a boarding "You are liable to go to prison" should understand that that is exactly what it does mean, should you breach the order. Nevertheless, I am satisfied that only now that you have been brought to the High Court and realised the gravity of your position that you have fully appreciated the implications of your acts.

- 8 Each one of you, albeit late in the day, has had the good sense to admit your involvement in trespassing that building on 22 September this year and to admit that you were aware of the injunction which said you could not do so. That is your saving grace because I can tell you now that had you contested these matters and had there been a hearing before me, then the outcome would have been very different indeed. As it is, I am willing to accept that you now do appreciate the gravity of what you did. I am willing to accept that you are truly apologetic for what you did. By accepting your responsibility, you are showing a degree of remorse and contrition.
- 9 Most importantly I am willing to accept that you are genuine when you say to me that you will never again engage in this kind of activity. In your case, Usarma Quarishi, I am particularly impressed when you say to me that you will do your utmost to discourage others, whom you know who are inclined to take part in urban exploring, from doing so. You should all do that if you do have contact with anybody who might be so inclined to do it in the future. Everybody who is attracted to this activity needs to understand it is forbidden, it is dangerous and it has all sorts of repercussions. On another occasion a court is unlikely to take the lenient approach that I am taking today.
- 10 I have thought long and hard about whether I should impose some form of custodial sentence. I have, ultimately, come to the view that that is not necessary. You are all young men, one of you 17, three of you 18 and one of you 19. You are, it seems to me, essentially decent young men; you are all engaged in gainful activities, whether it is at college or part-time work or full-time work. I do not want your careers to be blighted by having had some form of custodial sentence imposed upon you, but had I taken that course of action, you could not have complained. As an act of leniency and to safeguard your futures, I have decided not to take that course of action, but please rest assured that if any of you breach any further order in any way, then that is what a court will do. Make no mistake about it.
- 11 Alexander Farrell you are in a slightly different position because, first of all, you were not an unknown person, but you gave an undertaking, and secondly, you have been subject to a number of banning orders. You have flagrantly breached that undertaking, you have shown disrespect to the court because you gave the undertaking knowing you had to observe it and you did not. Moreover, you are in work and earning a reasonable salary. In your case, the sentence which I am going to impose is a financial penalty. You will pay the sum of £250 to reflect the seriousness of your breach.
- 12 In the other four cases, I am not going to impose a penalty. That does not mean you are getting off scot free: you have had the indignity of coming to court and facing these allegations of contempt, and you have had the anxiety of not knowing what the outcome was likely to be because you will all have heard what I said last Monday, that the court was contemplating some form of custodial sentence. You have therefore been punished to some extent but, as I say, I am not imposing a separate penalty. None of you, it seems to me, is in a position to pay any meaningful financial penalty and I do not, as I have said, want to go down the route of imposing a custodial sentence.

- 13 You can regard yourselves as fortunate, but let it be clear that you must never ever engage in this activity again.

CERTIFICATE

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This transcript has been approved by the Judge

Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW3"

This is the exhibit marked "SSW3" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021



Neutral Citation Number: [2019] EWHC 2962 (QB)

Case No. HQ 18 X 00427

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London WC2A 2LL

Date: 21st October 2019

Start Time: 14:00 Finish Time: 14:30

Page Count: 12

Word Count: 5,426

Number of Folios: 76

Before:

THE HONOURABLE MR JUSTICE MURRAY

Between:

(1) TEIGHMORE LIMITED
(2) LBQ FIELDEN LIMITED

**Claimants/
Applicants**

- and -

(1) IAN DAVID BONE
(2) PERSONS UNKNOWN ENTERING IN OR
REMAINING AT THE SHARD OR SHARD
PLACE WITHOUT THE CLAIMANTS'
LICENCE OR CONSENT

Defendants

- and -

GEORGE HENRY KING-THOMPSON

Respondent

MR DAVID FORSDICK QC (instructed by Eversheds Sutherland (International) LLP) for
the Claimants/Applicants.

MR PHILIP MCGHEE (instructed by Reeds Solicitors) for the Respondent.

The First Defendant did not attend and was not represented.

APPROVED JUDGMENT

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MR JUSTICE MURRAY:

1. This is an application by the applicants, Teighmore Limited and LBQ Fielden Limited, seeking the committal of the respondent, Mr George King-Thompson, for breaching an order made on 8 February 2018 by Ms. Leigh-Ann Mulcahy QC, sitting as a judge of the High Court (“the Injunction”). The applicants seek an order against Mr King-Thompson under CPR r.81.4(1)(b) for his committal on the grounds that he knowingly and/or deliberately acted in breach of the Injunction.

The parties

2. The first applicant owns a leasehold interest in the development known as “The Shard”, which is situated on land registered at the Land Registry with title number TGL386845. It is in possession of all the common parts of The Shard (including all of the stairwells and elevators).
3. The second applicant owns a leasehold interest in the site previously known as Fielden House. That building has now been demolished and the land is a site on which The Shard apartments are being (or have been) built, the land being registered at the Land Registry with title number TGL144345.
4. Mr King-Thompson is a 20-year-old man, who is a member of the urban exploring community. On Monday 8 July 2019, when he was 19 years old, he climbed the exterior of The Shard from ground level to near the top in breach of the Injunction, which restrained persons unknown from entering or remaining upon any part of The Shard without the licence or consent of the first applicant. Mr King-Thompson, of course, did not have such licence or consent.

Background

5. 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.
7. The risks involved in urban exploring are apparent from the number of deaths that have occurred in various places around the world. A list of such deaths, running to 16, is attached to the affirmation dated 20 July 2019 of Mr Stuart Wortley, a Partner at Eversheds Sutherland (International) LLP, the applicants’ solicitors. It is unlikely to be controversial to note that urban exploring is potentially a dangerous activity. That, no doubt, is an important part of its appeal to those who undertake it.

8. The Shard is the tallest building in Western Europe and is therefore a trophy target for trespassers and, in particular, urban explorers. It has been the target of numerous actual and threatened acts of trespass. Anti-climbing measures have been installed at The Shard, but they are obviously not entirely effective. The Shard is located next to London Bridge station, which is the fourth busiest railway station in the UK, serving the south and the southeast of England.

Procedural history

9. These proceedings were served on Mr King-Thompson's solicitors, who were authorised to accept service on his behalf, on 9 September 2019, along with the four affirmations provided by the applicants as evidence in support of their committal application against Mr King-Thompson.

Terms of the Injunction

10. The Injunction included a penal notice, making it clear to anyone with sight of the Injunction that among the possible sanctions for breach of the Injunction is imprisonment. In addition, a warning notice regarding the Injunction itself ("the Warning Notice") was posted at various points around The Shard. The Warning Notice reads as follows:

"THE SHARD

IMPORTANT NOTICE

HIGH COURT OF JUSTICE - CLAIM NO. HQ18X00427

On 8th February 2018, an order was made in the High Court of Justice prohibiting anyone from trespassing on these premises.

The area beyond these doors is private and you will be trespassing and in breach of this injunction if you enter.

Anyone in breach of this injunction will be in contempt of court and may be imprisoned, fined or have their assets seized.

A copy of the court order is available from
enquiries@shardquarter.com

Teighmore Limited"

The applicable legal principles

11. The procedural requirements governing a committal application are set out in CPR Part 81.
12. The law that applies to establish if there has been a contempt of court by virtue of the breach of a court order is summarised in numerous recent cases. One helpful example of such a summary is in the judgment of Marcus Smith J in *Absolute Living Developments Limited v DS7 Limited* [2018] EWHC 1717 (Ch) at [30]. That case

concerned breaches of a freezing order, but the same principles apply to the Injunction. The key principles are:

- i) The order must bear a penal notice.
 - ii) There has to have been effective service on the respondent, either by personal service or, as in this case, by substituted service where that has been permitted.
 - iii) The order must be capable of being complied with (in the sense that the time for compliance is in the future), and it must be clear and unambiguous.
 - iv) The breach of the order must have been deliberate, which includes acting in a manner calculated to frustrate the purpose of the order. It is not necessary, however, that the respondent intended to breach the order in the sense that he or she knew the terms of the order and knew that his or her relevant conduct was in breach of the order. It is sufficient that the respondent knew of the order and that his or her conduct was intentional as opposed to inadvertent: *Spectravest v Aperknit* [1988] FSR 161 at 173).
 - v) A deliberate breach of an order is very significant. It is clearly in the public interest that court orders be obeyed.
 - vi) The standard of proof in relation to any allegation that an order has been breached is the criminal standard. The burden of proof is on the applicant or applicants to establish an allegation of breach to the criminal standard.
13. In this case, I must, in other words, be sure beyond reasonable doubt that Mr King-Thompson has committed a deliberate breach of the Injunction. The burden of proof is on the applicants to establish to the criminal standard that he has committed the alleged breach.
14. Because of the consequences of breaching an injunction order with a penal notice attached, the terms of the order must be clear and unequivocal and should be strictly construed. This was emphasised by Lord Clarke in the Supreme Court in the case of *JSC BTA Bank v Ablyazov (No 10)* [2015] UKSC 64, [2015] WLR 4754 at [19], where Lord Clarke approved a statement to this effect in the judgment of Beatson LJ at [37] of the Court of Appeal's decision in the same case ([2013] EWCA Civ 928).
15. Mr David Forsdick QC, who represents the applicants, drew my attention to passages in the reference work *Arlidge, Eady & Smith on Contempt* (5th Edition), that highlights the importance placed by the court in civil contempt proceedings on the public interest in seeing that court orders are upheld. I was referred to paras 3-73 and 3-74 of *Arlidge, Eady & Smith*, and my attention was drawn in particular to the observation made by Lord Woolf MR in *Nicolls v Nicholls* [1997] 1WLR 314 at 326B-C:

“Today it is no longer appropriate to regard an order for committal as being no more than a form of execution available to another party against an alleged contemnor. The court itself has a very substantial interest in seeing that its orders are upheld.”

16. *Arlidge, Eady & Smith* goes on to discuss the judgment of Lord Phillips MR in *Mid-Bedfordshire District Council v Thomas Brown* [2004] EWCA Civ 1709 at [26]-[27], where the Master of Rolls emphasised the importance of court orders being obeyed and the necessity for sanctions in circumstances where they are deliberately disobeyed:

“26. The practical effect of suspending the injunction has been to allow the defendants to change the use of the land and to retain the benefit of occupation of the land with caravans for residential purposes. This was in defiance of a court order properly served on them and correctly explained to them. In those circumstances there is a real risk that the suspension of the injunction would be perceived as condoning the breach. This would send out the wrong signal, both to others tempted to do the same and to law-abiding members of the public. The message would be that the court is prepared to tolerate contempt of its orders and to permit those who break them to profit from their contempt.

27. The effect of that message would be to diminish respect for court orders, to undermine the authority of the court and to subvert the rule of law. In our judgment, those overarching public interest considerations far outweigh the factors which favour a suspension of the injunction so as to allow the defendants to keep their caravans on the land and to continue to reside there in breach of planning control.”

17. I also bear in mind that:

- i) the sanction of custody on a committal application is the “court’s ultimate weapon”, as noted by Mrs Justice Proudman in *JSC BTA Bank v Solodchenko* [2010] EWHC 2404 (Comm), and must be sparingly used and only invoked when truly needed;
- ii) the sanction of committing a person to prison for contempt can only be justified where the terms of the order allegedly breached are unambiguous and the breach is clear beyond all question: see, for example, *Redwing Ltd v Redwing Forest Products Ltd* [1947] 64 RPC 67 at 71 (Jenkins J).

Evidence of alleged breaches

18. In support of the committal application the applicants have submitted evidence in the form of four affirmations, each accompanied by one or more exhibits.
19. The first affirmation is dated 20 July 2019 and is the affirmation made by Mr Wortley to which I have already referred. In his affirmation Mr Wortley gives evidence about the activity of urban exploring and some of the well-known individuals who are involved in urban exploring beyond Mr King-Thompson, who has become well-known since his climb of The Shard.

20. Mr Wortley describes the circumstances in which the Injunction in this case was obtained. He also describes the circumstances in which Mr King-Thompson first came to the attention of his firm in November 2018 after he had uploaded photograph and video footage showing him climbing a tower crane at one of the 15 construction sites at Wembley Park on Bonfire Night, using the firework display at Wembley Stadium as a backdrop to his images. In relation to that, Mr Wortley referred to a witness statement prepared in relation to that incident by Mr Matt Voyce, a construction director at Quintain Limited, one of the companies involved with the Wembley Park development. At para 39 of Mr Voyce's witness statement, Mr Voyce referred to an incident in which five well-known urban explorers had deliberately breached an injunction to restrain trespass at Newfoundland, a construction site at Canary Wharf which was protected by an injunction obtained in February 2018. At para 50 of that statement he referred to committal proceedings that occurred before HHJ Freedman, sitting as a Judge of the High Court, on 26 November 2018. It is reasonable to suppose that Mr King-Thompson would have read Mr Voyce's witness statement and by that means would have become aware, if he was not already, of the serious implications of breach a court injunction.
21. Mr Forsdick took me to the judgment of HHJ Freedman in the proceedings to which Mr Voyce had referred, where the judge indicated that he had seriously considered sending the five young men, who were of roughly similar age to Mr King-Thompson, to prison for breach of that injunction, but where he ultimately decided that it was not necessary, for reasons given in his judgment. The judge very clearly warned those respondents that on a future occasion imprisonment might be inevitable.
22. Mr Wortley also gives evidence as to the events of 8 July 2019. The climb started at 5:00 am. Mr King-Thompson climbed up the external structure of The Shard. Mr Wortley also deals with media coverage of the climb as well as various videos uploaded by Mr King-Thompson himself or by others. There was a significant amount of coverage of the climb in the days and weeks that followed it.
23. I also have the affirmation dated 25 July 2019 of Ms Joanna Begaj, an associate at Eversheds Sutherland, in which she:
 - i) notes that Mr King-Thompson has acquired a manager since his climb of The Shard, who happens to be the same manager as represents Mr Alain Robert, a famous urban explorer known as "the French Spiderman";
 - ii) refers to an Instagram post made by Mr King-Thompson on 21 July 2019 in which he referred to his ascent as illegal and to which he also appended the hashtag #rooftopillegal [sic]; and
 - iii) refers to an interview with Mr Piers Morgan and Ms Susanna Reid on the television programme *Good Morning Breakfast* on 10 July 2019, during which Mr King-Thompson refers to having been helped in his preparations by seven other individuals.
24. I also have the affirmation dated 26 July 2019 of Ms Kay Harvey, Head of Property Management at Real Estate Management (UK) Limited, in which she deals with:
 - i) the posting of the Warning Notice at various locations at The Shard;

- ii) the anti-climbing measures at The Shard;
 - iii) visitors to the public viewing gallery at The Shard and the visit of Mr King-Thompson himself to the public viewing gallery at The Shard on 30 November 2018;
 - iv) the climb itself on 8 July 2019; and
 - v) the questioning of Mr King-Thompson by the Metropolitan Police on 18 July 2019 in connection with possible offences of criminal damage, aggravated trespass, public nuisance and trespass on the railway, at the end of which, Ms Harvey understands, he was issued with a caution for trespassing on the railway.
25. Regarding Mr King-Thompson's visit to the public viewing gallery on 30 November 2018, Ms Harvey notes that he had bought his ticket on-line the day before and made his visit at about 1:00 pm. She says that during that visit he would have had to walk past at least 10 copies of the Warning Notice regarding the Injunction on level 1 (5 locations), level 33 (3 locations), level 68 (one location) and level 72 (one location).
26. Regarding the events of 8 July 2019, Ms Harvey stated that Mr King-Thompson had accessed The Shard from next to platform 9 at London Bridge Station, climbing on to the glazed roof above London Bridge Station and from there accessed the bottom of The Shard structure using suction cups to get over the lower part of the climb in order to circumvent anti-climbing measures. She said that he then was able to abandon the suction cups after level 5 and eventually reached level 73, the floor immediately above the public viewing gallery, to which there was no public access at the time, where he stopped climbing. The police and two ambulances were called to the site, but Mr King-Thompson was not arrested at that time.
27. Finally, I have a second affirmation, this one dated 29 August 2019, from Ms Begaj of Eversheds Sutherland, in which she gives evidence as to a video podcast uploaded on 27 July 2019 between Mr King-Thompson and Ms Ally Law, a well-known urban explorer, in which Mr King-Thompson talks about months spent planning the climb, the speed and aggression needed for the climb and the closure of London Bridge Station as a result of his climb. Regarding that last point, he appears to minimise the disruption he caused, saying during the podcast:
- “Yes, I may have closed down a little bit of the station, but you know, like, at 5 o'clock there's not many training running anyway, so ...”
28. Ms Begaj also notes in her second affirmation that during the podcast Mr King-Thompson described his many nights of reconnaissance, including in disguise, up to a year of preparation, getting help from seven unnamed associates, the various routes up The Shard that he considered, and the creation of his brand as a result of his climb.
29. Ms. Begaj also gives evidence as to the appearance of Mr King-Thompson and his mother on the BBC *One Show* to discuss the climb. He apparently talked in that interview about taking his mother to dinner at The Shard before climbing it, the visit

being one of around 200 he made as part of his planning, in various disguises and so on.

Findings

30. Mr King-Thompson has made full admissions in these proceedings, although only belatedly. He has admitted he has been aware of the Injunction since the Spring of this year. He has described his meticulous preparation for the climb in social media posts and interviews, and I have referred to some of that in my review of the evidence. He would have passed numerous copies of the Warning Notice, particularly during his visit to the public viewing gallery of The Shard, and he has admitted he was aware of the Injunction and its contents since last Spring, substantially before his climb. In the circumstances I am satisfied to the criminal standard that Mr King-Thompson's breach of the Injunction was knowing, deliberate and contumacious.

Legal framework for sentencing

31. Section 14 of the Contempt of Court Act 1981 provides that a committal must be for a fixed term and that the term shall not on any occasion exceed two years. If the committal is ordered to take effect immediately, the contemnor is entitled to automatic release without conditions after serving half of that committal.
32. There are two functions of sentencing for civil contempt. The first is to uphold the authority of the court and to vindicate the public interest that court orders should be obeyed. The second is to provide some incentive for belated compliance. These dual purposes are discussed in various authorities, one being *JSC BTA Bank v Solodchenko* (No. 2) [2012] 1 WLR 350 (CA) (Jackson LJ) at [45].
33. In all cases, it is necessary to consider whether committal to prison is necessary and, if so, what the shortest time necessary for such imprisonment would be and whether a sentence of imprisonment can be suspended.
34. Lawrence Collins J in the case of *Crystal Mews Limited v Metterick* [2006] EWHC 3087 (Ch) set out a number of principles that apply to sentencing for civil contempt. At [13] he notes various factors to be taken into account when considering the appropriate penalty:

“13. The matters which I may take into account include these. First, whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy. Second, the extent to which the contemnor has acted under pressure. Third, whether the breach of the order was deliberate or unintentional. Fourth, the degree of culpability. Fifth, whether the contemnor has been placed in breach of the order by reason of the conduct of others. Sixth, whether the contemnor appreciates the seriousness of the deliberate breach. Seventh, whether the contemnor has co-operated.”

35. In a subsequent case, *Asia Islamic Trade Finance Fund Ltd v Drum Risk Management Ltd* [2015] EWHC 3748 (Comm) at [7] Popplewell J added to the foregoing list the following factor:

“... whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.”

