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Case No: PT-2025-000545
Case No: PT-2025-000552

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 23 June 2025

Before :

Andrew Twigger K.C. sitting as a Deputy Judge of the High Court

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Between :

THE MASTER, FELLOWS AND SCHOLARS OF THE COLLEGE OF THE HOLY AND UNDIVIDED TRINITY WITHIN THE TOWN AND UNIVERSITY OF CAMBRIDGE OF KING HENRY THE EIGHTH'S FOUNDATION	**Claimant**
- and -	
(1) PERSONS UNKNOWN WHO, IN CONNECTION WITH DIVESTMENT PROTESTS BY "CAMBRIDGE FOR PALESTINE", ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANT UPON ANY PART OF THE SITE OR LAND (DEFINED BELOW)	**Defendants**
(2) PERSONS UNKNOWN	
- and -	
EUROPEAN LEGAL SUPPORT CENTRE	**Intervener**
THE MASTER, FELLOWS AND SCHOLARS OF THE COLLEGE OF SAINT JOHN THE EVANGELIST IN THE UNIVERSITY OF CAMBRIDGE	**Claimant**
- and -	
(1) PERSONS UNKNOWN WHO, IN CONNECTION WITH DIVESTMENT PROTESTS BY "CAMBRIDGE FOR PALESTINE", ENTER OR REMAIN WITHOUT THE CONSENT OF THE CLAIMANT UPON ANY PART OF THE SITE OR LAND (DEFINED BELOW)	**Defendants**
(2) PERSONS UNKNOWN	
(3) HANK GONZALEZ	
- and -	
EUROPEAN LEGAL SUPPORT CENTRE	**Intervener**

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Kester Lees KC (instructed by **Bevan Brittan LLP**) for the **Claimants** in both cases
Grant Kynaston (instructed by and for the **Intervener** in both cases)

Hearing dates: 5 June 2025
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Approved Judgment

This judgment was handed down remotely at 10.30am on 23 June 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

Andrew Twigger K.C. :

Introduction

1. Shortly before 18.00 on Friday, 30 May 2025 a group of protesters associated with a movement known as "*Cambridge for Palestine*" ("C4P") began to gather on an area known as "*Newton's Lawn*" which belongs to Trinity College, Cambridge, and is situated next to the main entrance to the College. C4P engages in various activities in support of Palestine including, in particular, protests concerning the conflict in Gaza, but also seeks to persuade Colleges, and Cambridge University more widely, to divest themselves of various investments said to be connected with Israel.

2. The protesters posted a schedule of events for the weekend on Instagram. The evidence is that some (but certainly not all) of these events involved loud noise, including music, chanting, banging drums and various individuals using a megaphone. On the first evening, the loud music was ultimately turned off at the request of the College staff. The number of protesters fluctuated between 6 and 100 people, some of whom were masked. Some tents were also erected. There is no suggestion anywhere in the evidence that any violence occurred.

3. At around 11.00 on Saturday, 31 May 2025, the College's Head Porter delivered a letter to the protesters (which was accepted by one of them and copies were left in all the tents on the site) requiring them leave and warning that, if they did not, court proceedings may be brought seeking a possession order. The Head Porter asked the protesters present at the time to identify themselves, but they refused to do so. The protestors did not comply with the request in the letter, and on the evening of Sunday, 1 June 2025, Trinity College applied urgently, without notice, for an interim injunction (not just a possession order) against persons unknown, with a view to requiring them to leave Newton's Lawn and not to return anywhere within the main College site.

4. The evidence filed in support of that application concentrated on the disruptive impact of loud noise on students taking examinations within the College, or revising for examinations. In particular, examinations take place in College for students who require special arrangements because of disability or mental health concerns. That was the expressed reason for the urgency, since the College's main examination period had begun on 26 May 2025 and continues until 20 June 2025. Nevertheless, the evidence also expressed concern about what was said to be an atmosphere of intimidation, about which complaints had been received.

5. The injunction was granted by Rajah J, who ordered a Return Date of 5 June 2025. The injunction was served at around 08.00 on Monday, 2 June 2025 and was immediately obeyed. After pausing at a local square, at around 13.00 the protesters moved to a plot of open land next to St. John's College chapel, close to the main entrance to the College, which was reached by climbing over a low wall. So far as I am aware, this plot of land does not have a name, so I will refer to it as the "*St. John's Lawn*".

6. Events thereafter followed a similar course to those relating to Trinity College. The evidence is that the protesters on the St. John's Lawn at times (but not always) made a considerable amount of noise, including when an "*Emergency Rally*" was held at around 18.00 on 2 June 2025. The evidence filed by St. John's College includes video and sound recordings of that rally, which I have reviewed. They show that the noise could clearly be heard from various locations inside the College. They also include a speaker encouraging the protesters to make noise with comments such as "*They don't like noise in exam season.*" Again, there is no suggestion of any violence.

7. As with Trinity College, the Head Porter of St. John's College delivered a letter (in this instance at around 08.00 on Tuesday, 3 June 2025) requiring the protestors to leave and warning that, if they did not, a possession order would be sought. This time, one of the protestors gave his name as Mr Hank Gonzalez, but no one else identified themselves. Again, the protestors did not leave, and that same evening (3 June) St. John's College applied for an injunction in similar terms to the one granted to Trinity, except that Mr Gonzalez was named as one of the Defendants. Again, the evidence focussed on the disruption caused to examinations by the loud noise, but concerns were also expressed about an atmosphere of intimidation, which had resulted in complaints from both students and their parents. In the case of St. John's College, the noise also disrupted Evensong, which is held on six evenings a week in the chapel.

8. The injunction sought by St. John's College was granted by Marcus Smith J, who also ordered a Return Date of 5 June 2025, so that both matters could be heard together. I was told on instructions that the protestors left the St. John's Lawn after the injunction was served on the evening of 3 June 2025.

9. The Return Date hearing in both matters came before me on 5 June 2025 and this is my judgment following that hearing.

10. Mr Kester Lees KC represented both Colleges. So far as the Defendants are concerned, I am satisfied on the evidence that details of the time and date of the hearing were clearly stated on the injunction orders which were served on the protestors, but none of them appeared before me, or were represented.

11. Shortly before the hearing, however, an application was received from the European Legal Support Centre ("ELSC") to intervene, which I permitted. I did so because, in a case involving arguments about human rights but in which none of the Defendants was represented, that appeared most consistent with the Overriding Objective of dealing with cases justly. The ELSC is an organisation whose mission extends to protecting the interests of persons such as the protestors in this case, on issues related to Palestine in particular. I was told that it has a track-record of intervening in matters such as this and it was certainly permitted to intervene in two of the cases which were cited to me. In both those cases it was represented by Mr Grant Kynaston and he appeared again before me. Although, of course, he had no instructions from any of the Defendants, his submissions regarding the application of the legal principles were impressive and of real assistance to me.

12. The absence of any of the Defendants meant that there could be no dispute concerning the facts described in the witness statements made in support of the applications by Dame Sally Davies, Master of Trinity College, and Heather Hancock, Master of St. John's College. Mr Kynaston nevertheless rightly drew my attention to the limitations of that evidence. For example, he pointed out that there is limited detail in the witness statements about how an "*atmosphere of intimidation*" had been created and that there was relatively little to justify the expressed fears about "*the potential for damage to be caused.*" I will return to those two points below, but the above summary of events is not, in my view, seriously open to challenge on the available evidence.

The Issues

13. Each College seeks two orders. First, they seek an order for possession on a summary basis pursuant to CPR 55.8(1)(a). If that relief is not granted at this stage, directions will need to be given for the claim to proceed to trial. Secondly, they seek to make the interim injunctions final on their current terms with a duration until the end of June 2026, which is the end of next year's examination season. As an alternative, the Colleges suggest that the orders might run until October 2025 to cover the summer, when potential students visit, and also the period when new students first arrive at the Colleges.

14. Mr Kynaston, for the ELSC, focussed primarily on the injunctions, although he did suggest that the possession orders are now unnecessary, because the Colleges have already obtained possession as a result of the interim injunctions. His primary submission was that the interim injunctions should be discharged, or at least that they should not be made final on a summary basis at this stage. He said there had been no proper opportunity for evidence to be filed in relation to the fact-sensitive balancing exercise required by the authorities between the protestors' rights to freedom of expression and assembly and the Colleges' private law rights to possession of their property. As an alternative, Mr Kynaston submitted that the existing orders were mis-calibrated, and their scope exceeded what was appropriate in various respects.

15. There was little difference between Mr Lees and Mr Kynaston regarding the legal principles to be applied to the applications for either the possession orders or the injunctions. That reflects the fact that the principles have been set out and explained in a series of recent cases concerning protests, many of which concern university campuses. The disputes related to the application of the principles to the facts of this case.

