

IN THE HIGH COURT OF JUSTICE

Claim No: KB-2024-002361

KINGS BENCH DIVISION

ROYAL COURTS OF JUSTICE

BETWEEN:

DRAX POWER LIMITED

Claimant

and

- (1) PERSONS UNKNOWN WHO IN CONNECTION WITH RECLAIM THE POWER, AXE DRAX OR OTHER ENVIRONMENTAL CAMPAIGN ENTER OCCUPY OR REMAIN ON THE LAND SHOWN SHADED BLUE ON PLAN 1 OR LAND SHOWN SHADED BLUE ON PLAN 2 BEING LAND WITHIN OR ADJOINING DRAX POWER STATION, SELBY AND ITS ASSOCIATED PUMPING STATION WITHOUT THE CONSENT OF THE CLAIMANT
- (2) PERSONS UNKNOWN WHO IN CONNECTION WITH RECLAIM THE POWER, AXE DRAX OR OTHER ENVIRONMENTAL CAMPAIGN CONGREGATE OR ASSEMBLE ON THE LAND SHOWN SHADED RED ON PLAN 1 AND PLAN 2 INCLUDING:
 - (A) THE VERGE AND FOOTWAY ON THE WESTERN SIDE OF NEW ROAD, SELBY, AND
 - (B) VERGE TO THE NORTH OF THE FOOTWAY ON THE A645, AND
 - (C) PUBLIC FOOTPATH TO THE NORTH AND WEST OF AND PASSING IN A FENCED CHANNEL THROUGH DRAX POWER STATION
- (3) PERSONS UNKNOWN WHO IN CONNECTION WITH RECLAIM THE POWER, AXE DRAX OR OTHER ENVIRONMENTAL CAMPAIGN OBSTRUCT AND/OR INTERFERE WITH OR ATTEMPT TO OSBTRUCT AND/OR INTERFERE WITH ACCESS TO OR EGRESS FROM DRAX POWER STATION ~~WITH~~ ON FOOT, BY VEHICLE ~~OR WITHOUT VEHICLES INFLUDING~~ OR BY RAIL TRAFFIC BY THE CLAIMANT, ITS AGENTS, EMPLOYEES, CONTRACTORS OR OTHER LICENSEES
- (4) PERSONS UNKNOWN CAUSING OR PERMITTING THE FLYING OF A DRONE OR DRONES ABOVE THE LAND SHOWN SHADED BLUE AND SHADED RED ON PLAN 1 BEING DRAX POWER STATION AND ADJOINING LAND.

Defendants

PARTICULARS OF CLAIM

1. The Claimant is the owner and operator of the Drax Power Station, Selby, North Yorkshire, YOS 8PH (“the Power Station”). The Power Station is shown shaded blue on Plan 3 annexed to these Particulars of Claim — although within its perimeter is also a National Grid Sub-Station (“the Sub-Station”), shown outlined in green. Critical for the operation of the Power Station, among other things, is the pumping station (“the Pumping Station”) situated to its north east, shown shaded blue on Plan 2, on land within the Claimant’s wider landholding. The Power Station is part of the United Kingdom’s Critical National Infrastructure.

2. The Power Station has long been a target of environmental protest. Measures already put in place by the Claimant are judged, by the Claimant, to be sufficient to meet most of the associated risks. However, there has recently emerged a specific threat of environmental protest including a threat of damage and/or disruption to the Power Station. After consultation with the police, the Claimant considers that the level of risk is now such that it needs to call on the Court for protection by way of injunctive relief.

3. For the most part, the Power Station is clearly identifiable within its own perimeter fence, such that it is entitled to maintain a cause of action in trespass in relation to any person entering thereon without its consent.

4. Factors particular to the present case are:
 - (i) The Sub-Station is vested in National Grid Electricity Transmission PLC for the purposes of an electricity sub-station, connecting the Power Station to the national grid and enabling the onward transmission of electricity. The Claimant does not have (or does not in these proceedings seek to assert) sufficient control over the sub-station area to support a cause of action in trespass. However, it is nevertheless important that the sub-station is not treated differently by way of a carve out from the generality of the Power Station.

- (ii) The Pumping Station is located to the north east of the Power Station next to the River Ouse. It is critical to the safe operation of the Power Station.
- (iii) A permissive footpath (that is to say, one over which the public has no right of way, but merely a permission) runs near the perimeter fence of the Power Station for part of its southwestern boundary, separated from the fence by grass verge. The Claimant is entitled to maintain a cause of action in trespass in relation to this land. The Claimant is concerned by the prospect of outwardly non-disruptive protest taking place in this zone, which might mask attempts to penetrate the fence and/or other disruptive activities. The permission granted to the public for use of the permissive path does not include permission to congregate or assemble on or around the path for the purpose of protest. It desires a form of relief which will secure a sufficient “buffer zone” to guard against this risk.
- (iv) A public footpath (that is to say, one over which the public has a right of way on foot) runs near to or through a fenced channel within the perimeter fence of the Power Station for part of its north and western boundaries. The Claimant has the same concerns as have just been described in relation to the permissive footpath, but in this instance it has no right of possession and control because of the public rights which subsist over the highway. Nevertheless, the Claimant desires a form of relief which will secure a sufficient “buffer zone” to guard against this risk.
- (v) Biomass, the material which is used to generate electricity at the Power Station, is transported to the site by road and by rail. The Power Station includes an area of private rail infrastructure situated within its south-western quadrant and connecting to the mainline by a spur passing under the A645. The Claimant is concerned that disruption to this rail infrastructure, including through acts of trespass onto trains, might interfere with the delivery of materials to and from the site, and thus with the operation of the Power Station.