36. Finally, Popplewell J in the *Asia Islamic Trade Finance Fund Ltd* case (affirmed by the Court of Appeal) made the point that if it is determined that a term of committal is inevitable, then where there have been admissions it is appropriate to make some form of reduction in the term. By analogy with the Sentencing Council Guidelines, a maximum reduction of one third might be appropriate where the admissions are made at the outset of proceedings for contempt, and thereafter a sliding scale down to about 10 per cent where admissions are made at trial.
37. In this case Mr King-Thompson was 19 years old at the time of the breach of the Injunction, and he is 20 years old now. Mr Forsdick has drawn my attention to sections of *Arlidge, Eady & Smith* dealing with the sentencing of defendants between the ages of 18 and 21, namely, paras 14-74 to 14-78 and 14-81 to 14-82, the key points being that (i) where a custodial sentence is passed, rather than going to adult prison, the custodial sentence will be served as detention in a Young Offenders' Institution and (ii) the court is not required to obtain a pre-sentence report before passing sentence.

Culpability

38. Considering Mr King-Thompson's culpability for this breach, I have already indicated that I consider the breach to have been deliberate, knowing and contumacious. His culpability is, therefore, high.

Harm

39. In terms of the harm caused by his contempt, it seems to me there are a number of heads of harm:
- i) most seriously, the harm to the public interest caused by a serious breach of an injunction such as the one at issue in this case;
 - ii) the risk of death to which Mr King-Thompson subjected himself and, by his example and the publicity given to his breach in which he actively participated, the increased risk that others, perhaps less skilful, will attempt the same or similar illegal and dangerous climbs;
 - iii) his compromising of the security of The Shard; and
 - iv) the disruption at London Bridge Station (not the most serious harm occasioned by his breach, but he did cause disruption to operations there, inconveniencing members of the public).
40. Regarding compromising the security of The Shard, I note that ionic 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.

Some of the publicity that Mr King-Thompson has given to his climb would appear to have increased that risk in relation to The Shard.

Aggravating factors

41. In my view, the aggravating factors in this case are:
- i) despite being aware of the Injunction and its penal consequences, Mr King-Thompson's meticulous planning and preparation over a lengthy period, including numerous visits to the site, including the use of disguises;
 - ii) the involvement of up to seven accomplices (which also makes it all the more unlikely that Mr King-Thompson would not have been fully aware of the consequences of breaching the injunctions, since there is likely to have been discussion between them concerning the possible consequences of the climb);
 - iii) the fact that Mr King-Thompson has actively and widely publicised the contempt through social media and interviews with traditional media.
42. Regarding that last point, I take into account the submission made on his behalf by Mr Philip McGhee that to some extent he has just gone along with that publicity rather than actively courted it, but nonetheless Mr King-Thompson had the choice not to go along with that publicity and/or to take the opportunity of the publicity to express contrition for breaching a court order, which he does not appear to have done.

Mitigating factors

43. In his letter to the court, to which I will revert in a moment, Mr King-Thompson says he chose a time and a route to minimise public possible disruption. He was therefore clearly aware that there could be some disruption of the public. In his letter, Mr King-Thompson says the following:
- i) he climbed at 5:00 am to minimise potential adverse effect on the travelling public;
 - ii) he chose a route where, if he fell, he would land on a roof, rather than directly on to a pedestrian concourse (although there is no evidence that he made any assessment as to whether, if he had fallen, the roof would have held up under the impact of his fall); and
 - iii) he did not wear a head camera because the climb was not about publicity (although he has given interviews and made various social media postings about the climb).

Personal mitigation

44. In relation to personal mitigation, Mr King-Thompson's age, 19 at the time of the climb and 20 now, is obviously very important, and I accept that there must have been a degree of immaturity in his approach to this breach.
45. I also take into account his previous good character. He received a caution for trespass as a result of this incident, but other than that he has had no involvement with the police.

Indeed, I have had a couple of character references that speak of his positive good character.

46. This morning I was handed a bundle of documents, which I have read carefully. The bundle includes the following documents:
- i) various letters, documents and medical records dealing with Mr King-Thompson's early history of learning difficulties and his diagnosis of Attention Deficit Hyperactivity Disorder (ADHD), for which he was prescribed medication;
 - ii) a report dated 16 October 2019 by Dr David Oyewole, a consultant psychiatrist;
 - iii) an undated letter by Mr King-Thompson to the court;
 - iv) a letter dated 16 October 2019 (so, just five days before this hearing) from Mr King-Thompson's solicitors confirming that Mr King-Thompson accepts liability and that he does not intend to contest the committal proceedings;
 - v) a letter dated 16 October 2019 from a family friend of the King-Thompson family, Mr Kent Rowey, who talks of Mr King-Thompson's high personal integrity and genuine desire to help others; and
 - vi) an e-mail dated 4 October 2019 from JP Hassett of R.E.A.L Fundraising, who talks about Mr King-Thompson's passion for fundraising for the young homeless, his high work rate and his attention to detail.
47. Regarding Dr Oyewole's report, at para 7.6 Dr Oyewole notes that ADHD is not a direct factor in the decision to climb, but at para 7.7 he suggests that it is an indirect effect, noting that, in his view, there is a subset of individuals with ADHD who find that ultra-exercise has a significant beneficial effect. I accept that Mr King-Thompson's ADHD may have played a factor in his breach of the Injunction, but that is merely explanatory, not exculpatory.
48. Regarding Mr King-Thompson's letter to the court, I presume that it was written recently. I accept that he is now sorry and takes full responsibility for his actions. He talks about his aim in life to inspire individuals and to spread his philosophy of following one's passion. He also talks about his having made a number of conscious decisions to minimise the impact of his climb on others, as I have already mentioned.

Credit for admissions/remorse

49. Mr King-Thompson has made a late admission for liability, but the extensive publicity that has been given to his climb undermines the credibility of his claim that he is now remorseful. His counsel suggested that he merely went along with much of the publicity that has accompanied his climb, but even taking that view, the fact that he did so and did not take the opportunity to express remorse in my view undermines his claim of remorse. I note that he expressed some contrition for causing a degree of disruption to commuters, but no apparent contrition for breaching a court order until his letter was handed up to me this morning.

The sentence

50. I have had regard to the eloquent and forceful submissions of Mr McGhee, who has said to the court all that could be said in mitigation on Mr King-Thompson's behalf.
51. Given the clearly deliberate and knowing nature of the breach in this case, which involved meticulous planning over an extended period, involvement of at least one other person (and, on Mr King-Thompson's own account, advice and assistance of up to seven other people), Mr King-Thompson's lack of remorse until really very recently, and the giving of publicity to the contempt through social and traditional media, this matter crosses the custody threshold.
52. In the circumstances, given the high culpability and number of aggravating factors, which involve a deliberate and knowing flouting of the Injunction, despite Mr King-Thompson's age and previous good character, I am not able to suspend the sentence. Therefore, the sentence will be one of immediate custody.
53. I have mentioned that sentencing for contempt typically has a dual purpose; punishment and coercion. In this case, however, it is not possible for Mr King-Thompson to purge his contempt. The order has been breached, and that breach cannot be cured.
54. Had Mr King-Thompson been older, the starting point would have been at least 39 weeks (or nine months). However, in light of his age and apparent immaturity I have taken a starting point of 26 weeks (or six months). There are a number of aggravating factors which I have already mentioned, but I balance against that that he has made an admission, albeit late, and has expressed remorse and contrition, although he appears to have done so principally in the shadow of this hearing and the imposition of sanction, rather than due to any real contrition for deliberately breaching a court order.
55. I have taken his previous good character, and indeed positive good character as evidenced by the character references, into account.
56. Accordingly, overall the sentence that I consider to be just and proportionate, in light of Mr King-Thompson's deliberate and knowing breach of the Injunction, having regard to the aggravating and mitigating factors, is a total sentence of 24 weeks' detention in a Young Offenders' Institution.
57. Mr King-Thompson will be released after serving one behalf of that sentence.
58. I now commit Mr King-Thompson into the hands of the Tipstaff to be taken into detention.

- - - - -

This transcript has been approved by Mr Justice Murray

Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW4"

This is the exhibit marked "SSW4" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021

Case No: HQ 18 X 03914

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand
London WC2A 2LL

Date of hearing: Monday, 11th February 2019
Start Time: 11.20 Finish Time: 12:45

Page Count: 21
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Before:

HEATHER WILLIAMS QC
(Sitting as a Deputy High Court Judge)

BERKELEY HOMES (SOUTH EAST LONDON)
LIMITED & ORS

Claimants

- and -

(1) HARRY GALLAGHER
(2) USAMA QURAISHI
(3) PERSONS UNKNOWN ENTERING IN
OR REMAINING AT THE CLAIMANTS'
PROPERTIES WITHOUT THE
CLAIMANTS' PERMISSION

Defendants

MR. TOBY WATKIN (instructed by **Eversheds Sutherland (Intl) LLP**) for the **Claimants**
The DEFENDANTS did not appear and were not represented.

P R O C E E D I N G S

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A

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A DEPUTY JUDGE WILLIAMS: Yes, Mr. Watkin.

MR. WATKIN: May it please you, my Lady, in this matter I appear for the claimants, various groups of companies of the Berkeley Group. The first defendant, Mr. Harry Gallagher, and the second defendant, Mr. Usama Quraishi, have taken no part in these proceedings and the third defendant is a class of Persons Unknown.

B DEPUTY JUDGE WILLIAMS: Yes, before we go any further, I just want to mention in the interest of transparency -- and I stress I am doing it for that reason -- I personally do not see any problem but it is always better to raise these things at the outset. As you may or may not be aware, I am one of the counsel instructed in the *Ineos Upstream* case, which C is in your bundle, in my other job as a barrister, and I act for one of the defendants (now appellants) in the appeal which is to be heard in the Court of Appeal next month.

D Now, I do not see that as a problem because it seems to me the two issues of law that arise here, neither of which, I hasten to say, I see as contentious, but the two issues I need to consider here are, firstly, the principles for the grant of *quia timet* injunctions where it is a final injunction and that does not form any part of the appeal at all.

E Secondly, the grant of an injunction in that case against Persons Unknown is one of the three grounds of appeal but in a context where it is the particular injunction in that case that is underchallenged on grounds, for example, of lack of certainty, interference with Article 10 and 11 rights and so forth, there is not a challenge to the essential *Hampshire Waste* principles which you rely on in this instance, and the other two F grounds in that appeal are entirely unrelated, relate to conspiracy to use unlawful means and the application of the test under section 12(3) of the Human Rights Act.

G So, it is for those reasons that I do not see any difficulty but I wanted to make you aware of that at the outset and if you need a moment to take instructions, then, of course, please do.

H MR. WATKIN: I will take instructions, my Lady, if that is all right. (*After taking instructions*) My Lady, that is absolutely fine. I am grateful to your ladyship having mentioned it so that it is all out in the open.

DEPUTY JUDGE WILLIAMS: Yes.

A MR. WATKIN: I would add, my Lady, that, of course, although the principle is currently under examination in that case in the Court of Appeal, nevertheless, the law is as it stands today rather than it will be, so ----

B DEPUTY JUDGE WILLIAMS: Of course, exactly, but one can see, without spending too long hypothesising, but if you were, for example, inviting me to apply a principle of law from the *Ineos* case that was contentious and was the subject of an appeal, then a difficulty might arise.

MR. WATKIN: Yes, my Lady.

C DEPUTY JUDGE WILLIAMS: But we are not in that territory anyway.

MR. WATKIN: No, my Lady.

DEPUTY JUDGE WILLIAMS: It seems to me there is no difficulty.

May I also tell you at the outset, Mr. Watkin, that I have read your very helpful skeleton argument.

D MR. WATKIN: I am grateful, my lady.

DEPUTY JUDGE WILLIAMS: And I have read the bundle, so I think you can probably take matters relatively shortly. I have a number of things that I would like to ask you by way of clarification.

E MR. WATKIN: Before we get to that point, my Lady, may I raise a few matters. I am sorry for arriving mid-session.

DEPUTY JUDGE WILLIAMS: No, that is fine.

F MR. WATKIN: As usual, getting through into the building alone is a challenge at the moment.

Before we get to issues that your Ladyship may have, might I start with some housekeeping matters?

G DEPUTY JUDGE WILLIAMS: Of course.

MR. WATKIN: I have quite a lot of bits of paper to hand up.

DEPUTY JUDGE WILLIAMS: Right.

H MR. WATKIN: The purpose of handing them up is really to assist the court. If none of them are of assistance, then so be it, but one of them is a further witness statement which your ladyship can see. All it does is indicate the matters which have happened since in recent

history he indicated there has been one incursion into 250 City Road which happened on New Year's Eve.

DEPUTY JUDGE WILLIAMS: Yes, I would like to see that, please (*Documents handed*).

MR. WATKIN: My lady, if I can take you to -- it looks like a large pile of paper and there are many bits to it but I hope they are all both useful and not going to require a tremendous amount of examination.

So, my Lady, the first document is the further witness statement of the witness you have already seen, two statements, I think.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: The second is a set of plans which might be in a more legible form than your bundle.

DEPUTY JUDGE WILLIAMS: Yes, the red lining was not terribly clear. You are right, it is clearer.

MR. WATKIN: My Lady, so I thought I would provide a set of better plans, as it were.

DEPUTY JUDGE WILLIAMS: Dealing, first of all, with the supplementary witness statement from Miss ----

MR. WATKIN: Joanna Begaj, my Lady.

DEPUTY JUDGE WILLIAMS: Yes, so it is the incursion on 31st December that you rely upon.

MR. WATKIN: That is right. This is a person, as it were, unknown with no indication that this is a breach of the injunction in the sense that there is nothing on the footage which shows that the person is aware of the existence of the injunction when the incursion occurred but it is just to indicate that the threats to the property remains live.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: That is the purpose of that, my Lady.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: Then after the plans, there is a set of the exhibits, again simply on the basis that these are the exhibits to Mr Gavin's statement which is the principal witness in terms of the evidence of what is going on where. Again, the reason for that is simply that the copies in my bundle seemed much less legible than they had done in the previous hearing.

A DEPUTY JUDGE WILLIAMS: Yes, they were.

MR. WATKIN: So, I have provided you with a set in case, in particular, photographs become very difficult to see what is on them.

B DEPUTY JUDGE WILLIAMS: Yes, I will have a quick flick through those then. I mean, I was able to obtain the gist of matters from the ----

MR. WATKIN: Yes, my Lady. There are one or two occasions when I take your Ladyship through the evidence to try and persuade your Ladyship to make the injunction and there are a few photographs which are more spectacular where you can actually see them, if I can put it in that way.

C DEPUTY JUDGE WILLIAMS: Yes. Well, if there is any that you want to specifically draw my attention to ----

MR. WATKIN: I will do, my Lady, when we get to that, if that is alright, my Lady.

D DEPUTY JUDGE WILLIAMS: Yes, certainly.

MR. WATKIN: Then the third document should be a copy of the injunction which was made against the second defendant and others in the *Chelsea* case. The only reason I put that forward is because it was before the courts on the last occasion so it seems proper that it should be before you, my Lady.

E DEPUTY JUDGE WILLIAMS: Yes, thank you.

MR. WATKIN: Then next there should a document which looks like this (*indicating*) .

DEPUTY JUDGE WILLIAMS: Yes.

F MR. WATKIN: That is my art work, my Lady.

DEPUTY JUDGE WILLIAMS: Yes.

G MR. WATKIN: I am afraid I did not have time to get my young children to colour it in, it would be much more accurate, but, my Lady, what this shows is areas which are currently protected by injunctions already in the vicinity and in green the area which we are describing.

DEPUTY JUDGE WILLIAMS: I understand, yes.

H MR. WATKIN: So, my Lady, the large area, the large blob with a bit sticking out the left, is the Canary Wharf Estate in relation to which Mr. Gavin refers to the existence of the injunction and the pending committal proceedings which were then live against people including the second defendant. Then the blob below that marked "Wardian London"

A was the subject of an injunction order, which I have also given your Ladyship, which was made on Wednesday and then the 02 Arena, off to the right, was also the subject of a recent injunction in relation to trespass.

DEPUTY JUDGE WILLIAMS: Yes, thank you.

B MR. WATKIN: My Lady, the other documents that you should have will be the order in the Ecoworld Ballymore. That is the one about Wardian London which is literally three doors down, as it were.

DEPUTY JUDGE WILLIAMS: Yes.

C MR. WATKIN: And then the transcript, which is the transcript of my Lord, His Honour Judge Freedman (sitting as a Deputy High Court Judge) in the committal proceedings against Mr. Farrell, Mr. Hensford, Mr. Gleeson, Mr. Quraishi and Mr. Kelly and the reason for mentioning that is because, as well as giving them -- Mr. Farrell had been given an undertaking and breached it and he was therefore fined.

D No action was taken by His Lordship against the other defendants on the basis that they appeared contrite and admitted that they had knowingly breached the injunction and that they were not going to do it again, but in paragraph 9, he makes specific reference to the second defendant and since the second defendant is neither present nor represented, E although he did not participate in the proceedings, it seemed appropriate that I should bring that to your Ladyship's attention.

F DEPUTY JUDGE WILLIAMS: Yes, thank you, but I presume you say, in effect, given the second defendant's track record in this area of activity, there is still cause to be concerned.

MR. WATKIN: My Lady, yes. Not only that but if your Ladyship wished to look at his Instagram account, you can see that he is still posting pictures of himself standing on ----

G DEPUTY JUDGE WILLIAMS: Subsequent to this date?

MR. WATKIN: They are posting subsequent to this date. The date of the photographs, my Lady, we do not know, but certainly he is still posting.

DEPUTY JUDGE WILLIAMS: Yes, and, apart from anything else, the posting of them acts as a temptation to others to engage in such behaviour.

H MR. WATKIN: My Lady, yes. Your Ladyship may be aware, because it received some press coverage, that in the 02 case there is a specific course of action asking them to take

A down footage in relation to trespassers on the 02 because there have been specific incidents of people explaining that they were encouraged to do it by ----

DEPUTY JUDGE WILLIAMS: I see. I was not aware of that until now but thank you.

MR. WATKIN: It was in the Evening Standard, my Lady, but perhaps you read better papers than that.

B DEPUTY JUDGE WILLIAMS: I do not have time to read newspapers!

MR. WATKIN: My Lady, finally in housekeeping, I have copies of the titles. You will have seen Mr. Gavin refers to the fact that he has indeed exhibited the hundreds of pages of titles which he says make good the fact his claims as to who owns what.

C If your Ladyship wanted to go to that, I am happy to take your Ladyship through those titles but I assume that your Ladyship is happy that, since this is unchallenged evidence, the people who are said to own these properties own the properties and that the title is not in dispute.

D DEPUTY JUDGE WILLIAMS: Correct but thank you for bringing them in case.

MR. WATKIN: In that case, my Lady, your Ladyship is already aware, because you have read the bundle, that an interim injunction was already granted in this matter and that is at tab 5 of the bundle.

E DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: By my Lord, Jonathan Turner QC (sitting as a Deputy High Court Judge).

DEPUTY JUDGE WILLIAMS: In relation to that, I appear to be missing a page and I rather hoped that was one of the things you were going to hand me up. I do not have a page

F 123 which is page 5 of the order. I go straight from 122 to 124.

MR. WATKIN: I do, yes. While I am handing things up, my Lady, is there anything else that you are missing?

DEPUTY JUDGE WILLIAMS: No, that was the only document that I am aware of.

G *(Document handed)* Thank you very much. If you would just give me a moment to look at that.

MR. WATKIN: Yes, my Lady.

(After a short pause)

H DEPUTY JUDGE WILLIAMS: Right, thank you. As I say, whilst I obviously do not want to take you off course, Mr. Watkin, is there anything you want to particularly emphasise

A to me? For example, if you want to show me photographs that I have only seen indistinct copies of before. I have read the documents and your skeleton. I do have some specific questions to ask you. So, if it does not take you too off course, could I ask you those questions first of all?

B MR. WATKIN: Of course, my Lady.