The Possession Orders – Legal Principles

16. The principles relating to the grant of summary possession orders in cases such as this were considered by Johnson J in *University of Birmingham v Persons Unknown* [2024] EWHC 1770 and *University of Nottingham v Butterworth* [2024] EWHC 1771. Mr Kynaston did not contest Mr Lees's submission that those cases contain an accurate summary of the law. They both concerned encampments on land belonging to the respective Universities by protesters opposed to the actions of the Israel Defense Forces in Palestine. In each case, one of the protestors took part in the proceedings and disputed certain facts.

Neither case involved an injunction. References below to paragraphs of the judgment of Johnson J are to his judgment in the first of those two cases ("*Birmingham*"), in which the protestor who engaged with the proceedings was called Ms Ali. The judgment in the second case does not materially affect the analysis, for present purposes.

17. Johnson J referred to several prior cases in which summary possession orders have been granted to academic institutions pursuant to the CPR Part 55 procedure in relation to protest encampments. He explained (in paragraph 6) that a summary possession order may be made if there is no real prospect of successfully defending the claim and no other compelling reason why the claim should be disposed of at trial.

18. On the facts in the *Birmingham* case, the University was the registered freehold and leasehold owner of the land which had been occupied, and the defendants did not have any interest in the land, or right to occupy it. The University had terminated any licence they had to use the land. In those circumstances, Johnson J said (at paragraphs 9 and 10) that the University was entitled to an order for possession unless the defendants had a defence that the decisions to terminate any licence and to bring possession proceedings were unlawful. Ms Ali contended that those decisions were unlawful on four grounds, of which only the fourth is suggested to be relevant to the matters before me. That was that the decisions amounted to a breach of Ms Ali's rights to freedom of expression and freedom of assembly, contrary to section 6 of the Human Rights Act 1988 ("the HRA"), read with Articles 10 and 11 of the European Convention on Human Rights ("the Convention").

19. Johnson J explained (in paragraph 58) that section 6(1) of the 1988 Act makes it unlawful for a public authority to act in a way which is incompatible with a Convention right. His view (in paragraphs 50 and 60) was that the issue whether the University should be treated as a public authority for these purposes was complex and that, at a summary hearing, it was appropriate to assume in Ms Ali's favour that it should. In any event, he pointed out that the court is a public authority which must act compatibly with Convention rights when deciding whether to make an order.

20. As Johnson J said, the rights contained in Articles 10 and 11 of the Convention are Convention rights. The former provides that everyone has the right to freedom of expression and the latter that everyone has the right to freedom of assembly and freedom of association with others. Each right is qualified: conduct of a public authority which interferes with the right may be justified if it is prescribed by law and necessary in a democratic society for (amongst other things) the protection of the rights of others.

21. When considering whether the qualification to these Convention rights applied on the facts before him, Johnson J did not expressly cite *DPP v Ziegler* [2021] UKSC 23, [2022] AC 408, which is generally referred to as an authoritative summary of the questions the court must consider. Nevertheless, he effectively answered each of the questions listed in *Ziegler*. They are as follows: (a) Is what the defendant did in exercise of one of the rights in Articles 10 or 11?; (b) If so, is there an interference by a public authority with that right?; (c) If there

is an interference, is it 'prescribed by law'; (d) If so, is the interference in pursuit of a legitimate aim as set out in sub-paragraph (2) of each of Articles 10 and 11, for example the protection of the rights of others?; (e) If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?

22. As Johnson J said (at paragraph 67) that final question requires a claimant to show that the measures constituting the interference (i.e. the decisions to terminate the licence and seek a possession order, and the making of the order) are proportionate. That requires four conditions to be satisfied, namely that: (1) the objective of the measure is sufficiently important to justify the limitation of a protected right; (2) the measure is rationally connected to the objective; (3) no less intrusive measure could be used without unacceptably compromising the achievement of the objective; and (4) balancing the severity of the measure's effects on the defendant's rights against the importance of the objective, to the extent that the measure will contribute to its achievement, the former does not outweigh the latter. Johnson J derived that summary of those conditions from *Bank Mellat v Her Majesty's Treasury (No 2)* [2013] UKSC 39, [2014] AC 700 per Lord Reed at [74], but that does not (in my judgment) materially differ from the way the four conditions are described in *Ziegler*.

23. The *Ziegler* case itself concerned a protest which obstructed the public highway. Lord Hamblen and Lord Stephens gave (at paragraph 72) a non-exhaustive list of the factors normally to be taken into account in an evaluation of proportionality in such a case. I do not understand Lady Arden or Lord Sales (with whom Lord Hodge agreed) to have disagreed with Lord Hamblen and Lord Stephens in relation to this part of their judgment. They quoted the judgment of Lord Neuberger in *City of London Corpn v Samede* [2012] EWCA Civ 160, [2012] PTSR 1624:

"*The factors included 'the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protesters, the duration of the protest, the degree to which the protesters occupy the land, and the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public'. At paras 40—41 Lord Neuberger MR identified two further factors as being: (a) whether the views giving rise to the protest relate to 'very important issues' and whether they are 'views which many would see as being of considerable breadth, depth and relevance'; and, (b) whether the protesters 'believed in the views they were expressing'...*"

24. I note the stipulation in paragraph 59 of *Ziegler* that the determination of the proportionality of an interference with Convention rights is a fact specific enquiry which requires the evaluation of the circumstances in the individual case. This point was rightly stressed by Mr Kynaston.

25. Returning to the *Birmingham* case, a submission was made to Johnson J that there could be no interference with Ms Ali's Convention rights because the Convention does not give anyone the right to trespass. I note, in this regard, the dictum from *Appleby v UK* [2003] 37 EHRR 38 (at paragraph 47) that Articles 10 and 11 do not "*bestow any freedom of forum*" for the exercise of those rights. Likewise, in *DPP v Cuciurean* [2022] EWHC 736 (Admin), [2022] QB 888

Lord Burnett CJ said that "*there is no basis in the Strasbourg jurisprudence to support the defendant's proposition that the freedom of expression linked to the freedom of assembly and association includes a right to protest on privately owned land or upon publicly owned land from which the public are generally excluded.*"

26. Nevertheless, Johnson J did not consider it straightforward to conclude that Articles 10 and 11 could never be engaged in the context of a trespass (at paragraph 62). He preferred to assume on a summary application that the making of a possession order would interfere with those Convention rights. This caution appears to have been justified, since the Court of Appeal in *R v Hallam* [2025] EWCA Crim 199, [2025] 4 WLR 33 noted what was said in *Appleby* but said (at paragraph 34) that "*we were not referred to any case in which the European Court of Human Rights … has decided that a protester who commits an act of trespass thereby automatically loses their rights under Article 10 or 11 altogether…*"

27. Accordingly, Johnson J proceeded to consider whether the interference with those rights was prescribed by law. He considered (in paragraph 65) that it was, because the making of a summary possession order is regulated by CPR Part 55.

28. In relation to whether the interference was necessary in a democratic society for the protection of the rights of others, Johnson J considered whether the measures constituting the interference were proportionate, by reference to the four conditions identified above. The "measures" under consideration in the case before him were, first, the University's decision to terminate any licence Ms Ali had to be on the land, second its decision to seek a possession order, and third the making of the order itself.

29. In regard to whether the objective of the measures was sufficiently important to justify the limitation of a protected right, he said (in paragraph 68) that the law gives strong protection to the right of a landowner to possess its own land. He pointed out that it has consistently been recognised that this right is of sufficient importance to justify interference with the qualified Convention rights of students trespassing on university premises.

30. As to whether there was a rational connection between the measures and the University's objective to secure possession of its land, he said (at paragraph 69) that a summary possession order has consistently been recognised as being appropriate in this context.

31. When considering whether there was a less intrusive measure available to the University to achieve its objective, Johnson J considered (at paragraph 70) that self-help would be undesirable because of the risk of disturbance and the potential for use of force. He viewed an injunction as potentially less intrusive in the sense that it could be tailored, for example to permit a single tent to remain on the land, but said that this would not achieve the legitimate aim of enabling the University to take possession of all its land. He concluded that there was no less intrusive measure which could achieve the legitimate aim he had identified.

32. Finally, in relation to the balancing issue, Johnson J pointed out (in paragraph 72) that it was not for the court to dictate to anyone how they should exercise their Convention rights and weight should be attached to the defendants' choices. Nevertheless, "*there are… many other ways in which the defendants could exercise their Convention rights without usurping to themselves land that belongs to the University.*" He pointed out that the University had formulated a Code which was designed to ensure that students were able to exercise their Convention rights, but that Code had not been followed. The failure to follow the Code impacted on the University's ability to ensure freedom of speech for those with alternative or competing views. Moreover, Ms Ali's conduct as a trespasser was not at the core of her Convention rights (citing *Kudrevicius v Lithuania* (Application No 37553/05) (2015) 62 EHRR 34).