DEPUTY JUDGE WILLIAMS: And then we will see where we are if there is anything you particularly want to stress, but you will understand from the course I have adopted I am broadly in sympathy with the claimant's application.

C MR. WATKIN: Yes, my Lady.

DEPUTY JUDGE WILLIAMS: So, that is another reason why you do not need to take up time with all the matters that underpin it.

D The first thing I wanted to ask you is, in relation to the second exhibit to Mr. Gavin's witness statement, there is a schedule at page 72 which is referred to in the body of his witness statement which relates to the 250 City Road premises.

MR. WATKIN: Yes, my Lady.

E DEPUTY JUDGE WILLIAMS: What I was not quite clear, from the schedule in the way it is described in the witness statement, are these specific instances of urban exploring or are they instances of trespass where it is simply not known whether they were urban explorers or people trespassing for any other reason for example?

F MR. WATKIN: I cannot tell from this. I think it is alleged that the interpretation of the events by the claimant is that these are instances of urban exploring but, my Lady, it can be quite difficult to detect whether or not someone is urban exploring or trying to pitch a generator.

G DEPUTY JUDGE WILLIAMS: Well, quite, they might enter a construction site for those reasons and, obviously, your clients would have every reason to be concerned about that too.

MR. WATKIN: Yes.

H DEPUTY JUDGE WILLIAMS: So, it is presumed that at least some of these are urban explorers but it cannot be said necessarily that they all are. Would that be fair?

A MR. WATKIN: That is correct, my Lady, we could not hand on heart say that we know in every case that these people were intent only to explore rather than to explore and steal as it were.

B My Lady, it should be said that, in relation to building sites generally speaking, and my limited experience of them, of course people may have different reasons for going on to a building site at night, but actually theft from building sites under security, perhaps, is a less plausible explanation, in my submission, than urban exploring in the sense that things tend to be left secure and large things tend to be not got out and the site is protected by light security, so perhaps that is not an obvious explanation of what is going on, my Lady.

C DEPUTY JUDGE WILLIAMS: Yes, I understand.

Sorry to slightly jump around but these are things that help me to clarify.

D Paragraph 13 of your skeleton?

MR. WATKIN: Yes, my Lady.

DEPUTY JUDGE WILLIAMS: You say at the end of paragraph 13, "D2 has recently trespassed on the site around the corner from South Quay Plaza".

E MR. WATKIN: My Lady, yes.

DEPUTY JUDGE WILLIAMS: And I just was not quite clear where that was in the witness evidence and which site you were referring to there.

F MR. WATKIN: Forgive me, that is the reference to the Canary Wharf Estate, my Lady, and the allegation that D2 -- Mr Gavin does refer to it -- he says that D2 has trespassed and is about to be committed for contempt in relation to that, my Lady.

DEPUTY JUDGE WILLIAMS: Yes, I understand now. I just wanted to marry up the two.

G MR. WATKIN: Yes, my Lady, that is really the purpose of my colouring efforts is to show your Ladyship where everything is in relation to everyone else. The geography of this area is rather more assumed in the witness statement which is, perhaps, helpful.

H DEPUTY JUDGE WILLIAMS: That is fine and in relation to Saffron Tower in Croydon, have there been any incursions that the claimants are aware of since 2017 because I noticed the incidents referred to appear to date from then and I appreciate you say, in any event, that the second defendant has a -- it is his profile picture on social media

which in itself might be thought to be an allurement, so I understand that, but I just wanted to check if there had been any incursions since.

MR. WATKIN: My Lady, I do not think there has been any allegation of any footage which we can date after 17. One of the difficulties in relation to this is that images appear and it is very difficult to tell when the image has actually been created. So, because that has a date attached to it, it has been given a date, but quite often the information which has come to the attention of the owners of the building is much later on and also things have been re-posted so we cannot really tell anything other than there has been a breach in the past and there is a continuing threat, but, no, my Lady, I am not suggesting that there is anything specific I can point you to since then.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: My Lady, the point being made behind me is that, apart from the fact that it seems to be close to where the second defendant lives and that he is putting pictures of it on the site and keeping them there, it is also about the highest building around for quite a long way and also it has been beautifully coloured to make it even more attractive, so it is an allurement, my Lady.

DEPUTY JUDGE WILLIAMS: Yes, I understand.

MR. WATKIN: I appreciate your Ladyship may think, "Well, that moves the question of the test to be applied more towards the *quia timet* example and otherwise as a result of that".

DEPUTY JUDGE WILLIAMS: Yes, I mean, we are in the territory of *quia timet* in a sense, are we not, in relation to all three sites in the sense that they are not currently subject to trespass but the question is the probability or otherwise of them becoming or being the subject of trespass in the future, whether that is a reoccurrence or a first trespass. It is still the same test but, obviously, if they have already been trespassed upon, you say it makes the position all the more stronger.

MR. WATKIN: My Lady, I agree. The sort of arid question about whether it is still a *quia timet* if there has, in fact, been a breach, really just goes to show that the *quia timet* test is really a moving level of risk.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: It is a risk benefit analysis, essentially, which has to be carried out in all cases of injunction, in fact, because even in a case where an injunction was granted,

A although it is a *prima facie* right to an injunction, the court will not grant an injunction in circumstances where it believes that there will not be a further incursion.

B DEPUTY JUDGE WILLIAMS: Yes, and because this is a final injunction case, I do need to have regard -- indeed I have, I have read the bundle -- to all the evidence. The reason why I say that is because I noticed your draft order only made reference to the most recent witness statement of Mr. Quraishi but I wanted it to be clear, if and when we get to the stage of an order being drawn up, that I have not just based that on that most recent witness statement but on the totality of the evidence.

C MR. WATKIN: I am grateful, my Lady. It was on my list of things to point out to you in relation to the draft order was that the list of evidence needs to be expanded to include everything which your Ladyship will now have seen.

D DEPUTY JUDGE WILLIAMS: Yes, so there are two references to that in the draft order both in the schedule 1 and in the body of the order.

MR. WATKIN: Yes, my Lady.

DEPUTY JUDGE WILLIAMS: You would, presumably, anticipate this anyway but perhaps I will say at this stage that I will be asking you, in due course, to draw up the order.

E MR. WATKIN: Yes, my Lady.

DEPUTY JUDGE WILLIAMS: Just so that you can keep a running note of any changes to your draft that we discuss.

F The next thing I wanted to ask you is the order made by Jonathan Turner QC and indeed the draft order before me today in relation to the third defendant refers to "not entering or remaining without the consent of the claimants". Presumably, that must cover both the express and implicit consent?

MR. WATKIN: My Lady, yes.

G DEPUTY JUDGE WILLIAMS: I could not see that there could be any doubt about that but I was just checking.

The next thing on my list, but I appreciate there may be other points you want to address me on first, relates to the period of time that the injunction should run for.

H MR. WATKIN: Yes, my Lady. The period of time is addressed in the statement of Joanna Begaj at tab 8, my Lady.

DEPUTY JUDGE WILLIAMS: Yes.

A MR. WATKIN: It is referred to initially by Mr. Gavin who describes what was then known about the building programme. Forgive me, it is not the second statement, it is the first statement, I think.

DEPUTY JUDGE WILLIAMS: Yes.

B MR. WATKIN: It is page 141, my Lady.

DEPUTY JUDGE WILLIAMS: Yes.

C MR. WATKIN: "I am informed by Mr. Gavin that the construction programme is scheduled to continue at 250 City Road until 2023 and South Quay Plaza until 2021. In the circumstances, I respectfully request a final injunction to be granted for the period ending 30th April 2024".

D Now, my Lady, in relation to the date, really what is going on is that the claimants are trying to identify a period which balances the continuing threat to the building against the obvious undesirability to have orders lurking forever but also the undesirability of having to continue to police the signage of the injunction for all of these sites.

E Nevertheless, it is likely that when something like South Quay Plaza or 250 City Road becomes completed, they will still be a target for some time after their completion as Saffron Tower illustrates from the fact that it is targeted both during the works by Mr. Quraishi. It was targeted both during the construction phase and after the construction phase according to the images that she produced. So, the idea is really to say, "Well, 2024 gives an overlap period to make it clear to the community that the building is, F nevertheless, protected afterwards notwithstanding that is complete". So, my Lady, that is where that dates comes from.

G Obviously, I anticipated that your Ladyship might want to consider different dates for different buildings or different sites, my Lady, but, at the moment, the order just picks a date which is carefully after all of these things have come to an end. I can say that there is a further hope that this craze for urban exploring will eventually die down.

DEPUTY JUDGE WILLIAMS: Yes, I understand that. To be replaced, no doubt, by some other craze but we will deal with that as and when.

H MR. WATKIN: Yes, my Lady, but one that does not threaten these buildings with a bit of luck.

A DEPUTY JUDGE WILLIAMS: Yes. Supposing I was with you on that, just dealing with a practical problem, if you look at the terms of the draft order, so I am looking at page 134 of the bundle?

MR. WATKIN: Yes, my Lady.

B DEPUTY JUDGE WILLIAMS: The proposed injunction in relation to City Road and South Quay Plaza is expressed as being by reference to “a site demarcated from time to time by hoarding all security fencing”.

MR. WATKIN: My Lady, yes.

C DEPUTY JUDGE WILLIAMS: Now, once the construction work is concluded, is that still going to be an appropriate description?

D MR. WATKIN: No, my Lady, it will certainly cease to be an appropriate description once the buildings are let. What I think it anticipates is the fact that there will be a period after the building is no longer properly described as a construction site, as it were, during fitting out or anything like that when it will still be fenced, but there will come a point where it is simply a building in the same way as Saffron Tower is, my Lady.

E It may be appropriate to address that, my Lady, if your Ladyship thinks that there will be no point in continuing the order after that, by simply allowing leave to vary the terms, the detailed terms of the injunction, in relation to protection of the buildings.

DEPUTY JUDGE WILLIAMS: I have in mind, in particular, in relation to South Quay, as I understand the more up-to-date evidence, it is due to be completed in 2021.

F MR. WATKIN: Yes, my Lady.

DEPUTY JUDGE WILLIAMS: So, whilst you might say in relation to City Road, “Well, there is going to be a bit of time for the processes that you have just referred to”.

MR. WATKIN: Yes.

G DEPUTY JUDGE WILLIAMS: In relation to South Quay Plaza, there is every reason to think that there is not going to be the hoarding or security fencing still up over two years later and, as you say, by then, units will have been purchased --

MR. WATKIN: Yes, my Lady.

H DEPUTY JUDGE WILLIAMS: -- by individuals, families and so forth and so it does not really seem to be, either to give you the protection that you seek but also it runs a risk of causing confusion amongst those who might find themselves at jeopardy of breaching

A the instruction. I mean, as I understand it -- I entirely understand why D and E have currently been expressed as the construction site on and demarcated by hoardings or fencing, but once it is no longer a construction site demarcated by hoarding or fencing, then surely D and E become meaningless and, as I say, if anything happens to cause confusion.

B MR. WATKIN: Yes, my Lady. Once the fencing comes down, I accept, my Lady, that all orders will cease to have effect, as it were, automatically on the removal of the fencing. What I am proposing is that we do not quite know when that is going to be.

C DEPUTY JUDGE WILLIAMS: Yes, because building works may take longer than currently estimated, yes.

D MR. WATKIN: Perhaps two and a half years is an unnecessarily long period to provide for that but, equally, there is likely to be a point at which the building is basically complete but, nevertheless, protected by hoardings. That is the point which I was making, my Lady, in relation to the fact that it may stop being constructed in a visible way but, nevertheless, be hoarded for a while after that.

DEPUTY JUDGE WILLIAMS: Yes.

E MR. WATKIN: But, my Lady, it may be appropriate -- there are two ways of approaching it. Firstly, one could provide now for the protection of the exterior and roof of the building after it is complete, but that, in my submission, might just make the order more confusing than it will be.

F DEPUTY JUDGE WILLIAMS: Yes.

G MR. WATKIN: Or simply to provide leave to amend the terms of the order as necessary to reflect the progress of the building works, my Lady, in the future and to deal with it like that and if the claimants do not apply to amend in relation to those orders, then the orders will fall away with the hoardings, as it were.

H DEPUTY JUDGE WILLIAMS: Yes, the second solution seems more attractive, for the reason that you have said, to avoid confusion. I am just wondering if it would be appropriate to spell out more clearly that once the land in question at D and E is no longer a construction site, the injunction falls away.

MR. WATKIN: My Lady, may I suggest simply saying that it will remain in force until 30th April 2024 and spell out. If, by virtue of the removal of security fencing or hoarding, it

A becomes necessary to vary the terms of this order, then there will be liberty to the claimants to apply to vary or amend or discharge injunctions.

DEPUTY JUDGE WILLIAMS: I think that covers it. So, hopefully, you have a note of that.

MR. WATKIN: My pupil is typing behind me, my Lady. If the wording is fractionally different when it finally comes across your desk, my Lady, you have the --

B DEPUTY JUDGE WILLIAMS: We have the gist of it, yes.

MR. WATKIN: -- gist of it.

DEPUTY JUDGE WILLIAMS: The only other thing I wanted to ask you about was in relation to costs. So, perhaps before we come on to that logically, if there are other points you want to draw to my attention, Mr. Watkin. As I say, you can take it that I have read the documents.

C MR. WATKIN: My Lady, you indicated that you wished me to address you in relation to the test. Would you like me to do that now or ----

D DEPUTY JUDGE WILLIAMS: I just wanted to check with you that we were, as it were, on the same page as to what the test was. It seems to me in relation to the *quia timet* injunction the test is as set out by Marcus Smith J. in the ----

E MR. WATKIN: *Vastint* case, my Lady.

DEPUTY JUDGE WILLIAMS: Thank you, the *Vastint* case. So, first of all, considering whether there is a strong probability of, in this instance, trespass on the relevant sites and, secondly, whether irreparable harm would be caused if such incursion took place before an injunction being granted at that stage, but approaching it on the basis, as I think is recognised in that case, that, inevitably, there is an overlap between the two factors.

F MR. WATKIN: Yes, my Lady.

DEPUTY JUDGE WILLIAMS: I think you alluded to that already as well. I mean, I am not suggesting one approaches it in sealed boxes but those, essentially, are the two matters that I have to consider. So, if you are in agreement that that is the test, then I do not think you need address me on it.

G MR. WATKIN: My Lady, only to say that although he refers to “strong probability”, he also cites the cases which refer to “real risk” and there is also the judgment of my Lord, Morgan J. with which your Ladyship is familiar.

H

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: Where he prefers that expression as the test but there is no indication in either judgment that different tests are being alluded to as opposed to simply them being expressed in different ways.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: And really, my Lady, as I alluded to earlier on, my submission would be that the thrust of what has been got at is that it is a risk and risk is analysed by the likelihood of occurrence and the consequences of occurrence which together generate the amount of risk which has been undertaken, my Lady, and that seems to be what has been got at.

DEPUTY JUDGE WILLIAMS: Yes, I understand that, thank you. So, is there anything else you particularly want to draw to my attention?

MR. WATKIN: My Lady, if your Ladyship wants more persuasion of the necessity of making the injunctions, I can take you through the material but I will only be emphasising documents which your Ladyship has already seen.

The factors which I would emphasise in relation to Saffron Tower, obviously the fact of previous incursions in relation to it, the allurement which your Ladyship referred to and the fact that these images are still on the Internet and attracting people or at least potentially attracting people.

My Lady, Mr Gavin also refers to the fact that the second defendant referred to this as being his "favourite roof" and also that it is in close proximity to him. Whether or not he himself has been dissuaded from trespassing on it by the injunction order when an interim junction was made, nevertheless going around describing this as, effectively, "the best roof in the area to be trespassed upon" itself creates a further threat to the building.

DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: My Lady, in relation to South Quay Plaza, we have the further evidence put before your Ladyship today of continuing incursion. The reaction to the incursion has been the changing of the security staff by the claimant which indicates ----

DEPUTY JUDGE WILLIAMS: Sorry, you said South Quay Plaza but I think you mean City Road.

A MR. WATKIN: 250 City Road, forgive me, my Lady. The reaction to the incursion at 250
City Road has been, amongst other things, the replacement of the security personnel at
the site with a company who might be more able to detect large numbers of people
B breaking in on New Year's Eve than the one that was already there and that, my Lady,
goes to this question that my Lord, Marcus Smith J. raises which is that it is a relevant
factor for your Ladyship the degree to which the claimant is itself trying to protect the
site and, nevertheless, there is still a need.

DEPUTY JUDGE WILLIAMS: Yes, needs an injunction to make the protection effective.

C MR. WATKIN: We cannot stop this happening is the truth of it, my Lady.

Then in relation to South Quay Plaza, South Quay Plaza is, in one sense, the most
D difficult of the three because it has not been the subject of a present incursion. It is,
however, next to areas or surrounded, as it were, by areas which have been the subject of
incursions. It is coming out of the ground.

Mr. Gavin referred, at paragraph 49 of his statement, to the fact that Valiant Tower
had reached the 34th floor. Perhaps not the most impressive of structures in the area at
the time but they are growing and Valiant Tower is to be 68 floors when it is complete.

E DEPUTY JUDGE WILLIAMS: Sorry, did you say it was 34 at the moment?

MR. WATKIN: It was 34 in October when Mr. Gavin gave his statement but its ultimate
height is to be 68 floors and Burlington is 56 floors and Harcourt Tower is 36 floors.

DEPUTY JUDGE WILLIAMS: Thank you.

F MR. WATKIN: The persistence of the attacks on buildings around the area, including the
need for injunctions that border London, last week, and also the Canary Wharf Estate not
only being protected by an injunction but then further protected by the *in terrorem* effect
of the committal proceedings, although they only led to a fine in relation to one person,
indicates the persistent threat to this area. There is a geographical problem with sites
G here. It is a spectacular location. It is visible and it is recognisable. From the roof of
these buildings, you would be able to see Canary Wharf Tower, which is an instantly
recognisable landmark, to the north, the Shard to the west, and the 02 to the east.

H DEPUTY JUDGE WILLIAMS: Yes.

MR. WATKIN: So, my Lady, it is perhaps surprising that it has not so far been targeted.

DEPUTY JUDGE WILLIAMS: It is only a matter of time.

A MR. WATKIN: It is only a matter of time, my Lady.

B My Lady, that goes to one of the two overlapping factors, the substantial probability that there will be a further attack and, my Lady, without the injunction, there will clearly be an attack. It clearly cannot be something which is adequately dealt with by an *ex post facto* injunction because no-one can ever tell which will be the core urban explorer and site owner who suffer from the occasion when someone falls off one of these cranes as they are monkey firing along, my Lady.

DEPUTY JUDGE WILLIAMS: Yes, I understand.

C MR. WATKIN: On that and, on the other part of the test, which is the degree of risk which is therefore incurred, my Lady notes the list of people who have died in this act, obviously, across Europe including Sam Clarke who died aged 21 at the foot of a construction site in a Canary Wharf Estate just before Christmas last year, my Lady, the year before last, I think.

D So, my Lady, we say that the harm which will be done by these incursions is simply incapable of being dealt with by damages or an *ex post facto* injunction. It is very significant to everybody involved. There are financial indications as well and you would have seen that the sites employ 400 people. A stoppage, even for a day, would be a significant financial event but that is not the reason why landlords are trying to stop people from risking their lives on their sites in truth.

E My Lady, unless I can assist you any further, I was going to take you through various examples of the astonishing things that people do on these sites but your Ladyship, I think, has been through the evidence very thoroughly and, unless I can assist you any further, I do not think that will necessarily assist your Ladyship

F DEPUTY JUDGE WILLIAMS: No, I do not think it would but thank you anyway.

G On the question of costs, I might as well hear from you while you are on your feet. I have now checked, because I did not have that page before, so costs on the previous occasion were simply reserved.

H MR. WATKIN: My Lady, they were.

DEPUTY JUDGE WILLIAMS: So, in relation to the first and second defendant, it seems relatively straightforward. You seek an order for detailed assessment of costs, albeit, as

A

you say in your skeleton, it may be that you never pursue the matter but it is there should you choose to do so.

MR. WATKIN: My Lady, I cannot pursue a claim for costs against the third defendant in truth.

B

DEPUTY JUDGE WILLIAMS: That is what I was going to query with you but if you are not pressing for that, I will not take that any further.

MR. WATKIN: I do not see how conceptually that ----

DEPUTY JUDGE WILLIAMS: That is what I was struggling with. Thank you. Thank you very much then, Mr. Watkin, so I can proceed to give judgment.

C

MR. WATKIN: I am grateful, my Lady.

(For judgment - please see separate transcript)

D

DEPUTY JUDGE WILLIAMS: Mr. Watkin, we also discussed earlier, I think, one other amendment to the draft order in addition to the points that I have just covered, namely costs and liberty to apply to vary, and that was just listing the material that I have had regard to.

MR. WATKIN: Yes, my Lady.

E

DEPUTY JUDGE WILLIAMS: But I think other than that -- perhaps I should just check it -- the draft remains as it were in fact.

MR. WATKIN: Yes, my Lady, I think so. There is nothing else in the draft which I specifically noted to bring to your Ladyship's attention.

F

DEPUTY JUDGE WILLIAMS: Thank you very much. So, if you could draw up the order in light of the judgment that I have given and email that to the court. If you need to check the address before leaving court, the email address, then please do so.

MR. WATKIN: I will do, my Lady.

G

DEPUTY JUDGE WILLIAMS: Thank you very much.

MR. WATKIN: Thank you very much.

(The hearing then concluded).

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Neutral Citation Number: [2019] EWHC 632 (QB)

Case No: HQ 18 X 03914

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

The Royal Courts of Justice
Strand
London WC2A 2LL

Date: Monday, 11th February 2019

Before:

HEATHER WILLIAMS QC
(Sitting as a Deputy High Court Judge)

Between:

**BERKELEY HOMES (SOUTH EAST LONDON)
LIMITED & OTHERS**

Claimants

- and -

**(1) HARRY GALLAGHER
(2) USAMA QUARAISHI
(3) PERSONS UNKNOWN ENTERING IN
OR REMAINING AT THE CLAIMANTS'
PROPERTIES DESCRIBED IN THE ORDER
WITHOUT THE
CLAIMANTS' PERMISSION**

Defendants

MR. TOBY WATKIN (instructed by **Eversheds Sutherland (Intl) LLP**) for the **Claimants**
THE DEFENDANTS did not appear and were not represented

APPROVED JUDGMENT

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HEATHER WILLIAMS QC:

Introduction

1. On 13 November 2018, Jonathan Turner QC, sitting as a Deputy High Court Judge, granted an interim injunction against named defendants, that is to say the first and second defendants in these proceedings, Harry Gallagher and Usama Quaraishi, and against persons unknown (named as the third defendant) restraining them from trespassing in relation to three sites owned by the claimants: Saffron Tower in Croydon, the 250 City Road development in Islington, and the South Quay Plaza development in Docklands.
2. The activity which gave rise to the claimants' injunction application is what its protagonists call "urban exploring". It entails, amongst other aspects, trespass upon and then scaling the exterior of tall buildings, both completed structures and those under construction, without safety protection and then taking images of daredevil behaviour, which are posted on social media. Both the first and second defendants are well-known urban explorers with significant social media followings.
3. None of the defendants have indicated an intention to participate in the proceedings or to contest the injunction sought at any stage.
4. The interim injunction made by Jonathan Turner QC was served in accordance with its terms. His order envisaged a final hearing of the claim on the first convenient date after 18th January 2019. The matter has now come before me for that final hearing.
5. The claimant seeks a time limited final injunction restraining trespass against all three defendants in relation to the three sites that I have mentioned.

The evidence

6. The evidence before me today has comprised a witness statement of Sean Gavin, who is the first claimant's operations director, dated 31st October 2018, plus exhibits, a witness statement of Stuart Wortley, dated 2nd November 2018, the claimant's solicitor (both of which were also before Jonathan Turner QC), and three witness statements made since the interim injunction was granted by Joanne Begaj an associate at Eversheds solicitors, working under Mr. Wortley's supervision.

The material facts

The sites

7. I take the description of the properties in question from Mr. Gavin's witness statement which I accept. He says that Saffron Tower forms part of Saffron Square in Croydon. It was developed by the first claimant (who are a wholly owned subsidiary of the Berkeley Group Holdings PLC), between 2011 and 2015. It comprises over 700 apartments and includes the Saffron Tower which is 44 floors high and, as such, is the tallest building in Croydon and one of the tallest in South London. The freehold of the common parts including the structure in relation to Saffron Tower remain in the

ownership of the first claimant. These proceedings are limited to the roof and structure of that Tower, as is more specifically delineated on plan 1 to both the particulars of claim and to the interim injunction.

8. 250 City Road is a major development on the South side of City Road between the London Underground stations of Angel and Old Street. The freehold of this site is owned by the second claimant, who is also a wholly owned subsidiary of the Berkeley Group Holdings PLC. The completed development will comprise 930 apartments including residential towers of 42 floors and 36 floors. The taller of these residential towers is known as Carrara Tower. Its structure was completed in 2018. The other aspects of the construction programme are on-going.
9. Within the City Road development is 12, 14 and 16 Dingley Road. The interior of this building has been leased to the Peabody Trust and, therefore, the second claimant limits their injunction claim in relation to this aspect of the site to the roof and structure which are excluded from the lease and remain in its direct ownership.
10. A similar position applies in relation to 6 Macclesfield Road where, again, the interior of the building is leased to the Peabody Trust and so the second claimant's claim is limited to the roof and structure. The boundaries of the construction at 250 City Road are shown edged red on the plans provided and appended to the particulars of claim, the interim injunction and draft injunction before me today; and the land let to the Peabody Trust is coloured green.
11. Then, thirdly, the South Quay Plaza, which is a major development on Marsh Wall in the Docklands area opposite the South Quay Station on the Docklands Light Railway. The freehold of this site is owned by the third and fourth claimants. The completed development will comprise 1,338 apartments and three towers, the tallest of which (Valiant) will be 68 floors high. The second (Burlington) will be 56 floors and the third (Harcourt) 36 floors. Phase 1 of the development, including Valiant, is currently under construction and the boundaries of that construction site are shown on the third plan annexed to the documents that I have already referred to.
12. Mr. Gavin also details the registered title holding in relation to each of these areas of land.

Urban exploring

13. Turning next to the urban exploring activity in question and the hazards it involves, Mr. Gavin's witness statement describes urban exploring and exhibits various media articles about it. I accept his description. The essence is as follows. It is an activity which involves the exploration of buildings and manmade structures within the urban environment. It is associated with trespassing on parts of buildings to which public access is prohibited and on properties that are under construction. One particular feature of urban exploration is known as "roof topping". This is an activity in which individuals will gain access to the roof of a building without the consent of the building owner in order to take photographs and/or videos.
14. Typically, urban explorers target the tallest trophy building in any given city, particularly those which offer the best views. To increase the dramatic effect of the photographs and videos that are taken from these high points, urban explorers often

engage in dangerous activities, for example sitting or standing on, or even suspending themselves from, exposed positions or performing acrobatic stunts without safety protection.

15. Urban explorers regularly target construction sites, climbing tower frames and buildings under construction. At paragraph 17 of his witness statement, Mr. Gavin gives examples of other major construction sites in London that have been targeted by urban explorers within the last 12 months. His list of ten sites includes Canary Wharf and Newfoundland in Canary Wharf. I highlight these in particular because the South Quay Plaza development site is in very close proximity to those locations. Mr. Gavin explains that most urban explorers use social media to promote photographs or videos of their activities, with a view to building their social media following.

16. Mr. Gavin also details, and I accept, the hazards involved in this activity. He says:

“All urban exploring is dangerous but trespassing on construction sites has particular hazards which construction workers, unlike trespassers, are aware of and which they are trained to deal with. All lawful visitors to the site are obliged to wear full personal protective equipment which urban explorers never do. The risks associated with such hazards are increased in circumstances where once they have been seen by on-site security, urban explorers are often tempted to run away in an attempt to avoid being caught by security guards or the police.

Within our construction sites, various arrangements are in place such as scaffold guard rails to protect people from falling down voids, but urban explorers think nothing of vaulting over scaffold guard rails. When on a construction site, this is particularly dangerous.

In addition to that, there are various risks arising from normal construction hazards including risks of tripping and falling”.

He continues that:

“The risks involved in this activity are apparent from the number of deaths around the world”

Mr Gavin then goes on to identify 16 deaths from around the world that have occurred as a result of urban exploring since June 2013. The most recent fatality he identifies is from January 2018; it involved a young man who was found on the construction site at 125 Bank Street at Canary Wharf.

17. I am satisfied from Mr. Gavin’s witness evidence that the claimants have taken appropriate and reasonable measures to deter trespassers from their sites prior to applying to court for the interim injunction and that they continue to take such steps. These are addressed at paragraph 26 of Mr. Gavin’s witness statement where he says that the sites at 250 City Road and South Quay Plaza include the following precautions to deter trespassers: timber site hoardings, which are a minimum of 2 metres high; lighting; scaffold gantries; 24-hour security personnel; intruder alarms, both audible and silent; closed circuit television; and anti-climb features on cranes. He also says that in relation to the completed Saffron Tower, the security arrangements include 24-hour personnel on site and closed circuit television.

The defendants and the sites

18. I turn next to the defendants and the evidence relating to these particular sites. Mr. Gavin explains, and I accept, that on 14th May 2017 the second defendant uploaded a video with the title, “*Croydon's tallest sky scraper climb 440 feet*” referring to Saffron Tower. Mr Gavin observes that whilst the second defendant’s home address is not known, given that a number of his videos feature buildings in Croydon, it suggests that he lives locally or at least is active in that locality. In relation to the video footage involving Saffron Tower, the second defendant’s description of it includes the following, “*This video is a compilation of the times I have attempted/made it on to this roof*”. He then goes on to refer to what he calls “*a group of bait heads who were caught trying to reach the top and caused the place to get locked up*”. In other words, he is referring there to other urban explorers who tried to climb Saffron Tower.

19. Mr. Gavin notes that the coloured lights on the roof of Saffron Tower, in shades of purple, pink and red, feature prominently in the video and he says that this is a further allurement as regards this particular building. His description of the video continues:

“During the video at about 4 minutes and 20 seconds, the second defendant gets to the roof of the building. At around 5 minutes and 30 seconds he walks along the window cleaning plant on the roof.”

Mr Gavin then continues that:

“On 14th, 15th and 16th May 2017, the second defendant uploaded three photographs taken at the top of Saffron Tower to his Instagram account with messages which included the following, ‘If you have not already, go check-out my latest video. This will forever be my hands down favourite roof’ [then a hear symbol followed]

“On 30th December 2017, the second defendant uploaded a video with the title, ‘I want a way out’ which shows him climbing Saffron Tower whilst under construction some years earlier.”

20. Mr. Gavin also explains that the second defendant uses an image taken from the roof of Saffron Tower as his profile picture for his YouTube and Instagram accounts.

21. As regards the first defendant, there is no specific evidence that he has climbed or attempted to climb Saffron Tower.

22. Turning then to the 250 City Road Development. Mr. Gavin says:

“The construction site at 250 City Road is closer to the centre of London and has been targeted more frequently than Saffron Tower,”

He exhibits to his witness statement a schedule of 12 incidents that have taken place between January 2016 and July 2018 that he describes as incursions onto that site. As Mr. Watkin fairly clarified with me today, it cannot be said that all of these incursions are necessarily urban explorers as opposed to people trespassing on the site for other reasons, for example, to steal items; but, inferentially, given the publicity from urban

explorers to climbs that have been undertaken at this location, it is likely that at least some of these incursions have involved unidentified urban explorers.

23. Mr. Gavin refers to two videos uploaded to YouTube. On 12th May 2018 the first defendant uploaded a video that showed him accessing this site and climbing to the top of Carrara Tower with an unidentified individual. Then on 3rd July 2018, the second defendant uploaded another video that showed him accessing this site and climbing to the top of Carrara Tower with another unidentified individual.
24. In relation to 250 City Road, I have also been provided with witness evidence from Ms Begaj referring to a further incident on 31st December 2018 when 20 urban explorers trespassed on the site to watch the London New Year's Eve fireworks. The identity of those involved on that occasion is not known.
25. Turning to South Quay Plaza, it is accepted that, to date, there have been no incidents of trespass on that site. However, Mr. Gavin explains that there are concerns in relation to this site because the three tall towers which are being built at South Quay Plaza, will be obviously attractive targets to urban explorers, particularly during the construction phase.
26. The completed height of Valiant Tower will be 68 floors. When Mr. Gavin made his witness statement, it stood at 36 floors. Self-evidently, as it grows higher as the construction develops, it will become all the more of a temptation to urban explorers. The same applies to the Burlington Tower as well.
27. There is currently a final injunction in place protecting the whole of the Canary Wharf Estate from these kinds of incursions by urban explorers. The South Quay Plaza, as I have already noted, is very close to the Canary Wharf Estate. Mr. Watkin handed me a map this morning to underscore that point. It is an area of London likely to be attractive to urban explorers not only because of the height, or potential height, of the buildings involved but given the views from that area of landmarks in close proximity such as the 02 Arena, the Shard, and Canary Wharf. The claimants say that if an injunction is not granted in relation to South Quay Plaza when other tempting buildings around it are injuncted, then it will become all the more of a temptation for urban explorers as, absent an injunction, they could climb on this site without facing committal proceedings for doing so.
28. Mr. Gavin explains that other buildings relatively nearby in the Docklands area, have been targeted recently. These include: Harbour Central which was climbed in May 2018 by persons he names including the second defendant; Baltimore Tower; the 02 Arena, which has been the subject of repeated incidents of trespass; and Newfoundland, which was climbed overnight on 22nd - 23rd October 2018 and is very proximate to the South Quay Plaza site.
29. I accept the force of these concerns.

Other evidence relating to the defendants

30. Turning to the other material relating to the second defendant, Mr. Gavin says that he is one of the most active urban explorers in England. In addition to the evidence relating to him climbing the towers at the first and second sites, the material exhibited

to Mr. Gavin's witness statement includes images from his Instagram account, showing that in 2018 he trespassed on and climbed a number of other tall buildings in London as well. Further, in July 2018, he was the subject of another interim injunction obtained by the claimant's solicitors restraining him from trespassing on construction sites at Bishopsgate, where there was evidence that he had trespassed on that site in both May and July 2018 and after an injunction was granted in September 2018. There is also evidence of him climbing the Newfoundland structure on 22nd - 23rd September 2018.

31. In fairness to the second defendant, Mr. Watkin has properly drawn my attention to the judgment of His Honour Judge Freedman, sitting as a Judge of the High Court, given on 26th November 2018 in relation to committal proceedings brought by Canary Wharf Investments Limited and others against a number of named defendants, relating to incursions on the Canary Wharf Estate. It is right to record that the Judge did not impose any specific penalty in relation to Mr. Quaraishi, (the second defendant in the current proceedings), indicating that he was impressed with what Mr. Quaraishi had said to him, namely that "*[he] would do [his] utmost to discourage others, who were inclined to take part in urban exploring, from doing so*" (see paragraph 9 of the judgment).
32. However, that statement of intent is somewhat undermined by the fact that since then I am told that the second defendant has continued to post images on his social media accounts of involvement in urban exploring. Whether or not the particular climbing activity and trespassing activity took place after 26th November 2018, the posting has done so and that in itself is plainly an encouragement to others to act in the manner depicted in the images. Accordingly, the claimants say to me, and I accept, that I should treat what the second defendant is recorded as saying to the court on 26th November 2018 with a degree of healthy scepticism, given both his previous activity in this area which has been pronounced and has spanned a lengthy period; and given the more recent social media activity that I have just referred to.
33. As regards the first defendant, I have already referred to him climbing the Cararra Tower last year. Further, the exhibits to Mr. Gavin's witness statement, indicate that he has posted extensive images on his social media accounts which show him trespassing on a large number of tall buildings in London.
34. In May 2017, the claimant's solicitors obtained an injunction against him from trespassing on the Shard as a result of his activities.

The proceedings and the interim injunction

35. Turning then to these proceedings. They were begun on 2nd November 2018 by a Part 8 claim form seeking injunctive relief. I have already referred to the witness evidence that was before Jonathan Turner QC. The interim injunction which he granted on 13th November 2018 was addressed to the first and second named defendants and then described a third defendant as follows, "*Persons unknown entering in or remaining at the claimants' properties described in this order without the claimants' permission*" and I am asked to follow a similar, or the same description, for present purposes.

36. The order attached a penal notice and injunctioned the first and second defendants from entering or remaining on any part of the roof or external structure of Saffron Tower; the roof or external structure of 12, 14 and 16 Dingley Road; the roof or external structure of 6 Macclesfield Road; and the construction sites at 250 City Road and South Quay Plaza, as shown on the respective plans and as demarcated from time to time by hoarding or security fencing. The third defendants were injunctioned that they *“must not, without the consent of the claimants, enter or remain upon any part of”* and then the same sites and locations were listed. The order was provided to continue until further order of the court. Paragraph 4 of the Order provided: *“The defendants may apply to vary or discharge this order upon giving 48 hours’ notice in writing to the claimant’s solicitors”*.
37. Service of the claim form, particulars of claim, the claimant’s application for interim injunction and the supporting evidence was deemed to have been served on the first and second defendants on 6th November 2018 by virtue of the steps described in Mr. Wortley’s witness evidence and it was provided that, *“Service by the claimants of any further documents in the proceedings on the first and second defendants will be as prescribed below”*. Service of the claim form and the other documents I have just referred to on the third defendants were dispensed with but the order made provision for service of the order and subsequent documents in these proceedings. The order was to be served on the first and second defendants by sending it to the postal addresses and email addresses set out in paragraph 10. It was to be served on the third defendant by posting notice of the order with a web link to the order, in a prominent position within the main reception at Saffron Tower; outside the entrances to Saffron Tower at no fewer than three prominent locations; and at regular intervals on the hoarding at the construction sites at 250 City Road and South Quay Plaza; and, if so advised, by also giving notice through social media.
38. I am satisfied from the evidence that I have read from Ms Begaj that service of the interim injunction and then subsequently service of today’s application, has been undertaken in accordance with the terms of that order.
39. The earlier order went on to provide that, *“The court will consider the claimant’s application for a final injunction at a hearing on the first convenient date after 18th January 2019”* and provided for the first and second defendants to be given no less than 14 days’ notice and notice to be given to the third defendants by the means that I have described. It provided at paragraph 15 that, *“If either the first or second defendant or any person who wished to engage in any of the acts referred to in this order at the claimant’s premises described in the order wanted to argue the injunction should not be continued or should not be made a final order, they must give notice to the claimant’s solicitors of their intention to do so and serve any written evidence on which they propose to rely no later than 7 days before the date fixed for the hearing”*.
40. As I have already indicated, no such evidence has been served and neither the defendants nor anyone representing them has attended today’s hearing.
41. The order also provided that the claimant’s costs of the application were reserved.

The relevant legal principles

42. I turn then to the relevant legal principles that I need to apply. Unsurprisingly, it is well recognised that a land owner whose title is not disputed is *prima facie* entitled to an injunction to restrain trespass on his land save where exceptional circumstances apply (see, for example, *Patel v W.H. Smith (Eziot) Ltd* [1987] 1 WLR 854, Balcombe LJ at 858 E to 859 D and Neil LJ at 862 D.