33. By contrast, Johnson J considered that the University's right to possession of its own land was of real weight, especially since it sought to give full voice to the rights of free expression through the Code, which the protesters had disregarded. Consequently, the severity of the impact on Ms Ali's rights did not, by a significant margin, come anywhere close to outweighing the importance of the objective of the University being able to regain possession of its own land. In paragraph 74, the Judge considered this to be a "*conclusion that can comfortably and confidently be reached on a summary application.*" It followed that Ms Ali had no real prospect of establishing a defence based on her Convention rights.

34. Johnson J also addressed the issue of whether the possession order should only be made in respect of the land on which the encampment had been established, or whether it should extend to the remainder of the University's land at the relevant campus and other places. He noted that there had been an occupation at a different site, before the encampment moved to its current location, and that similar camps were taking place in other universities. There was a potential, if an order was made in respect of a limited plot of land, for the camp to move to another part of the campus. He referred (in paragraph 81) to a number of authorities which had recognised that it was justified, in such circumstances, to make a summary possession order in respect of other land belonging to the university. For those reasons, he made a wider order of that kind.

The Possession Orders – Decision

35. I am satisfied from the Land Registry records relied on by the Colleges that they are each the registered freeholder proprietor of all the land in respect of which they seek possession. I have no reason to believe that any of the protestors had any rights to occupy any of the land belonging to either College and, in so far as it might be suggested that any of them had an implied licence to do so, that licence was expressly terminated by the letters delivered to the protesters by the Head Porters of each College. The protestors were, therefore, trespassers. They do not have any private law defence to the claims to possession, as Mr Kynaston accepted.

36. I do not agree with Mr Kynaston's suggestion (which, in fairness to him, was not strongly pressed) that no possession orders are needed because the protestors have already left. In my judgment, Mr Lees is correct to say that the court should assume that the only reason the protestors are not still occupying

Newton's Lawn or the St. John's Lawn is because of the interim injunctions. Like many interim measures, those orders have held the ring pending a final decision, but it does not follow from the fact that they have been obeyed that no grant of final relief is required. This principle is reflected in the undertakings given in both interim injunction orders by the respective Colleges that they will allow the Defendants back into possession if the court declines to make a possession order or final injunction. Possession orders are, therefore, required.

37. I understood Mr Kynaston to suggest at one stage that the description of the class of Defendants may be said to be somehow uncertain for the purposes of the possession orders. As Mr Lees says, a possession order can be granted against "*Persons Unknown*". The action for possession is in essence an action "*in rem*" enabling the claimant to obtain physical occupation of the land. Enforcement of the possession order involves a court official removing whoever is there, to put the claimant back in possession (see *Wolverhampton CC v London Gypsies and Travellers* [2023] UKSC 47, [2024] AC 983, at paragraph 166). Consequently, I do not consider there is any difficulty of the kind suggested by Mr Kynaston.

38. It follows that, as in the *Birmingham* case, the Colleges are entitled to an order for possession unless it is arguable that there might be a defence on the grounds that the Colleges' decisions to terminate any licence and bring possession proceedings, or the making of the order itself, are unlawful, because of a breach of Articles 10 and 11 of the Convention. Like Johnson J, I shall assume that the Colleges are both public authorities (noting that, although this is not accepted by the Colleges, they nevertheless invited me to adopt Johnson J's approach for the purposes of this summary hearing). In any event, the court is a public authority. I shall also follow his approach in assuming that the Colleges' decisions and the making of a possession order would interfere with the protestors' Convention rights.

39. It is, therefore, necessary to consider whether that interference is justified because prescribed by law, in pursuit of a legitimate aim, and necessary for the protection of the rights of others. Johnson J held that the making of a summary possession order is prescribed by law and I respectfully agree. I also consider that the interference with the protestors' rights is in pursuit of a legitimate aim, namely the Colleges' private law rights to their property and their protection of the rights of those lawfully using their land, and for whom they have legal responsibilities, including their students and staff. I must, therefore, consider whether the Colleges' decisions, and the making of a possession order, are proportionate. I shall use the same sub-headings as Johnson J, derived from the approach taken in *Mellat*.

Sufficient importance

40. As in the *Birmingham* case, the objective of the Colleges' decisions, and of making an order, is to possess their own land. That is sufficiently important to justify any interference with the protestors' Convention rights, for the reasons given by Johnson J.

Rational connection

41. Again, the position is the same as in the *Birmingham* case. A possession order is directly and rationally connected to the objective of obtaining possession.

Less intrusive measure

42. Mr Kynaston's submissions about less intrusive measures were principally directed at the injunctions, rather than the possession orders. Contrary to the way the argument seems to have been put in the *Birmingham* case, I understood Mr Kynaston to be saying that an injunction was more, rather than less, intrusive than a possession order. In any event, I agree with Johnson J that there is no measure that is less intrusive on the protestors' Convention rights that could achieve the legitimate aim of giving the Colleges possession of their land. Self-help is not a realistic option, especially in circumstances in which both Colleges delivered letters to the protestors asking them to leave, which they ignored. The Colleges' own internal disciplinary processes could only be effective against their own staff or students, and would be impossible to use against protestors who refuse to identify themselves and cannot otherwise be identified.

Balance

43. Noting the various factors referred to in the *Ziegler* case, I accept that the views concerning events in Palestine which have given rise to the protest in this case involve issues which, on any view, satisfy the criterion of "*very important*". I think it is fair to say that many would see them as being of "*considerable breadth, depth and relevance*". I also have no doubt that the protesters believe sincerely in the views they were expressing. Moreover, I agree with Johnson J that some weight must be given to the protestors' choices of the location and manner of expressing their views. At least an element of the protest relates to divestment of assets said to be held by various Colleges. To that extent, the locations of the protests had some importance to the protestors.

44. Nevertheless, as in the *Birmingham* case, there are many other ways in which the protestors could exercise their Convention rights "*without usurping to themselves land that belongs*" to the Colleges. Those other ways potentially include an event within one or both Colleges, since they both have Codes which are designed to enable Convention rights to be exercised in a proportionate way. Trinity College has a Code of Practice on Freedom of Speech and a Policy on Peaceful Protest, which are easily accessible on the College's website. St. John's College also has a Code of Practice on Freedom of Speech which is available on its website. These documents all stress the respective Colleges' commitment to freedom of speech and prescribe mechanisms to enable events to be held in a way which, amongst other things, respects the rights and views of others. The protestors have not attempted to follow these Codes.

45. In the context of the rights of others, it is relevant that the Colleges' decisions to seek possession orders were not solely taken to vindicate their right to regain possession of their own land. They were also taken with regard to the interests of the communities living and working within the Colleges, especially those revising for and sitting examinations. I have already mentioned the fact that some examinations are taking place in the Colleges, many of which are being held there precisely to protect the most vulnerable students. The evidence is

that final year examinations count for at least 70% of a student's final grade, and in some cases, 100%. Resits are not permitted (although I was told in submissions that this might not be true of a small category of students). Thus, a disturbance to an examination caused by a protest could have a serious impact on a student, with permanent consequences.

46. Mr Kynaston submitted that, since the Colleges are acting as public authorities, they are unable to rely on their own Convention rights to the peaceful enjoyment of their possessions under Article 1 of the First Protocol of the Convention ("A1P1"). That distinguished the case from *Appleby v UK*, in which the UK Government was held not to have a positive obligation to create rights of entry to private property but was entitled to balance the right to freedom of expression against the property owner's A1P1 rights. In those circumstances, it was only if barring access to the property prevented any effective exercise of freedom of expression that the state's obligations might be triggered. I note that, in the *Cambridge* case, Soole J considered that the University was entitled to pray in aid its A1P1 rights, relying (as I understand it) on the judgment of Julian Knowles J in *HS2 v Persons Unknown* [2022] 2360 (KB). However, even if Mr Kynaston is right about the Colleges not being entitled to rely on their A1P1 rights (about which I reach no concluded view), like Soole J I do not see how this assists the protestors.

47. Mr Kynaston accepted that the Colleges are entitled to rely on their private law rights to possession, although they must establish that the "measures" they have taken to protect those rights are proportionate, as explained above. Mr Lees accepted that the Colleges must overcome that hurdle, but submitted that when assessing proportionality, it is relevant to take into account the Colleges' concern to protect the rights and interests of their students and staff. I agree. The factors listed in the *Ziegler* case (quoted above) include "*the extent of the actual interference the protest causes to the rights of others, including the property rights of the owners of the land, and the rights of any members of the public*." In this case the "others" are students and staff of the Colleges, rather than the general public, but I do not see why that should make any difference.

48. Taking all these matters into account, I have no doubt that the importance of the objective of the possession orders, both in returning the possession of the land to the Colleges, and in protecting the rights of the College communities, substantially outweighs the severity of the effect the order will have on the protestors' Convention rights. Like Johnson J, I consider this is a conclusion which can comfortably and confidently be reached on a summary application, so that any defence based on Convention rights has no real prospect of success.

49. There is also an issue as to whether the possession orders should be restricted to Newton's Lawn and the St. John's Lawn, or whether they should extend to the main College sites. In *University of Essex v Djemal* [1980] 1 WLR 1301 the Court of Appeal held that a university could be granted a possession order in respect of its whole campus against trespassers who were squatting in a relatively small part, even though the remainder of the campus was lawfully occupied by academics, other employees, and indeed students. In *Secretary of State for the Environment, Food and Rural Affairs v Meier* [2009] UKSC 11, [2009] 1 WLR 2780 at paragraph 70, Lord Neuberger recognised the practical

reason for making an order over a wider area on the basis that protestors removed from one part of the claimant's premises would be likely simply to move to another part. Although he questioned (*obiter*) the principle of making a possession order in respect of land which was lawfully and exclusively occupied by students and staff, *Djemal* has not been overruled and, as Johnson J pointed out, it has been followed in a number of subsequent cases.

50. Nevertheless, the principle is not without some limitation because, as Lord Neuberger explained (at paragraph 72), "*The fact that an order for possession can be made in respect of a single piece of land, only part of which is occupied by trespassers, does not justify the conclusion that an order for possession can be made in respect of two entirely separate pieces of land, only one of which is occupied by trespassers, just because both pieces of land happen to be in common ownership*."

51. I am satisfied on the basis of the plans of the Colleges I have seen that the plots of land in respect of which they seek possession orders can each be regarded as a single piece of property over which possession should be granted, even taking into account the fact that the St. John's College site is comprised of two titles, separated by St. John's Street. These plots of land may be regarded as the main sites of the Colleges in Cambridge and, in my judgment, they are at least as self-contained as a unit as was the campus of the University of Essex in the *Djemal* case. I will come in due course the question whether the injunctions (if granted) should also extend to the entirety of these plots, which is a distinct question, not considered in *Djemal*.

The Injunctions – Legal Principles

52. The principles applicable to the grant of precautionary injunctions (once called "*quia timet*" injunctions) against individuals who cannot be identified in advance were considered by the Supreme Court in the *Wolverhampton* case referred to above. The Supreme Court held that both interim and final injunctions can be granted against "*newcomers*", meaning persons who, at the time the order is made, were neither defendants nor identifiable and were described in the inunction only as "*persons unknown.*" Although the case concerned unknown travellers, rather than protesters, the Supreme Court expressly contemplated the possibility of newcomer inunctions being made against protestors at paragraph 235. Importantly, at paragraph 236 the Court said:

> "*Counsel for the Secretary of State for Transport has submitted and we accept that each of these cases has called for a full and careful assessment of the justification for the order sought, the rights which are or may be interfered with by the grant of the order, and the proportionality of that interference. Again, in so far as the applicant seeks an injunction against newcomers,* ***the judge must be satisfied there is a compelling need for the order****. Often the circumstances of these cases vary significantly one from another in terms of the range and number of people who may be affected by the making or refusal of the injunction sought; the legal right to be protected; the illegality to be prevented; and the rights of the respondents to the application. The duration and geographical scope of the injunction necessary to protect the applicant's rights in any*

particular case are ultimately matters for the judge having regard to the general principles we have explained." (emphasis added)

53. Mr Kynaston stressed the requirement of a compelling need for an order. In that connection, I note that, when considering whether there was a compelling need in a case concerned with travellers, the Supreme Court focussed (in paragraph 188) on whether the applicant authority had complied with its own obligations, had exhausted all reasonable alternatives to the grant of an injunction (including engaging in a dialogue with the travellers) and had taken appropriate steps to control unauthorised encampments by using the other powers at its disposal. What, therefore, makes the need for an order compelling includes that the applicant has done everything it reasonably could and should have done to protect its own rights.

54. The principles discussed in *Wolverhampton* have been applied to protestors trespassing on private land in a number of subsequent cases. *Valero Energy Ltd. v Persons Unknown* [2024] EWHC 134 (KB) concerned climate change protestors trespassing on sites belonging to the claimant petrochemical companies. In contrast to the later cases, the court was asked to, and did, grant summary judgment and a final injunction, as opposed to interim relief. Ritchie J considered the principles applicable to summary judgment, final precautionary injunctions and injunctions against persons unknown. He analysed the Supreme Court's decision in *Wolverhampton* and the impact of that case on the guidance previously promulgated by the Court of Appeal in *Canada Goose UK Retail Ltd v Persons Unknown* [2020] 1 WLR 2802. Based on that analysis, he summarised fifteen "*guidelines and rules*" which he held "*must be met for the injunction to be granted.*" In the interests of brevity, I will not set these out verbatim, but I have considered them carefully and apply them below, using Ritchie J's headings. Whilst there is a risk of some duplication between the different guidelines, I consider that they provide a helpful checklist for a case of this kind.

55. In *MBR Acres v Curtin* [2025] EWHC 331 (KB) Nicklin J granted an injunction, following a contested trial, to restrain future acts by animal rights protestors involving trespass on the property of the claimant companies, which were involved in breeding animals for medical and clinical research. In paragraph 367 of his judgment, Nicklin J expressed doubts about whether the courts ought to "*set the boundaries upon lawful protest by contra mundum injunctions*" (meaning injunctions against everyone in the world). He was, in particular, concerned about the risk of abuse by claimants using contempt applications for trivial breaches against individuals who had committed no civil wrong. Mr Kynaston placed considerable emphasis on Nicklin J's words.

56. It must be remembered, however, that Nicklin J granted an injunction in the *MBR Acres* case, despite his concerns. He said in paragraph 389 that he considered the risks of abuse were adequately mitigated by two factors: first, that a contempt application would only be successful if an alleged trespasser had notice of the injunction; and second, that the order contained a requirement that any contempt application against someone not named as a defendant would require the court's permission. He said (in paragraph 390) that it was clear that all *contra mundum* newcomer injunctions, particularly those in protest cases,

should include such a requirement. Mr Lees suggested that this requirement could be added to Ritchie J's fifteen guidelines in this case, and I agree.

57. In *University of London v Harvie-Clark* [2024] EWHC 2895 (Ch) Thompsell J followed Ritchie J's guidelines when granting an interim precautionary injunction against certain named individuals and persons unknown relating to protests concerned with Israel's military operations in Gaza.

58. In *University of Cambridge v Persons Unknown* [2025] EWHC 331 (KB), Fordham J relied on Thompsell J's restatement of Ritchie J's guidelines when granting a short interim injunction covering two locations in the University against protesters associated with C4P, who were threatening to disrupt a graduation ceremony. This was a considerably more limited order than the University had sought, which was (at that stage) a final injunction for a period of five years covering four locations. Mr Kynaston drew my attention to Fordham J's criticism of the short notice of the application given to the defendants. That criticism was, however, based on the fact that prior protests had occurred weeks or months prior to the application (15 May 2024, 27 November 2024, 6 December 2024) and the date of the impending graduation ceremony (1 March 2025) had been known well in advance, yet notice had been given (on 19 February 2025) only 5 working days before the hearing (27 February 2025). Moreover, other graduation events had occurred without disruption, but this was not revealed to the court until the Judge asked about it. It is understandable that, in these circumstances, Fordham J was not prepared to grant the wide relief sought, although he adjourned the application.

59. The matter then came back before Soole J, [2025] EWHC 724 (KB). By this stage, the University had reconsidered and sought an interim injunction for a four-month period. Soole J did not refer expressly to Ritchie J's guidelines, relying instead on the summary of Julian Knowles J in *HS2 v Persons Unknown* [2022] EWHC 2360, which he supplemented with his own analysis of the principles subsequently explained in *Wolverhampton*. I am unable to discern any material difference between the approaches of Soole J and Ritchie J.

60. In the context of an interim injunction, Soole J proceeded on the assumption that he should apply the higher standard for the grant of interim relief prescribed by section 12(3) of the HRA. This provides that, where the Convention right to freedom of expression is engaged, no relief should be granted "*so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.*" Soole J pointed out (in paragraphs 41-43) that "*publication*" has been interpreted as encompassing any form of communication falling within Article 10 of the Convention, and that "*likely*" in this context usually means "*more likely than not.*" Mr Kynaston correctly pointed out that, since I am concerned with an application for summary judgment and a final injunction, the appropriate test is the even higher one of whether there is no real prospect of successfully defending the claim. Nevertheless, it seems to me legitimate to have regard to the considerations which satisfied Soole J that the University was likely to establish that the protestors' defences under the HRA would fail at trial, which comes close to saying that they had no real prospect of success. I will return to these below.

61. Since I am asked to grant summary judgment and a final injunction, the issues I must address are the same as those in the *Valero* case and I consider it appropriate to do so in accordance with Ritchie J's fifteen guidelines. I will nevertheless have regard to the subsequent authorities and, in particular, Soole J's decision in the *Cambridge* case, which addressed some of the arguments which Mr Kynaston made before me.