***Quia timet* final injunctions**

43. In this case there is no current, ongoing trespass, but the claimants seek, in effect, *quia timet* final injunctions to prevent the occurrence or reoccurrence of anticipated trespass.
44. In *Vastint Leeds BV v. Persons Unknown* [2018] EWHC 2456 Ch Marcus Smith J considered the test to be applied when the court is asked to grant a final injunction of a *quia timet* nature. This was also a case concerned with claimants seeking final injunctions against apprehended trespassers.
45. I have considered in full his discussion of the relevant authorities and the conclusions that he draws from them, which is to be found at paragraphs 27 - 31 of his judgment. For present purposes, it will suffice for me to cite his paragraph 31. He says as follows:

“From this, I derive the following propositions:

(1) A distinction is drawn between “final mandatory and final prohibitory quia timet injunctions. Because the former oblige the defendant to do something, whilst the latter merely oblige the defendant not to interfere with the claimant’s rights, it is harder to persuade a court to grant a mandatory injunction than a prohibitory injunction. That said, the approach to the grant of a quia timet injunction, whether mandatory or prohibitory, is essentially the same.

(2) Quia timet injunctions are granted where the breach of a claimant’s rights is threatened but where (for some reason) the claimant’s cause of action is not complete. There may be a number of reasons...

“(3) When considering whether to grant a quia timet injunction, the court follows a two-stage test:

(a) First, is there a strong probability that, unless restrained by injunction, the defendant will act in breach of the claimant’s rights?

(b) Secondly, if the defendant did an act in contravention of the claimant’s rights, would the harm resulting be so grave and irreparable that, notwithstanding the grant of an immediate interlocutory injunction (at the time of actual infringement of the claimant’s rights) to restrain further occurrence of the acts complained of, a remedy of damages would be inadequate.

(4) There will be multiple factors relevant to an assessment of each of these two stages, and there is some overlap between what is material to each. Beginning with the first stage - the strong possibility that there will be an infringement of the claimant's rights - and without seeking to be comprehensive, the following factors are relevant:

(a) If the anticipated infringement of the claimant's rights is entirely anticipatory – as here - it will be relevant to ask what other steps the claimant might take to ensure that infringement does not occur. Here, for example, Vastint has taken considerable steps to prevent trespass and yet, still, the threat exists.

(b) The attitude of the defendant or anticipated defendant in the case of an anticipated infringement is significant...

(c) Of course, where acts that may lead to an infringement have already been committed, it may be that the defendant's intentions are less significant than the natural and probable consequences of his or her act.

(d) The time-frame between the application for relief and the threatened infringement may be relevant. The courts often use the language of imminence, meaning that the remedy sought must not be premature.

(5) Turning to the second stage, it is necessary to ask the counterfactual question: assuming no quia timet injunction, but an infringement of the claimant's rights, how effective will a more-or-less immediate interim injunction plus damages in due course be as a remedy for that infringement? Essentially, the question is how easily the harm of the infringement can be undone by an ex post rather than an ex ante intervention, but the following factors are material:

(a) The gravity of the anticipated harm. It seems to me that if some of the consequences of an infringement are potentially very serious and incapable of ex post remedy, albeit only one of many types of harm capable of occurring, the seriousness of these irredeemable harms is a factor that must be borne in mind.

(b) The distinction between mandatory and prohibitory injunctions."

46. I agree with that approach and thus I need to ask whether, firstly, there is a strong probability that, unless restrained by injunction, the defendants will trespass upon the sites in question and, secondly, if the defendants were to do so, would the harm resulting be so grave and irreparable that, notwithstanding the grant of an immediate interlocutory injunction (at the time of the infringement of the claimant's rights restraining further occurrence), that a remedy in damages would be inadequate.
47. Inevitably, there is a degree of overlap between these two questions and so whilst I will consider them sequentially for the purposes of analysis, I bear in mind that they cannot be considered in isolation from each other and also Mr. Watkin's submission that the greater the potential harm involved, the greater the risk all round.

Grant of injunctions against ‘persons unknown’

48. Continuing with the relevant legal principles, I turn to the grant of injunctive relief against persons unknown. Whilst there may be debate in some instances as to how far this approach can extend, joinder of a defendant by description of a particular category of persons unknown, rather than by name, is permissible provided, firstly, the description is sufficiently certain as to identify both those who are included within its terms and those who are not, see *Bloomsbury Publishing Group PLC v Newsgroup Newspaper Limited* [2003] 1 WLR 1633 and the judgment of Sir Andrew Morritt VC at paragraph 21; and, secondly that this can be done without injustice (see paragraph 22 of the same case).
49. The Vice Chancellor cited and followed this decision in *Hampshire Waste Services v Intending Trespassers upon a Cheetham Incinerator Site* [2004] ENVL 9. In that case, he also deprecated the description of the persons unknown that was initially proposed by the claimants, as it identified them by reference to the legal concept of trespass and by their subjective intentions. In the interests of certainty and clarity, the description of the persons unknown as “*Persons entering or remaining without the consent of the claimants*” was approved as an alternative. The claimants have followed that approved description in the present case.

Conclusions

50. Turning then to my conclusions. Firstly, there is no doubt that the claimants are the lawful owners of the sites in question. Secondly, there is no doubt that as and when the incursions that I have described occurred, they were unlawful trespasses. It is not suggested, and I do not see how it could be suggested, that persons engaged in the urban exploring activities I have described would have any lawful justification for entering the sites in question.

Test for *quia timet* relief satisfied

51. So, I, therefore, need to consider the first limb of the *quia timet* test I have identified, that is to say, whether there is a strong probability of trespass by the defendants on the sites in question unless restrained by final injunction. In my judgment, there is that strong probability and I conclude this for the following, cumulative reasons.
52. Firstly, both the first and second defendants are active urban explorers who have regularly trespassed upon and scaled tall buildings in London in the last year and beforehand.
53. Secondly, both first and second defendants have trespassed upon the 250 City Road site and scaled the Cararra Tower in the last nine months.
54. Thirdly, the second defendant has climbed the Saffron Tower on more than one occasion.
55. Fourthly both the first and second defendants remain engaged in urban exploring activities and have built up a large social media following in this context.

56. There is, in my judgment, every reason to believe they will continue to engage in these activities and I say that having taken into account the reference in the judgment of His Honour Judge Freedman (sitting as a Judge of the High Court) that I referred to earlier. I have already explained the context in which I view that.
57. Fifthly, the evidence that I have described shows that not only the first and second defendants, but other unidentified urban explorers have climbed both Saffron Tower and 250 City Road and equally that they have been trespassing upon the property when they have done so.
58. Sixthly, both Saffron Tower and the towers being built on the 250 City Road site are sufficiently prominent that they are likely to attract repeat climbing by urban explorers. They are prominent both in the sense that they have featured in this context on social media posts from the first and second defendants, and prominent in the sense of their height, or their location, or both. I bear in mind, without repeating, the description of those properties that I have already referred to when setting out the material facts.
59. Seventh, the claimants have been unable to secure their sites against this activity despite, in my judgment, taking careful and reasonable security precautions.
60. Eighth, whilst the South Quay Plaza site has not yet seen urban exploring, for the reasons identified by Mr. Gavin, which I have already summarised and indicated I accept, I agree it is likely to be a target for this activity in the near future. In this regard, I emphasise, in particular, its proximity to sites that have already seen such activity and which now are covered by injunctions including the Canary Wharf Estate, Newfoundland and the 02 Arena.
61. Finally, there is no reason to believe that, absent an injunction, activity of this nature is going to cease. It is a craze or a fad that seems to have been enthusiastically embraced by a number of people. I have already referred to other prominent buildings in Central London that have seen such activity in the recent past.
62. I, therefore, accept that all three of these sites will present in the near and medium term future, a strong temptation for further urban exploring activity.
63. Turning to the second limb of the test: if such trespass occurred, would the resultant harm be grave and irreparable? I am satisfied that is the case. The risks the claimants seek to restrain include conduct capable of leading to very serious injury or even death to urban explorers who engage in such trespasses and risks of potentially serious harm to security and/or other staff who become involved in trying to apprehend such trespassers. There is also potential for damage to or interference with equipment on site from the trespasses, which could have a knock-on impact for those working on the site. Furthermore, these incursions will be swift and frequently at night. Waiting for them to happen before coming to the court for either injunctive relief or damages is simply not a practicable proposition or an adequate alternative, given the serious risks involved. Amongst other matters, I have already referred to the tragic list of people who have died as a result of this activity in the last few years.
64. Set against that, there is no apparent damage to the defendants or injustice to them involved in injunctioning them as proposed. They are simply being prohibited from

undertaking conduct that would be an unlawful trespass, which they have no right to do in any event.

65. As regards the formulation of an injunction against the third defendant, I am satisfied that the description of the third defendant is sufficiently clear, given that it refers to entering or remaining on the claimants' three sites; and given that the claimants' proposed phraseology of "entering and remaining" was approved by the Vice Chancellor in *Hampshire Waste*.
66. Furthermore, I bear in mind the particular terms of the injunction sought. As I have already indicated in relation to the completed buildings, the proposed injunction is restricted to trespass upon the roof and external structure of the building and, secondly, in relation to the construction sites to such areas as are indicated by hoardings or security fencing. In consequence, I accept that no-one could be in any doubt as to whether they were or were not entitled to be in the areas to be protected by the injunction.
67. Thus, whilst there is a clear risk of injustice to the claimants and their employees if the injunctions are not granted, there is no apparent counter balancing risk of injustice to anyone if the orders sought are made against persons unknown. They are simply restrained from committing what would, on any view, be unlawful trespasses. Further, the proposed injunction against the third defendant, of course, has the qualification that entry by consent, whether express or implied, is not restrained and thus would not be a breach of the injunction.
68. I am therefore satisfied that it is appropriate to grant the injunctions sought.

Timescale for the injunctions

69. I turn to the timescale for which the injunctions should run. The claimants ask for final injunctions in relation to all three sites until 30th April 2024 which is a little over five years hence. This reflects the fact that the fad of urban exploring in London and other urban areas is unlikely to significantly diminish in the short-term and, secondly, that construction will continue for a period of time at the second and third sites.
70. In relation to 250 City Road, building work is currently scheduled to conclude in November 2023; and in relation to South Quay Plaza, in September 2021; although, of course, it is common knowledge that it is difficult at this juncture to be precise as to how long a construction enterprise of this scale will, in fact, take.
71. The claimant accepts that the injunction should be granted for no longer than the period reasonably required to counter the current threat of unlawful trespass.
72. I have expressed a concern that it would be inappropriate for the injunction to continue beyond the completion of 250 City Road and South Quay Plaza, because it is expressed in terms of the defendant not entering or remaining on any part of - using City Road as an example - the construction site at 250 City Road "*as demarcated from time to time by hoarding or security fencing*". Accordingly, it is unclear what happens when the building is complete and the fencing removed. On the one hand, it

may be said that the injunction prohibition will simply fall away when there is no longer a construction site with hoarding or security fencing, but the proposed terms run the risk of a lack of clarity in this respect and, of course, that is always highly undesirable in relation to the grant of any injunction, in particular a final injunction. Secondly, if and when the site is completed within the proposed period of the injunction, it is not currently known when ownership will transfer to, for example, accommodation units that are built within the site to a variety of owners.

73. In these circumstances, as I have discussed with Mr. Watkin - and he is going to provide a specific form of words - it seems appropriate to express the injunction as running to the 30th April 2024 (as the claimants have proposed), but with the caveat that there be liberty to apply to vary the injunction. Whilst at this stage I will leave the specific form of words to Mr. Watkin, it should be made as clear as possible that this provision is to cover the eventuality that I have just described, so that no-one (whether the claimants or anyone who might be considering or running the risk of breaching this injunction), is left in doubt as to what the position is.
74. More generally, in relation to the timescale, I am satisfied that it is reasonable to grant the injunction for the period of time sought, both as a result of the two particular factors relied upon by the claimants but also because, as I have already indicated, the defendants are being restrained simply from doing that which would be unlawful in any event.

Costs

75. Lastly, I am asked to award costs against the first and second defendants with such costs to be subject to detailed assessment. I accept that the claimants are entitled to such an award. It is indicated in the material before me that the claimants may well not pursue this matter but, understandably, they seek an order that allows them to do so should they wish to in due course.

The draft order originally sought costs from the third defendant, but Mr. Watkin has accepted today that that would not be appropriate, so I need say no more about that.

I think therefore that concludes all matters.

(For proceedings following judgment – please see separate transcript)

This transcript has been approved by the Judge

Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW5"

This is the exhibit marked "SSW5" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021

Case No: QB-2020-002633

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Strand,
Holborn,
London WC2A 2LL

Date of hearing: Thursday, 30th July 2020

Page Count: 23
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Before:

MR JUSTICE SOOLE

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

Claimant

- and -

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

Defendant

MISS BROOKE LYNE for the Claimants

PROCEEDINGS
(Remote hearing)

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A CLERK OF THE COURT: Good morning, sir. It is John Lloyd, your clerk. Can you hear me alright?

MR JUSTICE SOOLE: Yes, thank you.

B CLERK OF THE COURT: Good. On the conference this morning addressing you is Miss Brooke Lyne, and she has her instructing solicitor Stewart Wortney. She would like to start if you are happy, sir, with QB-2020-002633, Multiplex Construction Europe Limited v Persons Unknown. Would you be able to---

MR JUSTICE SOOLE: Yes, thank you. Do you want to start recording?

C CLERK OF THE COURT: Yes. I can confirm now that the case is being recorded and there is no need for microphone or any other issues, other than the fact that no private recording should be made of this hearing. Go ahead please, sir.

MR JUSTICE SOOLE: Yes, Miss Lyne. I think you are taking this one first because work is starting on 3rd August.

D MISS LYNE: Yes. To be honest, my Lord, it is my own preference. I prepared for this one first, so it makes sense in my mind to deal with them sequentially. Yes, I would like to address you on that one first, if I may.

MR JUSTICE SOOLE: Yes.

E MISS LYNE: Could I just check that you have everything. I think there should be a bundle that runs to 129 pages.

MR JUSTICE SOOLE: I have not printed all those off. I have printed quite a lot off for the other case, but I have the documents. If I need to go into the electronic bundle we will

F need to go in and out again I think probably. But I have seen---

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: I have read the things that matter, as I believe, and skimmed where

G skimming is sufficient.

MISS LYNE: I am grateful. And I am hopeful that you have a copy of my skeleton argument?

MR JUSTICE SOOLE: I have indeed.

MISS LYNE: I am grateful.

H MR JUSTICE SOOLE: And I have a draft order.

A MISS LYNE: I am grateful. Perhaps it is useful for me to just give you an idea of how I
propose to deal with this. I am conscious that the two applications that I have before you
this morning are in some ways similar. Of course, the factual matrix is different, but
B certainly the broad context of the type of trespass complained of is similar, and also the
law is of course the same. So you will accept my apologies if I am repeating myself and
ask me to move on if you want me to do so.

C I propose to go through the background to this application first, and then deal with
the law and then make my submissions thereafter. I should say, and I have flagged this
in my skeleton argument already, that what we are seeking today, of course, is the
interim order, and what has been done in the past often when you are dealing with an
application for an injunction against persons unknown is that this first hearing has
almost been dealt with as a disposal of the matter in its entirety, because there is no-one
D that is proposed to be served, or personally served. What we are proposing, and partly as
a result of recent authority, is for this to just deal with the interim application so that
there is then a space in time essentially for anyone that wants to object to our claim to do
so, and then for there to be a fully substantive hearing to argue about whether or not the
E court can and indeed should grant a final order in the terms that we seek. My clients do
seek a final order eventually, but for the time being and for today's purposes seek only
those interim orders. I am sure the court will be aware of the *Canada Goose* case, which
is pretty recent.

F MR JUSTICE SOOLE: Yes. Unless there is some very exceptional circumstance you cannot
get a final injunction without being able to name people who have in fact acted
wrongfully.

G MISS LYNE: Quite. And certainly my client's position at that hearing will be that this is the
type of case where that exception will apply. But I think that is a substantial argument
that is going to require a significant amount of time, and the court is going to want to
hear quite significant argument on that point.

MR JUSTICE SOOLE: Yes.

H MISS LYNE: And it is not the argument that I am going to be making today essentially.

MR JUSTICE SOOLE: No. But the consequence of that it seemed to me anyhow was that
any interim injunction is going to be relatively short, because what the court cannot do

A as I understand *Canada Goose* above all is to make an order which is tantamount to a final injunction. By that I mean of a considerable length.

MISS LYNE: Quite.

B MR JUSTICE SOOLE: In both the applications this morning you have understandably referred to previous orders made. And in the other case carrying on until 2023 as against the named defendants. They were all made before the law was clarified.

C MISS LYNE: Yes, and that is part of why we are doing it as we are procedurally. I cannot and should not ask for final injunctions today. Clearly the court needs to look at that properly, and if a further hearing in respect of these matters is listed after the recess and for a more appropriate timeframe – it is not going to take an hour to deal with those matters – then that seems to me to be the type of approach that *Canada Goose* was envisaging, i.e. a short interim order until that more substantive hearing, and then the court will have to look at whether or not it can grant the final order that my clients will be seeking.

D MR JUSTICE SOOLE: So how long are you seeking an order for today?

E MISS LYNE: At the moment the order that we are seeking says until further or final order, and it would be proposed for another hearing to be listed after the recess at some point. I do not have specific dates in mind today, but proposed to be in a couple of months' time after the recess, so that there is an opportunity for more time and for a substantive hearing at that point.

F MR JUSTICE SOOLE: I am not quite clear. You mean more time to consider the application for an interim injunction.

MISS LYNE: No.

G MR JUSTICE SOOLE: Or to consider an application for a final injunction, i.e. summary judgment.

MISS LYNE: Yes, the latter. Quite.

MR JUSTICE SOOLE: Yes. But this order has to have some duration, does it not, until a certain date?

H MISS LYNE: I am not terribly convinced it needs to, and the reason I say that is that although of course the law says these orders need to be quite specific in terms of their temporal limits, I say that saying the order should be until further order or final order

A when there is going to be another hearing at some point in the near future is perfectly sensible. The reason I say that is that I have had various experiences in the past where a specific date is put in place – whether it be in 2 months’ time or 6 months’ time – and then, for whatever reason, that hearing gets vacated, and then further applications have to be made for it to be in place for a few days longer, or however long it might need to be.

B So actually it ends up being relatively counterintuitive. So it seems to me that it is more appropriate to say further or final order and then re-list the hearing than to have---

MR JUSTICE SOOLE: I think I will need persuasion on that. There needs to be some date which is coming up in the future and not just left. I do not doubt when you say you want to apply in due course for a final injunction, but there is a danger otherwise that the thing is just left in the air as a continuing order. That then becomes tantamount to a final injunction.

C

MISS LYNE: Quite. Perhaps I can take further instructions precisely on that point, if I may, and perhaps we can come back to it if I manage to persuade you---

D

MR JUSTICE SOOLE: One thing would be to give an undertaking. I think in some cases people give undertakings that they will apply for final injunction by such and such a date.

MISS LYNE: That is certainly something I can take instructions on.

E

MR JUSTICE SOOLE: At the moment I can tell you that, leaving all the other factors aside, I am not disposed just to make an order which continues until further order, because otherwise that imposes no obligation on you as claimants to bring the matter to a final resolution.

F

MISS LYNE: I am grateful for that indication. Perhaps I could take some further instructions and---

MR JUSTICE SOOLE: If you want to argue against that, of course do so, but that is my present feeling.

G

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: All because of *Canada Goose*, yes.

MISS LYNE: Quite. Perhaps in the meantime I will take a few instructions on precisely that point, and then when I get to the end hopefully if I have persuaded you to grant the orders---

H

A JUDGE GERALD: Yes.

MISS LYNE: ---then we can talk through the matter of how the draft order should be dealt with.

MR JUSTICE SOOLE: Yes.

B MISS LYNE: Going to the more broad background, we of course are applying for an interim injunction in respect of land known as (or we have referred to as) Bankside Yards.

Essentially that is a construction site on Blackfriars Road. The second claimant is the owner of the relevant land. There are Land Registry titles in the bundle at page 31.

C Both the freehold and leasehold relevant titles are owned by the second claimant. The first claimant is tasked with managing the construction project, and pursuant to an agreement between the first and second claimants from Monday, as my Lord has already referred to, the first claimant will take possession of that land to commence construction works.

D MR JUSTICE SOOLE: Yes.

MISS LYNE: And thereafter will be responsible for the site until the project is complete.

E The site is enclosed. It is enclosed by hoarding and fencing. I understand from the witness statement that there will be a minimum of 3 tower cranes once construction begins on the site. The first claimant has various construction sites across London. You will have seen from the evidence that they have already obtained similar injunctions in respect of those sites as a result of those sites being targeted by what we are referring to as urban explorers---

F MR JUSTICE SOOLE: But those injunctions I think are all pre-*Canada Goose*, are they not?

MISS LYNE: They are. That is correct, yes, they are pre-*Canada Goose* injunctions, that is quite right.

G That brings me on to the type of trespass that the claimants are concerned about in this matter, and that is what we have described as urban exploring, and Mr Wilshire has provided a detailed explanation of what that is and why it is has become this sort of prevalent problem in recent years. Essentially urban explorers trespass on buildings and other urban structures to perform stunts, take videos and then post that content on line, H and it has become a really significant problem in particular at sort of landmark structures in the last few years.

A I guess the sort of secondary consequence that the claimants are concerned about is
that it is not just the individual who commits the trespass that causes a problem; it is the
ripple effect of having done that that encourages others to perform the same type of
behaviour and replicate it. So even if a video or a particular trespass took place
B sometime ago, the fact that the video may remain online indefinitely means that it has a
lasting effect and can continue to be viewed and continue to have that replicatory effect
a long time after the actual trespass took place.

MR JUSTICE SOOLE: But you are not seeking an injunction against videos.

C MISS LYNE: No, we are not, but it comes to the sort of broader concerns about why this
behaviour is a problem and why even one incident can end up causing a much larger
problem. In recent years construction sites have become a focus and a particularly
popular target for people wanting to engage in these activities.

D I should add at this point, and I am under a high disclosure obligation, that there
have not yet and we do not have evidence of attempts to trespass at Bankside Yards yet.
I think I need to be pretty candid about that. But what we say is that there have been
numerous instances of similar incursions into not only the first claimant's construction
sites but also other sites across London, and that as a result there is that significant threat
E of it occurring at Bankside Yards, and we want to protect that side before construction
works begin.

MR JUSTICE SOOLE: It is in the nature of a *quia timet* injunction that the event has not
occurred.

F MISS LYNE: That is right and that is the submission I want to make, but I think I need to be
pretty straightforward that a lot of the time with these types of injunctions there is
evidence of attempts in the past or on the specific site that you were looking at, and in
this case I cannot make that submission to you.

G MR JUSTICE SOOLE: Yes.

MISS LYNE: And in this case we say it does not really matter because there is so much
evidence of similar behaviour that it is only a matter of time really before this site may
become the target of urban explorers.

H You will have seen in the evidence that the danger of this type of behaviour is self-
evident. Firstly, climbing on buildings is by its very nature dangerous, but in particular

A

swinging off cranes and in a construction site environment any risk is particularly bad, and the risks to not only the person who is behaving in that way, but also anyone on the construction site is very grave.

B

MR JUSTICE SOOLE: There is a risk, of course, to security staff, emergency services, members of the public, and in respect of the trespassers themselves of course an occupier has a duty, albeit a limited duty, to trespassers as well.

C

MISS LYNE: Yes, absolutely. Quite rightly the consequences for persons other than the individual who does it are very broad, and you will have seen – you have had a look at some of the committal judgments that have been provided in support – that the court has acknowledges all of those concerns in the past and---

D

MR JUSTICE SOOLE: Yes.

MISS LYNE: ---the implications are really significant.

MR JUSTICE SOOLE: I need no persuasion of the highly dangerous nature of these activities, the effects on the individuals and other innocents on the sites, the responsibility which any proper freeholder and construction company towards the health and safety of the site.

E

MISS LYNE: I am grateful. In which case I propose to move on to the law and the legal basis for the claim, if I may.

MR JUSTICE SOOLE: Yes.

F

MISS LYNE: You will have seen in my skeleton argument that I have set out what the relevant tests are for this type of injunction, and of course we are the landowner, or certainly the second claimant is for the time the person entitled to immediate possession, and so *prima facie* if there is a trespass of course we are entitled to an injunction. But because, of course, this is an anticipatory injunction you need to be satisfied that, firstly, there is a real risk or strong possibility that an infringement of the property rights will take place---

G

MR JUSTICE SOOLE: Did you say strong *possibility* or *probability*?

MISS LYNE: Probability, strong probability.

H

MR JUSTICE SOOLE: Yes. It is not quite clear which is the test, but they both seem to appear in the cases.

A MISS LYNE: Yes, absolutely. I do not think there is one specific test. The word *imminence* occurs quite frequently, though that word has been clarified to mean not premature. But I think in this case whatever word you choose it is going to be met.

B The second test is where there is a breach of those rights, or would be a breach of those rights, the harm that might occur would be grave and irreparable such that damages or an immediate injunction thereafter would not be an adequate remedy.

MR JUSTICE SOOLE: Is that very different from the *American Cyanamid* test of the question of whether or not damages would be an adequate remedy?

C MISS LYNE: I am not sure it is. I think it is a formulation of that done in quite a specific context.

MR JUSTICE SOOLE: Yes.

MISS LYNE: But I think the broad principles are exactly the same, and the court is familiar with that approach from any type of injunction.

D MR JUSTICE SOOLE: Yes. You say that damages are not an adequate remedy; in any event it is unlikely that such people would be good for the money for a claim for damages even if it were an adequate remedy; cross-undertaking is barely needed in the circumstances, but if it is you are good for the money yourselves; and the balance of
E convenience is in favour of an order.

MISS LYNE: Yes.

MR JUSTICE SOOLE: Yes.

F MISS LYNE: That is precisely what I intend to argue. I have also set out in my skeleton argument the *Boyd* principles which apply specifically in “persons unknown” cases.

MR JUSTICE SOOLE: I was not quite sure why you cited those rather than *Canada Goose*, because *Canada Goose* has expanded those, has it not?

G MISS LYNE: It has, but I think specifically in the context of final injunctions, and I think the *Boyd* principles---

MR JUSTICE SOOLE: No, no, I meant paragraph 82 of *Canada Goose*:

H “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.”

MISS LYNE: Yes. I think I accept your point that perhaps that was a more accurate brief statement of precisely where we are now. I think I was going for *Ineos* because it was a

A case decided on the question of interim injunctions, but I think the principles are broadly the same, but there are 7 in *Canada Goose* rather than 6 and---

MR JUSTICE SOOLE: Yes, but it is expressly concerning interim relief against persons unknown, and it expands on those points in *Ineos*.

B MISS LYNE: Yes. I think because I was looking at the context of precisely what that case was dealing with, I thought *Ineos* was probably the more appropriate one to cite. But perhaps we can go through those ones instead of the ones I have given you.

MR JUSTICE SOOLE: I think so because it is building on *Ineos*. This is a full court, the Master of the Rolls and so on, setting out the 7 matters.

C MISS LYNE: Yes.

MR JUSTICE SOOLE: Tell me if I am wrong, but it seems to me that that ought to be the central source of law in these cases. I mean, I do not myself – tell me otherwise – personally see any difference between a protestor case and a trespasser case really, except that in protestor cases Article 10 comes into play.

D MISS LYNE: Quite. Yes, there is a difference to the extent that there is usually no or very little prospect of a defence being raised when you are dealing with trespasses---

MR JUSTICE SOOLE: Yes.

E MISS LYNE: ---but as you pointed out, when you are dealing with a protestor case there is a much bigger balance that the court needs to strike with competing rights.

MR JUSTICE SOOLE: Yes.

F MISS LYNE: So certainly *Ineos* is closer in terms of... No, it is not. *Ineos* was dealing with fracking, so that is also a protest case. I apologise.

MR JUSTICE SOOLE: Yes.

G MISS LYNE: I apologise. It wasn't. But certainly I think the context is slightly different, albeit the principles are broadly the same. But it is how the court approaches them, and when there is a defence being raised, particularly a human rights defence, the court takes a slightly different approach to that when there is no prospect of a defence.

H So looking at those principles in *Canada Goose* at paragraph 82, persons unknown need to be identified by definition. You will have seen in my skeleton argument that there has been lots of debate about how to precisely define them and, in particular, you should not define them by reference to an unlawful act, and all of that sort of thing. In

A this case you will see that we are, of course, defining them by reference to the act of entering or remaining on the construction site without the claimant's permission.

MR JUSTICE SOOLE: Yes.

MISS LYNE: We think that satisfies those requirements.

B MR JUSTICE SOOLE: Because we are not using the word "trespass". That is the important thing, is it not?

C MISS LYNE: Yes, absolutely. And that deals with paragraphs 1 and 2. Interim relief may be granted if there is a sufficiently real and imminent risk of a tort being committed. We have just talked about that and why I say all of the things that have gone on at the first claimant's other sites and other construction sites in London in recent years demonstrate why there is an imminent and sufficiently real risk---

MR JUSTICE SOOLE: Yes.

D MISS LYNE: ---of the tort being committed. The next one is about whether or not persons can be identified and about service, and you will have seen in the skeleton argument I have set out precisely what we are proposing in terms of service and to ensure that essentially anybody that is about to commit or potentially commit a breach of the injunction can be properly advised that what they are doing will amount to a breach of the injunction. So what we are proposing is having warning notices – a copy of that notice is in the bundle – everywhere that is sensible around the premises. As I have said before, because they are going to be hoarded premises it should come to the attention of anybody intending to trespass.

F MR JUSTICE SOOLE: And that links into the position that you come subject to the order.

At the moment you are in breach.

MISS LYNE: Yes.

G MR JUSTICE SOOLE: And you are only in breach if you knowingly do something.

MISS LYNE: Yes.

MR JUSTICE SOOLE: You will have knowledge via the notices.

MISS LYNE: Yes, absolutely.

H MR JUSTICE SOOLE: Can you just tell me, and I had difficulty finding it, could you just read to me the essential terms of the notice. It will not have the full order, but just what it says.

A MISS LYNE: Yes, absolutely. The notice begins with a bold heading saying “**Important Notice. High Court of Justice claim no**” and then it says “On [a specific date] an order was made in the High Court of Justice prohibiting anyone from climbing upon any building, structure or equipment at these premises without the claimants’ permission. Anyone in breach of this injunction will be in contempt of court and may be imprisoned, B fined, or have their assets seized. A copy of the court order, claim form, particulars of claim, application notice, particulars of claim and witness statement are available at”, and then it has the website address.

C MR JUSTICE SOOLE: Wait a moment. The order which you are seeking is not against climbing. It is against entering or remaining without permission.

MISS LYNE: That is correct. I think that will have to be amended slightly.

MR JUSTICE SOOLE: Completely, will it not, because it has to summarise what the injunction has said, and it doesn’t.

D MISS LYNE: You are quite right.

MR JUSTICE SOOLE: The one in the other case you have a notice in those terms. Sorry, your order specifically refers to climbing. But unless I am looking at the wrong order E the draft order that I have been looking at says: “The defendants must not until trial or further order without the consent of the claimants enter or remain upon any part of the construction site at Blackfriars Road...as shown edged red on the plan as demarcated from time by time by hoarding or security fencing.”

F MISS LYNE: Yes, my Lord, I think you are absolutely right. It is going to need to be amended to remove “climbing”.

MR JUSTICE SOOLE: Otherwise it is misleading. I know that is the object of it, of course, but it is not accurately stating, in fact it is inaccurately stating what is in the proposed order – unless you are seeking something different in the order.

G MISS LYNE: I am not. I apologise. You are absolutely right. It should say “enter or remain” rather than “climb”. I think perhaps it was amended after the last order which was slightly different, and it needs to be reflective of that.

H MR JUSTICE SOOLE: Yes.

A MISS LYNE: Then it says at the bottom, “Copies may be obtained from the site office”, and then it has contact details of my instructing solicitor so that he can be contacted in the event that anyone wants to raise a problem with it.

MR JUSTICE SOOLE: Yes.

B MISS LYNE: Item 5 in *Canada Goose* is that the prohibited act must correspond with the threat or tort. I do not think we are in too much difficulty there because we are dealing with a trespass matter. It is self-evident that entering somewhere that you are not entitled to go is a trespass. And the terms of the injunction must be sufficiently clear and precise to enable people potentially affected to know what they must not do. We are in C kind of quite helpful territory here, because it is going to be so obvious that there is going to be fences and hoarding to prevent what you should not be doing.

MR JUSTICE SOOLE: Yes.

D MISS LYNE: But again the terms of the injunction, I say, are very clear about precisely what one cannot do.

E Then lastly geographical and temporal limits. Again, we have the maps that demonstrate clearly what land is covered by the injunction, and the help of the fencing and the hoarding will mean that it is not going to be difficult to know. And then temporal limits is something that we have touched on briefly. I will have to have a look at my instructions, but it is something that we are going to need to talk about in terms of the length of the order.

F MR JUSTICE SOOLE: Yes.

G MISS LYNE: I think my instructions on that point, noting your indication earlier, is that we would seek an order for 6 months, a 6 months’ longstop in the hope that we could potentially get hearing before then to deal with the substantive question of the final order.

MR JUSTICE SOOLE: To take it to the beginning of February.

MISS LYNE: Yes.

MR JUSTICE SOOLE: Yes.

H MISS LYNE: My Lord, we have had a look and I have touched on some of the things that I ask---

A MR JUSTICE SOOLE: Although we are not dealing today with final injunction, paragraph 89 is pretty clear, is it not?

B “[It] cannot be granted in a protester case against persons unknown who are not parties at the date of the final order, that is to say newcomers who have not by that time committed the prohibited acts and so do not fall within the description of the ‘persons unknown’ and who have not been served with the claim form. ...very limited circumstances, such as in *Venables*...in which a final injunction may be granted against the whole world. Protester actions, like the present proceedings, do not fall within that exceptional category. The usual principle, which applies in the present case, is that a final injunction operates only between the parties to the proceedings...”

C At the moment I cannot see why a protester case would be any different from the present sort of case.

D MISS LYNE: I think the argument that we will argue for our final injunction is that the court leaves open the possibility of there being some exceptional circumstances where final orders can be granted against the whole world. In a case such as this, where we are dealing with the possibility of fatalities, that is precisely the type of scenario – if there is a scenario where you might be entitled to a final order against the whole world, this is precisely it.

E MR JUSTICE SOOLE: Yes. Again I need no persuasion on the desirability of remedies against this sort of conduct. Again, and this is in my mind also for the purpose of an interim order, that paragraph 93 of *Goose* which talks about seeking

F “to invoke the civil jurisdiction of the courts as a meaning of permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters... Private law remedies are not well suited to such a task.”

One can see that. There may be a lacuna in the criminal law. As you point out in your witness statement, it is not a criminal offence or---

G MISS LYNE: It can be, but it is very difficult---

H MR JUSTICE SOOLE: Some circumstances, yes. There can be conspiracy to commit a trespass. I think all I am saying for today’s purposes is that these are all very cautionary words, are they not?

MISS LYNE: They are, absolutely.

A MR JUSTICE SOOLE: Not a position, I imagine, that was in that sense welcome to those who had these problems, but you can see, of course, the legal principle which underpins it.

B MISS LYNE: Yes, absolutely, and there is going to need to be quite significant argument about precisely those points, because with *Canada Goose* it is pretty obvious what it is saying. What I would say is that there is a distinction that is going to need to be drawn here about whether or not *Canada Goose* can be kept within the realms of a protest-type scenario, because I think the consequences of that scenario are very different to what we are dealing with here. But that again is going to be an argument for another day, and I think quite rightly bearing those principles in the back of our minds for the purposes of this hearing is entirely necessary and appropriate.

C MR JUSTICE SOOLE: Yes.

D MISS LYNE: At this point I propose to move on to my submissions which I have kind of piecemeal addressed you on as I go, but just so I do not miss anything. I have made the point before now that there is imminent risk and a real risk of further problems, and in particular on this site. You will see there have been previous injunctions obtained by the first claimant following targets of other construction sites by urban explorers. You will see again in 2019 another injunction was obtained after the Dovehouse Street construction site was targeted by urban explorers, and there have been numerous other incidents on other sites: two last October, two last December, and then an incident in February of this year involving two men, and then as recently as 27th June of this year four unidentified men trespassed on the Demack Tower construction site. So this is an ongoing problem with recent examples of why we are concerned, or why my client is concerned. I will not go into too much detail, but there are lots of other instances involving other contractors in the last 18 months, and they are set out in the witness statement at paragraph 33.

E MR JUSTICE SOOLE: Yes. Mr Wilshire says also that unsurprisingly tower cranes are a magnet.

F MISS LYNE: Yes, absolutely. And in particular taking photos off of the arms of tower cranes had been a particularly popular exploit for explorers, and also one of the most dangerous. That is self-evident.

MR JUSTICE SOOLE: Yes.

MISS LYNE: You will have seen from the evidence that there was in January 2018 the body of a 21-year old young man found at the Canary Wharf construction site after trespassing. So there is a very recent example of precisely the thing that my clients want to avoid.

MR JUSTICE SOOLE: Just one point on the evidence, in paragraph 41.2 of the witness statement Mr Wilshire says “The Bankside Yards construction site is in a prominent location and will become an obvious target”, but he adds, “The tower cranes are already a target.” Do I understand from that that there have already been incursions?

MISS LYNE: I am certainly not aware of any. I do not think that is expressed as clearly as it should be. I think more likely what it means is tower cranes are a target more generally.

MR JUSTICE SOOLE: Generally. I see.

MISS LYNE: I do not have any evidence to point you to of specific attempts on tower cranes, no.

MR JUSTICE SOOLE: Okay, thank you.

MISS LYNE: My Lord, the next thing is damage being an inadequate remedy. We have touched on this already.

MR JUSTICE SOOLE: Yes.

MISS LYNE: And then the principles we have just been through in terms of *Canada Goose*. Again we have been through them in detail. I do not know to what extent you want me to---

MR JUSTICE SOOLE: I don’t, no.

MISS LYNE: I am grateful.

MR JUSTICE SOOLE: What I would like to do, subject to anything you want to say before, is go through the proposed order.

MISS LYNE: Yes, my Lord. I need to address you on service.

MR JUSTICE SOOLE: Oh yes.

MISS LYNE: As you know, the court has the power to dispense with service of the claim form and indeed dispense with personal service of an injunction. I will be inviting you to do both of those things.

A MR JUSTICE SOOLE: Are you actually asking for an order dispensing with service, as opposed to having... Dispensing with personal service, do you mean?

MISS LYNE: Yes, absolutely. In respect of the personal service of the order I think I need, for the avoidance of doubt, dispensing with personal service and then provision for the substituted service that we have already talked about.

B MR JUSTICE SOOLE: Right.

MISS LYNE: There was some discussion in the *Vastint* case about even if you have an order for substituted service, if there is no express dispensation with personal service you might have difficulty enforcing. So I think just for the avoidance of doubt I would ask you to do that.