The Injunctions – Decision

62. As explained above, I will consider Ritchie J's fifteen guidelines under the same headings he used. The first seven are "*Substantive Requirements*" and the remainder are "*Procedural Requirements.*"

1. Cause of Action

63. Ritchie J said that there must be a civil cause of action identified in the claim form and particulars of claim. Both Colleges have identified trespass as the cause of action. As explained above in relation to the possession orders, there is no real doubt that a trespass has already occurred on land belonging to both Colleges, and they have adequately pleaded an imminent and real risk of harm.

2. Full and frank disclosure by the Claimant

64. In his skeleton, Mr Lees gave careful consideration to the potential defences which the protestors might assert pursuant to the HRA. At the hearing, I had the additional assistance of Mr Kynaston in relation to these arguments. I consider them under the heading "*No realistic defence*" below. The Colleges' presentation seems to me to have been balanced at all times, and I have no reason for thinking that there has not been full and frank disclosure of any material facts.

3. Sufficient evidence to prove the claim

65. Ritchie J said that there must be sufficient and detailed evidence to justify the court finding that the immediate fear is proven on the balance of probabilities and that no trial is needed to determine that issue. He pointed out that, when there is no defendant present, a realistic prospect of the claim succeeding "*may be upgraded to a balance of probabilities decision by the Judge.*"

66. The Colleges rely on two matters to establish an imminent and real risk of continued trespass. First, they point to the history. There is a reference in the evidence to C4P having "*set up an encampment at King's College, Cambridge, in 2024. That encampment started on 6 May 2024 and ended on 14 August 2024.*" Mr Lees submitted that this is evidence of persistence, but Mr Kynaston pointed out that no injunction was sought in relation to that encampment. I do not consider I can infer much from the very limited evidence I have of the encampment at King's College a year ago.

67. More important, in my judgment, is the evidence that the protestors ignored a formal written request to leave Newton's Lawn and then, when Trinity College obtained an interim injunction, they moved (after a short interval) to the St.

John's Lawn and again refused to leave when asked. Moreover, the evidence shows, in my judgment, that the protestors perceive that causing disruption and annoyance will bring attention to their cause. They are likely to consider that moving back to the Colleges' land if the injunction is lifted will maximise the disruption and annoyance, not least because it will require the Colleges to make further applications. It is reasonable to infer from these considerations that, if an injunction is not granted, the protestors are more likely than not to move back to Newton's Lawn, or the St. John's Lawn (or both).

68. The second matter on which the Colleges rely in relation to the imminent and real risk of harm is C4P's public pronouncements. The evidence served on behalf of Trinity College includes screenshots of posts from C4P's Instagram account, which state (amongst other things) "*Cambridge, we are back. We will continue to disrupt Cambridge's violent sense of 'normalcy' until each college and the University itself ends the sanctioning of mass murder.*" The evidence served on behalf of St. John's College refers to an article on the website of the independent university newspaper, Varsity, on 2 June 2025. This quoted a spokesperson for C4P saying that Cambridge "*can expect us to come back somewhere else*" if an injunction were served on them, and "*The University can expect us to come back any time they try to shut us out.*" This article also explains that it is one of C4P's aims to encourage both Colleges to divest themselves of investments in certain companies. C4P has therefore targeted these Colleges in particular, making it more likely that they will return, if not prevented from doing so.

69. I am, accordingly, satisfied that there is an imminent and real risk that, without injunctions in place, the protestors will return to trespass on the Colleges' land and set up another encampment. That would cause real harm, not only because it is an unlawful interference with the Colleges' land, but also because of the disruption caused to students and staff working and living in the Colleges, as well as to members of the public lawfully visiting them.

4. No realistic defence

70. Ritchie J said that the defendants must be found unable to raise any defences to the claim which have a realistic prospect of success, taking into account not only the evidence before the court, but also any evidence that a putative unknown defendant might reasonably be foreseen as able to assert. He referred to the Supreme Court's reasoning in *Wolverhampton* to the effect that proceedings against persons unknown are, in effect, "*ex parte*" (or without notice), so that the court must be alive to potential defences and the claimants must address them.

71. As I have said, Mr Lees gave careful consideration to the potential defences in his skeleton and oral submissions, and I have had the benefit of submissions from Mr Kynaston. I am not aware of any facts which might give rise to a private law defence to the actions for trespass. The submissions focussed on arguments as to whether there might be a defence based on Articles 10 and 11 of the Convention. In relation to that, I have covered much of the ground already when discussing the possession orders above.

72. I shall assume (without deciding) that the Colleges are public authorities and that the making of an injunction would interfere with the protestors' Convention rights. It is, therefore, necessary to consider whether the granting of precautionary injunctions against persons unknown, including newcomers, is prescribed by law, and whether such orders are necessary for the protection of the rights of others.

73. In relation to the first of those issues, Ritchie J said in *Valero* that an injunction is prescribed by law because it is granted by the court. I would add that the court's power to grant such an injunction is a statutory one derived from section 37 of the Senior Courts Act 1981 and that the principles on which that power can be exercised in a case involving newcomers have been authoritatively stated by the Supreme Court in the *Wolverhampton* case.

74. I also consider that the injunctions sought have the legitimate aim of protecting the Colleges' property rights and the interests of others lawfully using their land, and for whom they have legal responsibilities, including their students and staff. I note that similar conclusions were reached by Ritchie J in *Valero* (paragraph 66) and by Soole J in *Cambridge* (paragraph 87).

75. The key question, therefore, is whether the relevant "measures" (being the Colleges' decisions to terminate any licences the protestors may have had to be on the relevant land and to seek injunctions, and the court's decision to make the order) are proportionate. I will, therefore, address the four conditions derived from *Bank Mellat* and *Ziegler* discussed above.

76. First, I consider that the objective of enabling the Colleges to possess their own land and to prevent anticipated future trespasses on it is sufficiently important to justify any inference with the protestors' Convention rights, as in the case of the possession orders. Mr Kynaston suggested that the only material justification for the injunctions relied on by the Colleges in this case is noise disrupting students sitting, and studying for, examinations. He says it is "*doubtful*" whether this is a sufficiently important objective. As Johnson J said in the *Birmingham* case (at paragraph 68), the right of a landowner to possess its own land has consistently been recognised as being of sufficient importance to justify interference with the Convention rights of protestors. The disruption to examinations seems to me to be a further, and equally important, reason. It seems to me that Mr Kynaston's submission about noise primarily goes to balance and I consider it under that heading below.

77. Secondly, although an injunction has a different effect from a possession order, I consider an order in the form sought by the Colleges to be directly and rationally connected to the objective of obtaining possession and preventing anticipated future trespasses.

78. The third condition relates to whether there are less intrusive measures which could achieve the same objective. One question which might be asked is why final injunctions are necessary, if possession orders are granted. I agree with Mr Lees that an injunction has a different function from a possession order. A possession order enables enforcement steps to be taken to remove anyone on the relevant land when the rightful owner has been dispossessed. It does not,

however, prevent them, or others, returning and it does not prevent someone coming on to the land temporarily, as opposed to an encampment. It might be possible to obtain a "*writ of restitution*" of the kind described by Lord Neuberger in paragraph 93 of the *Meier* case referred to above, with a view to obtaining possession against a defendant who has gone back into occupation after being evicted. The availability of such relief against newcomers seems to me far from certain, however, and it would require further expense and delay.

79. Mr Kynaston nevertheless urged upon me that there are other routes open to the Colleges, less intrusive than an injunction. One suggestion was that the Colleges could simply ask the protestors to keep the noise down. Whilst there is evidence that such a request was eventually complied with on the first day of the protest on Newton's Lawn, that evidence does not satisfy me that the protestors would be likely to comply with such a request in the future, or that they would do so as soon as asked. The evidence provided by St. John's College includes video evidence of an individual encouraging the protesters to make noise with comments such as "*They don't like noise in exam season.*" It is evident that at least part of the purpose of the protests is to cause disruption (in a non-violent way), which includes deliberately doing what you are asked not to do. In any case, the Colleges' concerns are not only related to noise (as I explain below) and their legitimate objective is to obtain possession of their land. Asking protestors to keep the noise down does not address the other concerns or achieve that objective.

80. Next, Mr Kynaston referred me to Nicklin J's comments in the *MBR Acres* case to the effect that the court should have regard to the extensive powers of the police and the local authorities. He said that the police had powers of arrest and pointed to the crime of Aggravated Trespass under section 68 of the Criminal Justice and Public Order Act 1994, which has a maximum sentence of three months' imprisonment, compared with the maximum of two years for contempt of court. Mr Kynaston also submitted that the police have experience in taking decisions which respect protestors' Convention rights.

81. As Mr Lees pointed out, the offence of Aggravated Trespass applies where an individual trespasses on land and does an act with the intended effect of intimidating so as deter, or obstructing, or disrupting, an activity being lawfully carried on either on that land, or on adjoining land. Whilst it is conceivable that the protestors might commit such an offence on land belonging to the Colleges, it is far from obvious that they would do so. No one normally carries on lawful activities on Newton's Lawn or the St. John's Lawn which could be disrupted. There may be disruption to activities on adjoining land, but intention would need to be proved to the criminal standard.

82. Realistically, it is in my judgment unlikely that the police would take action against non-violent protestors on private land, and even less likely that they would do so with any urgency. Moreover, action taken by the police would necessarily be responsive to a trespass which had already occurred. The objective of the injunctions is to prevent such trespasses occurring in the first place. The possibility of the police taking action was certainly not sufficient to deter the protestors from trespassing on Newton's Lawn or the St. John's Lawn.

83. Mr Kynaston also suggested that the Colleges were able to address protests by their own staff or students by using their internal disciplinary processes. Self-evidently, that approach only applies to those who are staff or students of the particular College. It is not possible to be certain how many (if any) of the protestors are staff or members of the Colleges, because they have not identified themselves. The Master of St. John's College says she is unaware of there being any students from that College within the group of protestors. In my judgment, it is unrealistic to suppose that the Colleges' own disciplinary processes would be available in more than a handful of cases and, even then, it is unlikely that they would have a deterrent effect (since they did not deter the protests which have already occurred).

84. As Soole J said in the *Cambridge* case (at paragraph 89), all the alternative means suggested by Mr Kynaston are essentially focussed on dealing with disruptive events as and after they happen, whereas the fully justified concern of the Colleges is to prevent any C4P protestors returning to their land in the first place. Mr Kynaston asked what it is about an injunction which does a better job than other methods. In my judgment, the answer is that an injunction has been shown to be effective already and it continues to provide an effective deterrent. It is unrealistic to suppose that any of the other suggested courses of action will be anything like as effective. There is, of course, an important issue as to how long the injunctions should remain in force, but that is a separate point, which I address below.

85. I come, then, to the fourth condition, concerning balance. My reasoning in paragraphs 40 to 47 above in relation to the possession orders is applicable here. Whilst relying on that reasoning in this context also, I accept that a different balancing exercise is required in relation to the injunctions. The key question is whether the exceptional and serious nature of an injunction against newcomers, involving the threat of sanctions including fines and imprisonment for breach, is proportionate to the Colleges' legitimate objective of protecting their property rights and the interests of others lawfully using their land.

86. Mr Kynaston firmly submits that the injunctions sought are disproportionate for five reasons. First, he makes the point to which I have already referred that the Colleges' only material justification for the injunctions is to prevent noise disrupting students sitting, and studying for, examinations. He submitted that, on the evidence, the noise was limited to only a few periods and that many of the activities listed on the C4P agenda were quiet (such as crafts, banner-making and knot-tying). Moreover, he said the noise was potentially manageable by asking the protestors to stop.

87. I accept that the evidence of both Colleges is that "*The protestors at the encampment have **at times** made a considerable amount of noise*" (emphasis added). That does not suggest constant noise. The evidence from Trinity College is that there was loud music on the evening of 30 May 2025 and the use of a megaphone with chanting and banging drums at an "*emergency rally*" between 13.00 and 15.00 on 31 May 2025. The evidence from St. John's College refers to "*repeated chanting*" throughout the afternoon of 2 June 2025 with an "*emergency rally*" between 18.00 and 19.00 involving chanting, clapping and a megaphone. There are video and audio recordings of this rally,

which I have considered. The noise was loud enough to be heard in various rooms within the College, some of which were some distance from the encampment. Of most concern, in my judgment, was the encouragement of noise with the clear intent to disrupt examinations: "*They don't like noise in exam season.*" Also relevant is the disruption to services in the St. John's College chapel, which are open to members of the public and take place six days a week throughout term time. Amongst others, these services involve between sixteen to eighteen child choristers. For the reasons I have already given, I am not satisfied that the protestors will comply with requests to keep the noise down.

88. In the light of this evidence, I do not consider the objective of preventing noise can be played down in the way Mr Kynaston suggests. I accept that the noise was not constant, but it was loud when it occurred and was deliberately disruptive. That justifies the Colleges in pursuing a response of sufficient severity to be likely to be effective.

89. Mr Kynaston's second reason for saying that the injunctions are disproportionate was that there are other less intrusive means available to the Colleges to achieve their objective. I have already dealt with this above.

90. Mr Kynaston's third reason is that the Colleges made no attempts at using any other less intrusive means of achieving their objectives before rushing to court to obtain interim injunctions. The difficulty with that submission is that both Colleges delivered letters to the protestors asking them to leave and warning that court action would be taken if they did not. Whilst it might have been better if the letters had referred to injunctions as well as possession orders, I am satisfied that both Colleges made a reasonable attempt to achieve their objectives without court action. A longer dialogue might have been possible if the examination period had not already begun, but the need to ensure proper conditions for those taking examinations created a real urgency (as both Rajah J and Marcus Smith J accepted). In these circumstances, I do not consider that the proportionality of the injunctions can be undermined by the urgency with which the interim injunctions were sought.

91. Mr Kynaston's fourth submission was that the Colleges' justifications for seeking injunctions beyond the noise complaints were half-hearted and vague. He referred to allegations of intimidation and damage to buildings. As to the former, both Colleges referred to "*an atmosphere of intimidation,*" concerning which both have received complaints from students and St. John's College has also received complaints from parents of students. Mr Kynaston submitted that the evidence of intimidation was too thin to justify any interference with the protestors' Convention rights and said that, if more evidence was needed, that was a reason for not making a final order. To be fair to him, he had not had an opportunity to view the video evidence submitted by St. John's College. The footage shows that the "*emergency rally*" on the evening of 2 June 2025 involved a reasonably large crowd of mostly masked individuals outside the main entrance of the College, speaking loudly and, at times, with moderate aggression (although, as I have said, there was no suggestion of violence). Having viewed the footage, I am satisfied that many would find it intimidating,

especially those with opposing views, or wishing to use the entrance to the College.

92. I accept, however, that the evidence of a risk of damage to the College buildings was weak. I have left that out of account for the purposes of the balancing exercise.

93. Mr Kynaston's fifth point concerned the encampment at King's College between May and August 2024, to which I have already referred. He said that the absence of any injunction in that case strongly suggested that the presence of a C4P encampment does not pose a threat which warrants the Court's intervention, even during the examination period. I am, however, unable to draw that inference. Even if I had more evidence about the 2024 encampment and the decisions taken on behalf of King's College, it could have little impact on my assessment of the evidence about the 2025 encampments on Newton's Lawn and the St. John's Lawn. As Soole J said in the *Cambridge* case (paragraph 94), it is reasonable and appropriate to keep potential remedies under review, particularly in a relatively new and developing area of law.

94. In assessing the proportionality of ordering injunctions I have borne fully in mind the importance of the views being expressed by the protestors and the fact that one of their goals is to encourage these particular Colleges to divest themselves of particular assets. On the other hand, I have had regard to the Colleges' entitlement to possession of their own land. The Convention does not give the protestors the right to trespass, and the Colleges are entitled to expect those wishing to protest to engage with the various Codes they have put in place, as described above in relation to the possession orders. I repeat Johnson J's comment that there are many other ways in which the protestors could exercise their Convention rights without usurping to themselves land that belongs to the Colleges.

95. As with the possession orders, I bear in mind that the Colleges are not solely vindicating their right to regain possession of their land. They are also acting in what they consider to be the best interests of those who live and work in the College buildings, although an important element of that justification will fall away after the examination period has finished, at least until next year's examination period.

96. Ultimately, I have no doubt that the importance of the objective of the injunctions sought, in preventing future trespasses and associated intimidation and disruption of college life, significantly outweighs the severity of the effect the orders will have on the protestors' Convention rights. The balance is different from that in relation to the possession orders, and is slightly less in the Colleges' favour, because the effect of the injunctions is potentially more severe than that of possession orders, and because at least the serious effect of the protests on those taking examinations will cease once the examination period is finished. Nevertheless, I still consider I can comfortably and confidently reach the conclusion on a summary application that a defence based on Convention rights has no real prospect of success.

5. Balance of convenience – compelling justification

97. Ritchie J said that in the case of an injunction against persons unknown, there must be a compelling justification for the injunction, in addition to that being the outcome favoured by the balance of convenience.

98. In so far as the balance of convenience is separate from an assessment of the adequacy of damages, I am satisfied that it is in favour of the grant of injunctions. The injunctions will prevent the protestors from trespassing. That is not something they are entitled to do. As noted above, Articles 10 and 11 do not bestow any "*freedom of forum*" on protestors: they have no right to trespass in order to exercise their freedoms and they are able to exercise them in other ways. The grant of injunctions will result in the least irremediable prejudice.