C MR JUSTICE SOOLE: You do not have that in the present order, I do not think.

MISS LYNE: No. It was one of those things that I wanted to deal with, if I may. As we have discussed already, the notices around the premises will be the primary way for people to know precisely that there is an order and what the order restricts. There will be copies of all the relevant documentation on a website that can be referred to if you look at those notices. And there will be copies of all of the relevant documents at the site office at the site. We say that those methods of providing copies to anyone that wants to view them are sufficient both in terms of service of the claim itself, but also in terms of service of the order as well. In this case it is the most practicable way to deal with service. Obviously each court deals with it differently, but it is the approach that has been taken in the past and it is very similar to the approach that one would take if you were seeking under the CPR possession proceedings against trespassers and very similar notices going up in the relevant places etc.

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F MR JUSTICE SOOLE: On the service point, are you asking for an order pursuant to CPR 8.2(a)?

G MISS LYNE: Yes. Paragraph 8 of the draft order---

MR JUSTICE SOOLE: Is it required, or not?

H MISS LYNE: To be honest, my Lord, I have to confess that it is not entirely clear. If one looks at the CPR it is not entirely clear in which circumstances you need that permission. I have racked my brains and looked at the cases, but I cannot see precisely where that is dealt with. I think in that event we would seek your permission as per paragraph 8 of the

A order. Unfortunately I do not think it is something the CPR has ever thought to update or clarify. I think we ought to do that for the sake of ensuring that we have covered everything.

MR JUSTICE SOOLE: Then (inaudible) that specifically to 6.15, yes. No, you do have the order for dispensing with...

B MISS LYNE: Yes. It does not deal with the order. It deals with the claim form, not the order. You will see at paragraphs 9 and 10 it is dealing specifically with the claim form. I think what we need to do at paragraph 5 is just add in for the avoidance of doubt that personal service is dispensed with.

C MR JUSTICE SOOLE: I do not think for the avoidance of doubt. You either make an order or not, I think. I think the words "for the avoidance of doubt" tend to add doubt normally.

D MISS LYNE: Okay. In which case I would like the order to just say "personal service is dispensed with".

MR JUSTICE SOOLE: Yes. Service of this order may be effected... And when you do that, that means literally personal service, physically handing it to somebody.

E MISS LYNE: Specifically for injunctions---

MR JUSTICE SOOLE: It must be, because in this case you only become liable to the order when you breach it, so you will not have been served personally. There is no way you can be personally served. It has to be dispensed with, does it not, for it to work?

F MISS LYNE: I think so, yes.

MR JUSTICE SOOLE: Alright.

MISS LYNE: I am conscious also looking at the draft order that paragraphs 3 and 4 appear to have been duplicated accidentally. I apologise for that. I am quite happy to send you over a slightly amended order if that would help.

G MR JUSTICE SOOLE: Whatever happens I will have to see an amended order and also a copy of the notice that you referred to.

MISS LYNE: Yes.

H MR JUSTICE SOOLE: You cannot draft (inaudible) and anyhow I need to see it and formally approve it.

MISS LYNE: Of course.

A MR JUSTICE SOOLE: Is it the moment then to go to your order, the first page.
MISS LYNE: Yes.
MR JUSTICE SOOLE: So you will insert the claim number, yes?
MISS LYNE: Yes.

B MR JUSTICE SOOLE: My name.
MISS LYNE: Yes.
MR JUSTICE SOOLE: The date.
MISS LYNE: Yes.

C MR JUSTICE SOOLE: The title of the defendants I think I am happy with, because it is
sufficiently defined as a class of persons.
MISS LYNE: I am grateful.
MR JUSTICE SOOLE: You will remove the word “draft” where it says “order for an
injunction”.

D MISS LYNE: Yes.
MR JUSTICE SOOLE: The penal notice is in the standard form, I take it.
MISS LYNE: Yes.

E MR JUSTICE SOOLE: The recitals – you do not need the second recital, do you?
MISS LYNE: No.
MR JUSTICE SOOLE: It does not make any sense, does it?
MISS LYNE: No, I do not think so when it is a claim against persons unknown.

F MR JUSTICE SOOLE: I suppose there could have been notice by some means, could there
not? I think you might say “Upon the claimant’s application notice dated 27th July 2020
and the hearing without notice.”
MISS LYNE: Yes.

G MR JUSTICE SOOLE: “The claimants giving the undertakings to the court set out in
Schedule 2.” Let us go to those undertakings. It is one undertaking, is it not?
MISS LYNE: Yes.

H MR JUSTICE SOOLE: In the singular. Schedule 2... (Pause) “It is ordered that. The
defendants must not...” Here we have the date. Let me get my diary. Six months take
us until?
MISS LYNE: 30th January, I think.

A MR JUSTICE SOOLE: That is a Saturday.

MISS LYNE: In which case it is going to be---

B MR JUSTICE SOOLE: 29th January. Six months. What is to stop you applying at a considerably earlier stage than that for – this is an entirely open question. I do not know the answer at the moment – final judgment this autumn and having a hearing---

C MISS LYNE: I do not think there is anything necessarily stopping us. It is just whether or not the timeframe is realistic. Giving us 6 months gives the sort of necessary protections that I was referring to earlier in case for any reason we cannot get a hearing date or for any reason something is pushed back. It seems to me that 6 months is a reasonable period. It is reflective of being an interim order rather than a final order, and it would be hoped that we could get a hearing to consider the final order before then.

D MR JUSTICE SOOLE: Yes. Very well. It is a little bit longer than I was originally thinking. I was thinking more to a date in December, but on the other hand with the intervention of Christmas and New Year, let alone all the other things going on in our world at the moment. As I say, I am very conscious that there must not be an order which is something which could offend the principle in *Canada Goose*. Alright. So “must not until 29th January 2021 or further order”.

E MISS LYNE: Yes.

MR JUSTICE SOOLE: I just want to be clear. “As shown edged red on the plan at schedule 3 to this order as demarcated.” Do you mean “*and* as demarcated”?

F MISS LYNE: Yes, I think so.

MR JUSTICE SOOLE: There will be no inconsistency between... Oh I see.

MISS LYNE: I think the point being is on the ground. The hoarding will mark where you cannot go, and that is shown as indicated on the plan.

G MR JUSTICE SOOLE: Leave it as it is. “from time to time”. I think that is sufficiently clear, is it not? The hoarding or fencing has to reflect the plan, does it not?

MISS LYNE: Yes.

MR JUSTICE SOOLE: Alright. And we still express it in terms of the “defendants”, do we, even when it is persons unknown?

H MISS LYNE: Yes.

A MR JUSTICE SOOLE: Yes. Then they have interpretation of the order. You strike out the repeat. Paragraph 5: personal service is dispensed with. And then carry on as before in 5.

MISS LYNE: Yes.

B MR JUSTICE SOOLE: “The claimant shall post” – is that meant to be “notice” or “notices”?

MISS LYNE: I do not think it needs to be plural, because it says “all main entrances”, but---

MR JUSTICE SOOLE: Right. “As soon as reasonably practical” is rather vague.

MISS LYNE: We can put a specific time limit in, I think.

MR JUSTICE SOOLE: Sorry?

C MISS LYNE: I can take instructions about how quickly we can do that.

MR JUSTICE SOOLE: To me that is too vague. I would like “by 4 p.m on” such and such a date.

MISS LYNE: Let me just take some instructions on precisely when we can do that by.

D (Pause while same done) I am being told next Wednesday.

MR JUSTICE SOOLE: 5th August.

MISS LYNE: Yes.

E MR JUSTICE SOOLE: Yes, by 4 p.m on 5th August 2020. “At all main entrances and at least... (Pause) There is something wrong with the grammar in (b), is there not? Should it be “*at at least*”?

MISS LYNE: Yes, I think so.

F MR JUSTICE SOOLE: Perhaps slightly easier language would be “at a minimum”.

MISS LYNE: Yes. I should say paragraph 5 will obviously become paragraph 4.

MR JUSTICE SOOLE: Renumbering, yes. “The said notice shall include a statement...”

(Pause) I see. Should what is now 6(b) be “Shall post *a* notice”? Leave it as it is. “The said notice shall include a statement of the copies of this order, the claim form...”

G (Pause) And the witness statement will include the exhibits.

MISS LYNE: Yes.

MR JUSTICE SOOLE: In 7(b) where it says “his”, that should be “is”.

H MISS LYNE: Yes.

A

MR JUSTICE SOOLE: That is a typo. We have the contact details at the top. “Issue and service of claim” – should that be “claim form”? No, claim. I see. (Pause) Do you want any changes to what are 8 to 10?

MISS LYNE: No, I don’t think so. I will need to alter what are paragraphs 6 and 7.

B

MR JUSTICE SOOLE: Change, yes. Now, communications with the court. I am sure in other orders that I have been looking at while I have been in court 37 in this crisis there has been an email address.

MISS LYNE: Right. Yes.

C

MR JUSTICE SOOLE: I do not have one to hand.

MISS LYNE: I am sure I can find it.

MR JUSTICE SOOLE: You can check with the court. I think communications (inaudible) at the moment certainly including an email address because of staff not being there and so on. “The judge read the following witness statement”. And the plan will be attached.

D

MISS LYNE: Yes.

MR JUSTICE SOOLE: I have sufficiently read the exhibit, rather quickly, but the body of it. Yes. Is there anything else that needs to be said?

E

MISS LYNE: I do not think so, my Lord.

(Judgment was delivered – see separate transcript)

MR JUSTICE SOOLE: That can be revised and sent to me as soon as possible after you have had your next hearing.

F

MISS LYNE: Yes.

MR JUSTICE SOOLE: Tomorrow is my final day of sitting and then I will be literally away, so it will have to be finalised.

MISS LYNE: It will be ready today.

G

MR JUSTICE SOOLE: Thank you very much indeed.

MISS LYNE: Thank you.

MR JUSTICE SOOLE: Do it in Word preferably. (a) it is easier to print off, and if I want to make a change I can by way of suggestion. Send me the (inaudible) that you propose.

H

MISS LYNE: Yes.

MR JUSTICE SOOLE: Right. Thank you. That deals with the Multiplex case.

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Marten Walsh Cherer hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.

H

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Citation Number: [2020] EWHC 2403 (QB)

Case No: QB-2020-002633

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Strand, Holborn,
London, WC2A 2LL

Date of hearing: Thursday, 30th July 2020

Page Count: 5
Word Count: 2269
Number of Folios: 32

Before:

MR JUSTICE SOOLE

Between:

(1) MULTIPLEX CONSTRUCTION EUROPE LIMITED

Claimant

(2) LUDGATE HOUSE LIMITED

(INCORPORATED IN JERSEY)

- and -

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

Defendant

**Ms Brooke Lyne (instructed by Eversheds Sutherland (International) LLP) for the
Claimants**

APPROVED JUDGMENT

(Remote hearing)

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MR JUSTICE SOOLE:

1. This is a without notice application dated 27th July and issued on 28th July 2020 by the First Claimant construction company and the Second Claimant landowner for *quia timet* injunctive relief against persons unknown in respect of a construction site known as Bankside Yards at Blackfriars Road, London SE1 9UY. Its purpose is to restrain people from trespassing onto these properties in order to carry out what is known as urban exploration. This is an activity which involves the exploration of buildings and man-made structures within the urban environment; and associated with trespassing on parts of buildings to which public access is prohibited.
2. According to the evidence before me, the activity is commonly abbreviated to “urbex”, “urbexing” and the like. One particular variant of this activity is known as “roof-topping”, i.e. gaining access to the roof of a building without the consent of the owner in order to take photographs and videos, and typically to display these as marks of success on the internet. Gaining access to the roof is usually achieved not from the outside but using the internal parts of buildings to which the public do not have access, e.g. loading bays, service corridors, stairwells, goods and fire lifts.
3. The risk from participation in these activities is demonstrated by a number of deaths around the world. 17 such deaths between June 2018 and September 2019, 3 of them in England, are referred to in the witness evidence of the First Claimant’s Health and Safety Director Mr Wilshire. He emphasises that these activities are not limited to occupied tall buildings. It also affects buildings under construction and the cranes which are used for that purpose. The Bankside Yards site will include a minimum of 3 tower cranes. During 2018/2019 there has been a significant increase in urbex activity on construction sites, magnified by the use of social media platforms to display these events. Whilst all urban exploring is dangerous, he states that trespassing on construction sites has particular hazards. Thus, e.g., all visitors are obliged to wear full personal protective equipment, but urban explorers never do so. There is a range of site security to meet the dangers which urban explorers pose to themselves and others, e.g., scaffold guardrails to protect people from falling down voids, but urban explorers think nothing of vaulting over these. In addition there are the normal construction hazards, e.g. from tripping and falling.
4. On Monday 3rd August 2020 the First Claimant will take possession of Bankside Yards. The Second Claimant is the registered freehold and leasehold owner of the land on which it is to be built. Mr Wilshire cites the relevant terms of the construction agreement and states that the projected date for practical completion of the first phase of the project is May 2022. The second phase should be completed by December 2023. He states that, excluding Bankside Yards, the First Claimant is currently undertaking 8 major construction projects in Central London. All of these are currently protected by injunctions in terms similar to those proposed in this present application.
5. In July 2018 the First Claimant obtained an injunction to restrain trespass at three construction sites in the City, two in Bishopsgate. In March 2019 it obtained an injunction to restrain trespass at 7 construction sites in the City after these had been repeatedly targeted by urban explorers. In December 2019 it obtained an injunction to restrain trespass at a site in London SW3 which had been similarly targeted. Copies of the injunctions are attached to his witness statement. He states, from information supplied by the Claimants’ solicitor Mr Wortley, that several other major construction

sites have been targeted by urban explorers within the last 18 months and that Mr Wortley's firm has obtained injunctions to restrain trespass at a range of sites including Canary Wharf and Wembley Park.

6. Mr Wilshire sets out the various security measures which his team will be implementing at Bankside Yards. These include timber site hoardings a minimum 2 metres high, lighting, 24-hour security personnel, intruder alarms, anti-climb measures on hoardings and tower cranes, and closed circuit television. Whilst satisfied that these are all the sensible precautions that can be taken, Mr Wilshire believes that there remains the imminent threat of trespass from urban explorers. He points to instance of trespass and attempted trespass at other Multiplex sites between October 2019 and June 2020. These included a number of breaches of the injunctions to which I have referred. Nonetheless, he states that the injunctions have proved themselves to a significant deterrent for this activity, particularly when they have led to successful applications to commit for contempt of court. He refers to successful applications obtained by Mr Wortley and his team, e.g. in respect of Canary Wharf and The Shard.
7. He identifies the following particular concerns in respect of the Bankside Yards sites. It is in a prominent location. It has tower cranes, which are generally a target, and it will overall become an obvious target for urban explorers. These activities are generally carried out by juveniles and young adults and are inherently dangerous. Those involved show little insight into the risks they are running. There are particular hidden dangers on construction sites of which they will not be aware. Their activities pose risk of death or serious injury, not only to themselves but also to those protecting the site and trying to remove the risk. He states that the First Claimant's senior managers have concluded that applying for an injunction is in the best interests of maintaining the safety and security of urban explorers themselves, its own employees, members of the general public and the emergency services.
8. On behalf of the Claimants Ms Brooke Lyne submits that the application satisfies the requirements for *quia timet* relief as against persons unknown, and the wider requirements under *American Cyanamid* for the grant of injunctive relief. The essential requirements for *quia timet* relief are, first, that there is a real risk or strong probability of an infringement of the Claimants' rights, i.e. by trespass to their property; secondly, that if there were a breach of those rights the harm that might occur would be grave and irreparable, such that damages or an immediate injunction at that point would not be an adequate remedy. In support, she cites, in particular, *Vastint Leeds BV v Persons Unknown* [2018] EWHC 245 at para 31, and *Ineos Upstream v Persons Unknown* [2017] EWHC 2945 at paras 88-89.
9. As to injunctions against persons unknown, she submits that the relevant procedural guidelines recently restated in *Canada Goose UK Retail Limited v Persons Unknown* [2020] 1 WLR 2802, [2020] EWCA (Civ) 303 are each satisfied. Thus persons unknown may include so-called "newcomers", i.e. those who trespass in the future; those persons are properly defined both in the application and the proposed order; there is a sufficiently real and imminent risk of a tort being committed to justify relief; the prohibited acts correspond to the threatened tort; the terms of the injunction are sufficiently clear and precise as to enable those potentially affected to know what they must not do; and the proposed injunction has clear geographical and temporal limits.

10. As to temporal limit, in the light of discussion with the Court today (although not stated in the application which was for an indeterminate order), Ms Lyne on behalf of her clients proposes a duration of the order of 6 months. Applying *Canada Goose* she acknowledges that - at the very least - major questions arise as to whether a final injunction can be granted against persons unknown who are not parties at the date of the final order, i.e. 'newcomers' who have not by that time committed the prohibited acts and so do not fall within the description of the persons unknown in the claim and order – see paragraph 89 of the judgment. She submits that in due course the Claimants will contend that this is the type of case, given the dangers and risks, which falls in the category identified by the Court of Appeal of exceptional cases in limited circumstances where a final injunction may be granted. However, that is for another day. She submits that *Canada Goose* is no obstacle to an interim order; but accepts, pending full argument, that it must not be of a length which would be tantamount to a final injunction.
11. As to the *American Cyanamid* principles there is, she submits, a serious issue to be tried; damages will not be an adequate remedy; in any event, it is inherently unlikely that the young urban explorers would be able to pay compensation; there is no conceivable damage to the defendants from the injunction; in any event, the claimants can give a good cross-undertaking in damages; and the balance of convenience points firmly towards the grant of interim relief.

Conclusion

12. Recent authority has emphasised the caution to be exercised when granting injunctions against unknown persons – see *Canada Goose*, also *Ineos Upstream Limited v Persons Unknown* [2019] EWCA (Civ) 515. Furthermore, the decision in *Canada Goose* emphasises two linked points of particular relevance to this application. First, that a final injunction cannot be granted against 'newcomers' who have not by that time committed the prohibited acts, subject to a category of exceptional circumstances. Subject to that exception, it follows that the Court should not grant an interim injunction against persons unknown which is of such a length as to amount to a final injunction. Secondly, that private law remedies are not well suited to the task of restraining the conduct of a fluctuating body of people. Although *Canada Goose* concerned protestors, those cautionary words are also applicable to the present circumstance. They are of particular importance when considering interim orders of considerable length which Courts have previously ordered before the law was clarified.
13. However I am satisfied that the Claimants have made out their case for an interim injunction for a period of 6 months expiring 29th January 2021. The evidence overall sufficiently demonstrates a real risk or strong probability of recurrence of such activities in the absence of a continuing order. On the evidence before me, the general enthusiasm for, and for publicising, this activity appears to continue unabated; but the existing restraints in respect of other properties have had their beneficial effect. The grave dangers of this activity are self-evident and threaten not just the participants but also security staff, emergency services and members of the general public. They also involve potential financial damage to the Claimants with their duties of health and safety. Damages are plainly not an adequate remedy, nor is it likely that any participant would be able to meet any award. The cross-undertaking in damages is scarcely of any moment, but can be fully satisfied. The balance of convenience in my judgment is plainly in favour of an interim injunction.

14. I also consider that each of the guiding principles summarised in *Canada Goose* is satisfied but, as I have said, with the proviso that the term should not be of such a length to amount to a final injunction. In my judgment a term of 6 months does not offend that requirement.
15. Accordingly I will grant an injunction, subject to the various revisions discussed in the course of the hearing with Counsel, limited to the period ending Friday 29th January 2021. I also agree that the various proposed orders relating to service, including notices on the site, are necessary and appropriate.

This judgment has been approved by the Soole J.

Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW6"

This is the exhibit marked "SSW6" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021



Neutral Citation Number: [2021] EWHC 726 (QB)

Case No: QB-2021-000827

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26/03/2021

Before :

THE HONOURABLE MRS JUSTICE STACEY

Between :

Mace Limited (1)	<u>Claimant</u>
Vanquish Properties GP Nominee 1 Limited	
(Incorporated in Jersey) (2)	
Vanquish Properties GP Nominee 2 Limited	
(Incorporated in Jersey) (3)	
- and -	
Persons Unknown Entering In or Remaining at the	<u>Defendant</u>
40 Leadenhall Street Construction Site Without the	
Claimants' Permission	

Mr Steven Woolf (instructed by Eversheds Sutherland LLP) for the Claimants
No appearance or representation by the Defendants

Hearing date: 16 March 2021

Approved Judgment

Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be Friday 26th March 2021 at 10.30am.

.....
MRS JUSTICE STACEY

The Honourable Mrs Justice Stacey:

1. This is an application by the first claimant construction company and the second and third claimant landowners for *quia timet* injunctive relief against persons unknown seeking to prevent an activity known as urban exploring from taking place at a construction site at 40 Leadenhall St, London EC3M 2RY (“the Site”). An order for alternative service of proceedings is also sought.
2. A without notice application dated 8 March 2021 came before me in the Interim Applications Court on 9 March 2021 when I granted the claimant’s application for an adjournment for seven days to enable further evidence to be filed. Although today’s hearing therefore appears in the list, it is again a without notice application since as the defendants are persons unknown, it has not been served and there was no appearance or representation on behalf of the defendants.

The evidence

3. The evidence filed in support of this application comprised a witness statement of Andrew Brown, Group Health Safety and Wellbeing Director for the first claimant together with exhibits dated 5 March 2021 and a statement from Stuart Wortley, partner of Eversheds Sutherland LLP, the claimant’s solicitors together with exhibits dated 15 March 2021. I also had before me the application notice, draft order, part 8 claim form and the particulars of claim.

Background facts

4. The second and third claimants are the registered freehold and leasehold owners of the land at the Site in the heart of the City of London which runs between Leadenhall St and Fenchurch St. The first claimant, is contracted to construct a 155m tall building which with 37 floors above ground level and on completion will be about the 10th tallest building in the City of London. It is a large and high profile construction site with 4 tower cranes currently on site. At present the tallest tower crane is 57.5m (measured to the height of the cab) which will increase to 162.5m as construction progresses and will be the tallest crane in the City of London.
5. The first claimant construction company is also currently undertaking around 24 other major construction projects in central London. Mr Brown, as the Group Health, Safety and Wellbeing Director has, as his job title suggests, oversight of the management of the health, safety and wellbeing related risks at each of the 25 construction sites.
6. Urban exploring, or in its abbreviated form “urbexing” is an activity which involves the exploration of the built environment, especially tall buildings and construction sites. It is associated with trespassing on parts of buildings to which public access is prohibited. Once on site, photographs and videos are taken and then posted on the Internet and social media sites such as YouTube, Instagram, TikTok and Facebook. Some of the most dramatic pictures and videos attract several million viewers. It is a phenomenon that has grown in popularity globally since 2018, especially in large capital cities such as London.
7. Typically urban explorers target the tallest “trophy” buildings and construction sites with tower cranes in any given city, especially those with the best views. Numerous

examples of videos and photographs showing individuals climbing up, posing on and hanging off tower cranes have been exhibited to both Mr Brown and Mr Wortley's statements. Mr Wortley has exhibited 32 photographs and videos posted between September and March 2020/21 most of which appear to have been taken in London and many involve the climbing of tower cranes. Mr Brown's statement provides the URL link to videos of four examples of urban explorers actually driving tower cranes whilst trespassing on construction sites.

8. Whilst there have as yet been no known incursions or attempted incursions at the 40 Leadenhall Site, there have been seven instances of urban explorer trespass between June and September 2020 on other of the first claimant's sites across London. Between September 2020 to March 2021 there were a further three incidents of urban exploring trespass on the first claimant's sites at Marsh Gate in Stratford and One Thames City development in Vauxhall.
9. There are particular hazards from urban exploration on construction sites, some of which are obvious – such as free-climbing tower cranes, sometimes at night – and other risks which may not be obvious to those who are not trained construction workers who are not wearing appropriate personal protective equipment, such as hidden holes and sudden drops. Many of the photographs and videos show urban explorers engaging in inherently dangerous activities – for example sitting or standing on exposed positions, sometimes performing acrobatic stunts such as backflips and pull-ups from a crane jib and always without safety protection. It is self-consciously reckless and risk taking behaviour.
10. Mr Wortley has listed the 17 known deaths of urban explorers around the world between June 2013 and September 2019, most of whom were young men in their late teens and 20s. The most recent was Johnny Turner in London in September 2019 at a construction site in Waterloo.
11. As well as the obvious dangers to the urban explorers themselves, the first claimant's employees, security guards and emergency services are also put at risk in protecting sites. Although there is no evidence of violence or aggression by the urban explorers, the first responders are at risk when giving chase, sometimes at height amidst the dangers of a construction site in seeking to remove urban explorers who take flight and run off to avoid apprehension.
12. The first claimant has implemented a considerable number of security measures at the Site in an attempt to deter urban explorers. They have installed turnstiles and an identity card system for operatives and 24-hour security personnel. The Site hoardings and vehicle gates surround the site and are at a minimum of 2.4m height. A lighting system has been installed and anti-climb measures applied on hoardings and tower cranes. There is closed-circuit television (including 4 pan/tilt and 16 static cameras specifically set up to detect intruders) as well as static cameras on all tower cranes. Electronic tripwires have also been placed in various locations.
13. It is evident that some urban explorers are undeterred by physical security measures from the boasts of some postings such as Rikke Brewer's YouTube post of 21 September 2020 taken from a tower crane entitled "Sneaking into the world's most guarded construction site."

14. I am satisfied that the first claimant has taken all reasonable and sensible precautions that could be taken to prevent urban explorers from gaining access to the Site and the measures will remain in place going forward.
15. Urban explorers do not advertise which buildings or construction sites they intend to visit in advance and the claimants cannot know when or where the next attempt will be made. The first claimant's security teams only log incidents of breaches by security and they are not aware of reconnaissance trips and preparatory work. The identities of urban explorers seeking to trespass on the Site are unknown to the claimants and cannot be ascertained. Although the identities of a number of high profile and prolific urban explorers are known, the claimants are unaware who, if any of them, is planning on "urbexing" the Site. However the 40 Leadenhall Street construction site is such a large, high profile and obvious target for urban explorers and will increasingly become so as the height of the building rises. The first claimant took over occupation and control of the Site in March 2020 and the target date for practical completion of the project is December 2023.
16. Since 2018 all except one of the construction sites in London involving new buildings of 150m or more has been targeted by urban explorers. After a trespass and social media posting has been uploaded some construction companies and site owners have then applied for and obtained injunctive relief from the courts which has largely been effective in preventing further trespass. There have been a number of contempt proceedings consequential on subsequent breaches of court orders and sentences have included the imposition of a 26 week immediate custodial sentence that was widely reported and well known within the urban explorer community and believed to have been an effective deterrent.
17. The one exception to the construction sites referred to in the paragraph above where there has been no "urbexing" activity is South Quay Plaza where a *quia timet* injunction was obtained prior to any incursion (*Berkeley Homes (South East London) Ltd & ors v Harry Gallagher & ors* [2019] EWHC 632 (QB)).

Legal principles

18. It is well recognised that a landowner whose title is not disputed is *prima facie* entitled to an injunction to restrain trespass on his or her land save where exceptional circumstances apply (see for example *Patel v WH Smith (Eziod) (Limited)* [1987] 1 WLR 853 per Balcombe LJ at 858E-859D and Neil LJ at 862D).
19. But in this case there is no current, ongoing trespass and nor has there been an urban explorer trespass at the Site. An interim anticipatory order on a *quia timet* basis is sought. The court must be satisfied that there is both a "real risk" or "strong probability" of an infringement of the rights of the claimants and that if there were a breach of those rights the harm that might occur would be both "grave and irreparable" such that damages or an immediate injunction at that point would not be an adequate remedy. There must be a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief.
20. The court has jurisdiction to grant injunctive relief against a class of defendants named only by a description as an exception to the general rule that the full name of each party must be set out in the title of proceedings (PD7A paragraph 4.1) *Cameron v. Liverpool*

Victoria [2019] 1 WLR 1471 per Lord Sumption at paras 10-11; 13 and 15). However the definition of the relevant category of unknown persons requires very careful thought to be as precise as possible so as not wrongly to expose individuals to the risk of criminal contempt proceedings for lawful behaviour. The scope of the prohibited activity must be limited in nature and extent to an activity that anyone would clearly realise was not permitted. The injunction must not be framed by reference to a legal concept such as, for example, “trespass” and nor should breach be dependant on a subjective mental element, such as the contemnor’s intention.

21. In cases such as these, a person becomes both a party, a person bound by the order, and in breach of the order simultaneously, by doing the act which the injunction restrains (whilst knowing of the injunction) (*South Cambridgeshire District Council v Gammell* [2006] 1 WLR 658 at para 32). Any person who is not yet a party to the proceedings, but who is directly affected by a judgment or order is entitled to apply to have it set aside or varied at any time without being a party under CPR 40.9.
22. In *Boyd & Anor v. Ineos Upstream Ltd & Ors* [2019] EWCA Civ 515 at para 34 Longmore LJ identified the 6 requirements for the grant of an injunction against persons unknown as follows:
 - i) There must be a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief;
 - ii) It is impossible to name the persons who are likely to commit the tort unless restrained;
 - iii) It is possible to give effective notice of the injunction and for the method of such notice to be set out in the order;
 - iv) The terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit lawful conduct;
 - v) 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
 - vi) The injunction should have clear geographical and temporal limits.
23. Even though it may be difficult to enforce an order against ‘persons unknown’ (for example, because it is necessary to show that the perpetrator was aware of the injunction before breaching it) or even where enforcement proceedings are unlikely, nonetheless, the Court can properly still grant the order on the basis that the order may have a real deterrent effect (*Secretary of State for the Environment, Food, and Rural Affairs v. Meier & Ors* [2009] 1 WLR 2780 see Lord Neuberger’s comments at 79-81).
24. An interim injunction is temporary relief, intended to hold the position until determination of the substantive claim. Final orders against “persons unknown” bring their own difficulties and are to be approached with caution (see *Canada Goose UK Retail Limited v Persons Unknown* [2020] 1 W.L.R. 2802 paras 89 – 93). Whilst only interim relief is sought in the application before me and it is not necessary to the issues on final orders against persons unknown that might arise, it is therefore important to

ensure that the temporal scope of an interim injunction is indeed interim and proportionate and not a de facto final order.

Discussion and conclusions

25. I am satisfied that the claimants are the lawful owners and occupiers of the private property that is the 40 Leadenhall Street construction site and that urban explorers do not and would not have permission to enter the Site. If they were to do so it would be a civil trespass. Although there have, as yet, been no known incursions at the Site I am satisfied that there is a real risk and strong probability of trespass by urban explorers. The Site is an attractive trophy site for urban explorers given its size, height, prestige and location which is very likely to be seen as a tempting challenge. The pattern of behaviour and bravado of urban explorers in relation to other notable London sites in the past two years leads me to conclude that the probability of a trespass is not only imminent and real, but also high. It is only a question of time and the risk increases and becomes more immediate as the construction work proceeds and the height of the building rises.
26. The risk of death or serious injury from an urban explorer trespass at the Site is both real and would be grave and irreparable as demonstrated by the number of deaths of urban explorers over the past six years. It follows that damages would be an inadequate remedy given the potential consequences and risk of loss of life of young men with their futures ahead of them.
27. The first claimant have already put in place robust security measures to minimise the risk of trespass by urban explorers and those measures will remain in place. I am satisfied that they are insufficient to deter urban explorers and no further measures, short of an interim injunction have been identified that would be effective. As demonstrated by the boast in the title of Rikke Brewer's September 2020 YouTube post, for some urban explorers traditional security methods are perceived as a challenge to be overcome that enhances the sense of triumph if successfully achieved. The penal notice on an injunction however has proved to be an effective deterrent in conjunction with other security measures.
28. Even though there has not yet been a trespass by urban explorers at the Site, the balance of convenience is clearly in favour of an interim injunction. *Quia timet* relief is justified.
29. The first claimant's offer of a cross undertaking in damages, if indeed it is ever likely to be called upon, can be fully satisfied by the claimants.
30. Addressing each of the requirements set out in paragraph 34 of *Ineos*, I am satisfied that it is impossible to name the persons who are likely to commit the tort of trespass unless restrained: they will not advertise a planned trespass in advance for obvious reasons. It will be possible to give effective notice of the injunction if it is prominently displayed on the hoardings around the Site perimeter in a laminated or weatherproof A3 size notice and the first claimant's undertake to replace the notices that become displaced. During the course of this hearing we have discussed and honed the precise wording of the order as to the form of the notice around the Site and alternative service on a website with a publicised URL and at the claimants' solicitors.

31. It is important to ensure that the terms of the injunction go no further than necessary to protect the claimants from the threat from urban explorers. Trespass can take many forms from rough sleepers seeking shelter for the night, curious observers, those conducting clandestine sexual liaisons, to thieves looking for machinery and equipment to steal. However the mischief feared by the claimants which they seek to prevent by the order sought is the risk of urban explorers scaling the heights of the Site. It is that highly likely, real and imminent risk that entitles the claimants to the interim relief sought and for that reason the terms of the order must be framed as precisely as possible to prevent and deter that activity. To that end the order shall specify that the defendants must not, without the consent of the claimants, climb to a height of more than 5m above street level upon any part of the Site. The order initially proposed applied to all trespass at the Site which would have been disproportionately wide in its ambit.
32. I am satisfied that the terms of the injunction as developed during the course of the hearing are sufficiently clear and precise so as to enable persons potentially affected to know what they must not do. By annexing a plan as well as the address and verbal description of the Site in the order itself the geographical limits are clear.
33. As discussed above, it is important that the term should not be of such a length as to amount, in effect, to a final injunction. The period of six months or so does not offend that requirement (see *Multiplex v Persons Unknown* [2020] EWHC 2403 (QB) per Soole J), but in order to avoid a return date in the vacation period I will order a return date of 15th October 2021 which makes the term just shy of 7 months which I find is still reasonable and proportionate and consistent with an interim injunction.
34. Accordingly I grant the claimants' applications and (1) grant permission to issue the claim against persons unknown; (2) make an interim injunction order to restrain trespass; and (3) make an order for alternative service of proceedings as set out in the approved minute of order.

Claim Number: QB-2021-

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N

- (1) MULTIPLEX CONSTRUCTION EUROPE LIMITED
- (2) 30 GS NOMINEE 1 LIMITED
- (3) 30 GS NOMINEE 2 LIMITED

Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW7"

This is the exhibit marked "SSW7" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021



BREAKING ⌚ 4m

⌚ 14m

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NEWS › LONDON

Sam Clarke: Man who fell 50ft to his death at Canary Wharf building site went missing after night out



Tragic death: Sam Clarke / Facebook

By Justin Davenport | 03 January 2018

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A man who plunged to his death at a city skyscraper construction site disappeared after returning from a night out with friends, it emerged today.

Sam Clarke vanished on a New Year's Eve night out while returning from an event at the O2 concert arena.

His friends launched a desperate search for him and put out appeals on social media.

But today his friend Jack Armstrong confirmed that Mr Clarke had died after falling into a 50ft trench on a construction site at [Canary Wharf](#).

His body was found yesterday morning when workers returned to work.

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The body of Sam Clarke was found in a Canary Wharf building site on Tuesday morning / Getty Images

Mr Armstrong posted on Facebook saying: "I would like to thank everyone for the messages of support and shares.

"Unfortunately it's bad news, as Sam passed away (he was the body found at Canary Wharf this morning). We all his friends and all family are absolutely distraught, R.I.P Sam, God bless"

Sam, who is believed to be from St Albans in Hertfordshire, had been with a group of friends at the Indigo at the O2 music venue in Greenwich before becoming separated.

They had been had attending the Kisstory hits event, which featured DJs including DJ Luck & MC Neat and Justin Wilkes.

Friends paid tribute on Facebook. Nessa Rawlinson wrote: "Sleep peacefully Sam. Your friends wont forget you x"

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Aimi Davey wrote: "So sad, he went to school with my son they were the same age. So young! My heart goes out to his family and friends. RIP SAM x"

A Met Police spokesman confirmed that the body of a man was found at 8.46am yesterday.

The man was pronounced dead at the scene and his death was not being treated as



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NEWS › LONDON

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Johnny Turner death: Man who fell to his death from

Evening Standard

8



'Inspiring': a friend described Johnny Turner as 'the beating heart of the free-running community in London'

By [Julia Atherley](#) [John Dunne](#) @jhdunne | 16 September 2019



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A man who fell to his death from scaffolding in south London was a free-running enthusiast who had travelled across Europe practising parkour.

Johnny Turner, 28, died after plunging from the eighth storey of a block of flats in Waterloo on Thursday night.

Tributes were today paid to Mr Turner, an accomplished parkour runner from Wandsworth who had scaled a host of high-rise buildings in London.

Friends described him as a pioneer of London's urban exploring community, with pictures online showing him scaling buildings such as the Barbican and Battersea Power Station.

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The man fell to his death from Windmill House in Waterloo / NIGEL HOWARD ©

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James Wood, a fellow parkour enthusiast, said: "Johnny was the most thoughtful, inspiring, gentle, enthusiastic, positive person I have ever met. He was the beating heart of the free-running and urban exploration community in London.

"There was never anything negative he had to say about anyone or anything, he relished living in the moment and insisted he had his friends by his side."

Mr Turner's uncle, Ralph Phillips, said: "He was a great boy, really nice to be around. His mum and dad knew what he did and obviously worried about it as any parent would.

"His parents have been to see us after what happened. For a parent to have a child die before them is something hard to comprehend. They are devastated. He was a talented artist and caring person with lots of friends."

Mr Phillips said Mr Turner's parents, who were away in Germany when the accident happened, want a thorough investigation to take place.

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More than 40 fellow free runners met at Windmill House, where Mr Turner died, yesterday to pay their respects.

A GoFundMe page set up in his memory has raised more than £3,500. The page said he had the “kindest and pure soul”.

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Claimants

and

PERSONS UNKNOWN ENTERING IN OR REMAINING AT
THE 30 GROSVENOR SQUARE CONSTRUCTION SITE
WITHOUT THE CLAIMANTS' PERMISSION

Defendants

"SSW8"

This is the exhibit marked "SSW8" referred to in the witness statement of Stuart Sherbrooke Wortley dated 27 April 2021

MULTIPLEX

Important Notice

High Court of Justice – Claim No [REDACTED]

On [REDACTED], an injunction was made by the High Court of Justice prohibiting anyone from entering on or remaining at any part of the construction site at 30 Grosvenor Square, London, W1A 1AE without the consent of Multiplex Construction Europe Limited, 30 GS Nominee 1 Limited and 30 GS Nominee 2 Limited.

Anyone in breach of the injunction will be in contempt of court and may be imprisoned, fined or have their assets seized.

Copies of the documents listed below may be viewed at:-

www.multiplex.global/london-injunction-30grosvenorsquare

- Claim Form + Particulars of Claim
- Application dated 27 April 2021
- Witness statement of Martin Wilshire dated 27 April 2021
- Witness Statement of Stuart Sherbrooke Wortley dated 27 April 2021
- Order dated [x] 2021

Copies may also be obtained from the Site Office or by contacting Tom Marke on 020 3829 2500 or by email: tom.marke@multiplex.global