99. I am also satisfied that there is a compelling justification for the injunctions. For the reasons I have already given, the Colleges have done everything they reasonably could and should have done to protect their own rights. They asked the protestors in writing to leave and warned of court action if they did not. They needed to act urgently. Further self-help, or requests for help from the police, were (and are) not realistic alternatives to injunctions. Possession orders will not prevent the return of the same, or other, individuals under the C4P banner in the future. Subject to ensuring that any injunctions are granted on appropriate terms, I see no realistic alternative which would enable the Colleges to achieve their legitimate objectives.

6. Ziegler

100. Ritchie J said that the court must take the *Ziegler* balancing exercise into account, where Convention rights are engaged and restricted by the proposed injunction. I have already undertaken that exercise in relation to my assessment of whether there is no realistic defence above.

7. Damages not an adequate remedy

101. I am satisfied that damages would not be an adequate remedy for the Colleges if the injunctions are not granted and the protestors return to their land. The damage which the protestors might cause in the form of disruption to College life and intimidation are of a kind which is difficult to compensate by an award of money. Disruption to examinations is obviously extremely serious, although I accept that such disruption can only occur in a limited period. Moreover, the damage may be suffered by numerous individuals, many of whom are students who do not have the resources to make their own claims. The protestors, on the other hand, will suffer no material loss if an injunction is granted. They have many ways of protesting and making their views known, including within the Colleges if they comply with the relevant Codes.

8. Identifying persons unknown

102. Ritchie J said that the persons unknown must be clearly and plainly identified by reference to the tortious conduct to be prohibited and by clearly defined geographical boundaries, if possible.

103. The persons unknown to whom the injunctions are addressed are "*Persons unknown who, in connection with divestment protests by "Cambridge for Palestine", enter or remain without the consent of the claimant upon any part of the site or land (defined below).*" The "*site*" is defined by reference to the Land Registry title number(s) of the main College site of each College and is shown on a plan annexed to the orders. The "*land*" is either Newton's Lawn (in the case of Trinity College) or the St. John's Lawn (in the case of St. John's College) and is defined by reference to the attached plans. In my judgment, these provisions comply with the guidance.

9. The terms of the injunction

104. Ritchie J said that the prohibitions must be set out in clear words, without the use of technical terms such as "*tortious.*"

105. The injunction sought by Trinity College includes prohibitions in paragraph 2 of the order in the following terms:

> "*a. Entering onto any part of the Site (whether the Land or otherwise) for the purpose of protesting without first complying with the terms of the Code and the Policy.*
>
> *b. Obstructing or otherwise interfering with access to or from the Site,*
>
> *c. Erecting any tent or other structure, whether permanent or temporary, on any part of the Site,*
>
> *d. Causing, assisting or encouraging any other person to do any act prohibited by sub-paragraphs (a) to (c) above, and*
>
> *e. Continuing any act prohibited by sub-paragraphs (a) to (c) above.*"

106. The references to the "*Code*" and the "*Policy*" are to the Code of Practice on Freedom of Speech and Policy on Peaceful Protest, referred to above.

107. The injunction sought by St. John's College has different wording in paragraph (a) as follows:

> "*a. Entering onto any part of the Site (whether the Land or otherwise) for the purpose of protesting without first complying with the terms of the Code where applicable or, if not applicable, seeking and obtaining the prior permission of the Claimant in writing.*"

108. The reference to the "*Code*" is to the Code of Practice on Freedom of Speech referred to above. Sub-paragraphs (b) to (d) are identical to those in the order sought by Trinity College.

109. Mr Kynaston took issue with the prohibition in sub-paragraph (b) in each order, which he says is mis-calibrated. He says this restricts action on the public highway, yet no claim in public or private nuisance has been brought and claims of that kind would raise other considerations concerning rights of access to the public highway. Mr Lees explained, however, that this paragraph is not

intended to extend to actions on the public highway. Rather it is aimed at the actions of trespassers on the Colleges' own land which have the effect of blocking the entrances to the Colleges (which are situated a short distance back from the public highway). It seems to me that there may be some ambiguity in the wording of sub-paragraph (b), but that it should be capable of clarification by some redrafting, and I have invited Mr Lees to propose some suitable wording for consideration.

110. Subject to that, the terms of the order sought seem to me clear and comprehensible.

10. The prohibitions must match the claim

111. Subject to the redrafting of paragraph (b) to ensure that it does not involve relief which could only flow from a claim in nuisance (as indicated above), I am satisfied that the prohibitions in the orders mirror the pleaded tort of trespass.

11. Geographic boundaries

112. Ritchie J said that the prohibitions must be defined by clear geographic boundaries, if possible. I am satisfied that the orders clearly specify the geographic boundaries of the land on which protestors must not trespass by reference to the annexed plans.

113. Mr Kynaston raises a related point, however, which is that the injunction extends beyond the land on which there is evidence of trespass, namely Newton's Lawn and the St. John's Lawn. He says that the prohibition should not extend to cover the entirety of the Colleges' sites (which he described as the tail wagging the dog) and, furthermore, he says that those sites are largely inaccessible to the public, so it is highly unlikely that an encampment would be established there. This is another respect in which Mr Kynaston says the injunction is mis-calibrated.

114. There is some force in what Mr Kynaston says. The difficulty with his approach, however, is that the College sites are not sealed fortresses but places to live and work in, with people regularly coming and going. Whilst not as accessible or visible to the general public as Newton's Lawn or the St. John's Lawn, it is perfectly possible that a group could obtain entry to the Colleges without arousing suspicion and then set up a protest encampment in one of the open spaces. Moreover, it appears from the plans I have seen that there are some other parts of the College sites which are relatively easily accessible. Given C4P's express warning that Cambridge University "*can expect us to come back somewhere else*", I consider there is a real and immediate risk that, if the injunctions do not include the whole of the College sites, the protesters would seek to occupy different parts of those sites, not covered by the injunction.

115. I do not agree with Mr Kynaston's assessment of the Colleges as "*enormous sites.*" I note that in the *Wolverhampton* case, from which this element of Ritchie J's guidance appears to be derived, the Supreme Court doubted (at paragraph 225) that it would ever be justifiable to grant an injunction directed to persons unknown which extends over the whole of a borough. An area of

that size is on a wholly different scale from an injunction extending over a relatively small College site, which I consider to be reasonably necessary in the circumstances of this case.

12. Temporal limits - duration

116. Ritchie J said that the duration of the final injunction should be only such as is proven to be reasonably necessary to protect the claimant's legal rights in the light of the evidence of past tortious activity and the future feared tortious activity.

117. In the *Wolverhampton* case the Supreme Court said (at paragraph 225) that injunctions against newcomers must be reviewed periodically and ought to come to an end by effluxion of time in all cases after no more than a year, unless an application is made for their renewal. Whilst Ritchie J felt able to make an order for substantially longer than a year in the *Valero* case, there seem to me to have been exceptional circumstances which are not applicable to the case before me.

118. Mr Lees submits that the injunction should run for a year until the end of June 2026, after the end of the 2026 examination period. Alternatively, he says it should run at least until October 2025, to cater for summer schools and open days for children under 18 over the holiday period, as well as freshers' week at the beginning of the next academic year, with the possibility of further extension at that stage.

119. Mr Kynaston says this is another mis-calibration. He submits that the evidence only justifies an order until the end of the examination period on 20 June 2025. He points out that there is no evidence of the summer schools, open days and freshers' week relied on by Mr Lees. The furthest the evidence goes is a reference to the University having open days scheduled for 10 and 11 July 2025, with visits from schools and colleges for prospective students on varying dates prior to that period. That, says Mr Kynaston, is the latest date to which any injunction should extend.

120. I have given anxious consideration to the points raised by Mr Kynaston, which have considerable force. Mr Lees asked rhetorically whether it was really necessary to have a witness statement saying that there was going to be a freshers' week in October, but in my view, it would have been much better if there had been evidence of that kind. Cambridge Colleges need to provide proper evidence, just like any other litigants.

121. Nevertheless, it seems to me that the absence of evidence of specific events such as freshers' week does not undermine the more fundamental point that the Colleges provide a working and living environment for a substantial number of students and staff and that, in addition, they hold events from time to time which are attended by members of the public, as the evidence of the open days demonstrates. C4P has said that Cambridge University "*can expect us to come back somewhere else*" and the nature of the C4P protests is to cause disruption in order to achieve maximum impact, as shown by the comment "*They don't like noise in exam season.*" It follows that it is not possible to predict that any

particular event is likely to be disrupted by a protest, but it is possible to infer that a protest is likely to occur at a time when it will cause significant disruption. As Soole J said in the *Cambridge* case (paragraph 88), a restriction which is confined to the context only of the events which have been identified would be likely to exacerbate the risk of incursions on other occasions.

122. I fully accept that it is inappropriate to grant an injunction for longer than is necessary. That said, I consider that an injunction is necessary whilst there remains an imminent and real risk of further disruptive protests, and I have seen nothing which encourages me to think that this risk will recede in the course of the next year. I have found that the protestors' conduct at the "*emergency rally*" on the evening of 2 June 2025 was such that a material number of people would feel intimidated by it, and it follows that there is a risk of such conduct occurring again. By contrast, as I have said before, there are many other lawful avenues available for the protestors to make their views heard, including within the Colleges, if the relevant Codes are complied with. For the reasons I have given, I do not consider there is any real prospect of the protestors establishing that their inability to trespass on the Colleges' land over the next twelve months, with the attendant risk of intimidation, is a disproportionate interference with their Convention rights.

123. For those reasons, I have concluded that I should grant injunctions until the end of next year's examination period. That will prevent a disruption of the same kind as occurred this year and disruption of other events and intimidatory conduct in the meantime. If the Colleges wish the injunctions to continue thereafter, they will need to make an application supported by evidence of the nature contemplated by paragraph 225 of the *Wolverhampton* case. I will ask the Colleges to provide the date of the end of the 2026 examination period to be included in the orders. If that date has not yet been settled, I will make the order until 30 June 2026. The extent to which that exceeds the period of one year after the orders are made is negligible and justified by the importance of the examinations to the Colleges' students. It would be contrary to common sense for the injunctions to last for a year but then to expire shortly before the end of the 2026 examination period.

13. Service

124. Ritchie J stressed that claimants must show that they have taken all practicable steps to notify the respondents. The interim injunctions were served in accordance with separate orders for alternative service involving (in the case of both Colleges) leaving two sealed copies in transparent plastic boxes marked for the attention of "*the Occupiers*" and (in the case of St. John's only) by leaving a separate copy marked for the attention of "*Hank Gonzalez.*" In addition, two copies of the interim injunction in the St. John's case were ordered to be left in transparent folders attached to a stake in the ground on the St. John's Lawn. The interim injunctions both clearly stated the Return Date and the location of the hearing in the Rolls Building. Although the relevant court was given as Court 10, I am satisfied that anyone who turned up there would have been directed to the hearing before me in Court 4 (as Mr Kynaston was).

125. I am accordingly satisfied that all practicable steps were taken to notify the protestors of the hearing. Mr Kynaston makes a connected point, however, which is that the interim orders were obtained without notice and there was then a very short period between the service of the injunctions on the protestors (on Monday, 2 June 2025 and Wednesday, 4 June 2025 respectively) and the Return Date (on Thursday, 5 June 2025). He says that lacks all aspects of procedural fairness and submits that, for this reason, it would be inappropriate for the court to make final orders at this stage, when there has been no proper opportunity for evidence to be filed.

126. If even one of the protestors had attended the hearing, I would have had considerable sympathy with Mr Kynaston's submissions. However, when I asked him whether he was aware of any protestor who might wish to engage with the proceedings if more time was given, he frankly said that he was not, and that it was to be expected that protestors would be less than willing to turn up and identify themselves. I consider that is a fair inference to draw, but it seems to me to be fatal to Mr Kynaston's point about procedural fairness. It would be a waste of court time and contrary to the Overriding Objective to prolong this matter if none of the Defendants is willing to engage.

127. Mr Kynaston suggested that, in previous cases, the ELSC had been given the opportunity to file evidence from interested parties, going to such points as whether other means of protest were available, the importance of the land to the rights being exercised, and the operation of the Colleges' Codes, which had been alleged to have been deficient.

128. I do not consider that evidence from individuals who are not themselves protestors would have been likely to assist in the resolution of this case. The facts I have summarised above are relatively straightforward and I have no reason to think that they are seriously capable of challenge (and Mr Kynaston did not suggest otherwise). There was already evidence about other means of protest and the importance of the land to the rights being exercised, which I have taken into account. Allegations about deficiencies in the Colleges' Codes cannot carry much weight when the protestors did not even attempt to follow those Codes. Moreover, the protestors have, in the event, had the benefit of Mr Kynaston's able submissions, and his experience in previous cases meant that he was familiar with all the points which could reasonably be made.

14. The right to set aside or vary

129. The proposed injunctions permit anyone affected by them to apply to the court to vary or discharge them on no less than 48 hours' notice to the Colleges' solicitors. I consider this appropriate, and it enables an application to be made to discharge the injunctions before June 2026 if there is no longer an imminent and real risk of trespass by C4P.

15. Review

130. Ritchie J pointed out that even a final injunction is not truly final when made against persons unknown, and that there should be a provision for review. In the *University of London v Harvie-Clark* case, which concerned circumstances

reasonably similar to those which I am considering, Thompsell J granted an interim injunction until a final hearing, with a long-stop date of a year. He considered that there would be a need for a review if the injunction remained in place for longer than a year, but that an earlier review was not necessary on the facts before him. I am conscious that a year is the maximum period which the Supreme Court contemplated was acceptable, but I am also mindful of the requirement of the Overriding Objective of dealing with cases justly and at proportionate cost. On balance, I consider like Thompsell J that a review is unnecessary, given that the Colleges will have to apply for any extension beyond a year.

16. Permission to bring a contempt application

131. Following the suggestion of Nicklin J in the *MBR Acres* case, I consider that the injunctions should include a requirement that any contempt application against someone not named as a defendant will require the court's permission.

Conclusion

132. I am satisfied that there is no real prospect of any Defendants successfully defending the claim and that there is no other compelling reason why the claim should be disposed of at trial. Accordingly, possession orders should be made on a summary basis.

133. I am also satisfied, for the reasons I have given, that there is a compelling need for the grant of injunctions in the terms discussed above and, subject to consideration of the final drafts of the orders, that it is just and convenient to exercise my discretion to make those orders.

134. I invite Mr Lees to prepare draft orders reflecting my decision and to seek to agree them with Mr Kynaston, if he remains instructed for that purpose. In the interests of saving costs, I would hope that any remaining issues could be dealt with without the need for a further hearing, but I am happy to accommodate one if required.

Addendum

135. Following circulation of the above judgment to Mr Lees and Mr Kynaston in draft pursuant to Practice Direction 40E, they helpfully provided me with draft orders which were agreed except for two issues, both of which relate to the injunctions only. They have invited me to rule on these issues without a further hearing.

136. The first issue relates to the redrafting of what is now paragraph 1(b) of each of the injunctions pursuant to paragraph 109 of my judgment. The wording proposed by Mr Lees is "*Deliberately creating a stationary or permanent obstruction on [or immediately proximate to the entrances to] the Site.*" Mr

Kynaston takes issue with the words in square brackets, which he says would extend to an obstruction on the public highway outside, but adjacent to, the College sites. He points out that obstructing entry to the Colleges' land by blocking the public highway sounds in nuisance, rather than trespass, but that no claim in nuisance is pleaded. Mr Lees responds that an obstruction on proximate land can be sufficient to amount to a trespass if, for example, it has the effect of controlling access to such an extent that it could be an act of possession.

137. In my judgment the proposed wording in square brackets potentially exceeds the protection I understood the Colleges to be seeking at the hearing, which related to obstructions on its own land which had the effect of blocking entry to the Colleges. Moreover, I do not consider that the evidence justifies a finding of an imminent and real risk of an obstruction on the public highway with the effect of controlling access to the extent of amounting to an act of possession. I have therefore deleted the text in square brackets from the orders.

138. The second issue relates to the requirement for the Colleges to seek the court's permission before bringing any contempt application against an unnamed defendant, as envisaged by paragraph 131 of my judgment. Mr Lees points out that I had suggested during the hearing that such an application should be made on a without notice basis by the applicant College to avoid the need for a potential respondent to incur any costs or be otherwise troubled, unless the court first considers the application and gives permission. I confirm that this was my intention. To involve the potential respondent at the permission stage would be likely to increase costs and result in points being argued twice. I had in mind that, in order to prevent abuses, a College would need to satisfy the court dealing with the permission application of the matters referred to at the end of the note at 81.3.10 of the White Book (2025 edition), namely that the proposed contempt application: (i) has a real prospect of success; (ii) does not rely upon wholly technical or insubstantial breaches; and (iii) is supported by evidence that the respondent had actual knowledge of the terms of the injunction they are alleged to have breached.

139. Mr Kynaston adds that there had also been discussion at the hearing that notice should be given to the Intervener of any application for permission. Having reflected on this, I do not consider it would be in accordance with the Overriding Objective to involve the Intervener in such an application. A permission application is likely to turn on factual matters about which the Intervener will know little, if anything. It is for the court, rather than the Intervener, to assess the merits of the application.

140. I will, therefore, include only the wording proposed by Mr Lees in paragraph 6 of each injunction order, namely "*Any contempt application against any Person Unknown may only be brought with the permission of the Court; such application to be made to the Court on a without notice basis by the Claimant.*"

141. I am grateful to both counsel for their assistance throughout.