- (vi) The Power Station is approached by certain other highways. The Claimant is concerned that disruption on these might interfere with access to and from the Power Station.
- (vii) The Claimant has experienced a number of overflights by drones. The Claimant is concerned that these are being used, or have the potential to be used, to provide intelligence which may assist those desiring to disrupt operations at the Power Station and/or to serve as platforms for the deposit of things which would disrupt operations at the Power Station and/or to create a safety risk inadvertently.

THE LAND TO WHICH THE CLAIM RELATES

- 5. The Power Station and Pumping Station are situated wholly on land of which the Claimant is the registered freehold proprietor, title to which is registered at HM Land Registry under title number NYK223464. The relative locations of the Power Station and the Pumping Station are shown on Plan 5 annexed to these Particulars of Claim.
- 6. The land within the Claimant's ownership (and to which it is entitled to immediate possession) extends beyond the perimeter of the Power Station. It includes all that land shown shaded blue and red on Plan 1 and shaded blue and red on Plan 2 save that:
 - (i) The land shown edged green on Plan 3 is vested in National Grid Electricity Transmission PLC;
 - (ii) The verge and footway on the western side of New Road, are public highway;
 - (iii) The verge to the north of the footway on the A465 is public highway; and
 - (iv) The land shown shaded red on Plan 1 on the north and western boundaries of and running in a north-south direction through part of the Power Station (as more particularly delineated by the yellow line on Plan 3 annexed to these Particulars of Claim) carries a public right of way.

7. The highways surrounding the Power Station are more particularly delineated on Plan 3 annexed to these Particulars of Claim:

- (i) The public right of way passing to or through the north and western boundaries of the Power Station is shown with a yellow line;
- (ii) The permissive path to the west and south west of the Power Station is shown with an orange line;
- (iii) New Road and the A465 are marked with brown lines.
- (iv) The bridge carrying the highway over the railway spur line is shown shaded in purple.

8. The railway spur connecting the Power Station to the mainline railway is included within the land edged and shaded blue on Plan 1. It passes under the A645 at the point shown marked purple on Plan 3.

9. As owner of the Power Station, and the land surrounding it, the Claimant is also the owner the airspace above it, extending at least as far in the vertical plane as is necessary for the ordinary use and enjoyment of its land and the structures upon it from time to time.

10. The claim is not for injunctive relief in relation to any residential property.

THE THREAT

11. Reclaim the Power campaign is “a UK based direct action network” advocating and effecting direct action against facilities and operators associated with fossil fuels. The Axe Drax campaign is a network specifically opposed to the Power Station. As is stated on Axe Drax’s website, it “believe[s] that disruption of [Drax’s] activities and businesses as usual is crucial”.

12. The Reclaim the Power campaign is currently advertising a mass action camp targeting the Power Station, with “six days of workshops, communal living and direct action to crash Drax’s profits” which is said to be scheduled between 8 and 13 August 2024. The proposed ‘protest camp’ is also advertised on the Axe Drax website under the ‘Take Action’ tab.
13. Those specific threats are made against a background of continuing environmental campaigning in which one of the features is disruptive protest, or a threat of disruptive protest, at and/or affecting sites perceived to have a connection with forms of energy production or use which the campaigners desire to target, and especially those which are not protected by injunctions.

CAUSES OF ACTION

14. The Claimants apprehend that, unless restrained by the Court, the persons unknown who are described as the Defendants herein will conduct themselves in such a way as to amount to trespass and/or nuisance.
15. Members of the public including the persons unknown who are described as the Defendants herein have no consent or permission to enter upon the Power Station (including the spur connecting the Power Station to the mainline railway) or the Pumping Station. The Claimant has not given any permission, consent or licence to any person to enter onto the Power Station or Pumping Station other than in connection with the operation of those facilities. In particular, it has not given any permission, consent or licence to members of the public to enter onto the Power Station or the Pumping Station for the purpose of protest, direct action or other activity associated with Reclaim the Power, Axe Drax or other environmental campaign.
16. Any entry onto, occupation of, or remaining on the Power Station (including its rail infrastructure) or the Pumping Station or the climbing, cutting of or ‘locking onto’ the perimeter security fencing thereof by the First Defendants would therefore constitute a trespass, which the Claimant is entitled to injunctive relief to restrain.

17. The Claimant also seeks injunctive relief in respect of the Sub-Station. The Claimant does not in these proceedings assert that it is the person entitled to sufficient possession or control of the Sub-Station to maintain a cause of action in trespass in relation thereto. However:

- (i) the relief claimed by the Claimant in relation to the Sub-Station is no more than is necessary and proportionate in order to give effective protection to its rights as landowner to restrain trespass onto the Power Station; and
- (ii) further or alternatively, such relief is required in order to restrain acts of nuisance, or threatened nuisance, within the Sub-Station which would interfere with the Claimant's use and enjoyment of the Power Station, or which would threaten to do so.

18. The Claimant also seeks injunctive relief to secure the "buffer zones" extending beyond the perimeter fence of the Power Station and the Pumping Station as shown shaded red on Plans 1 and 2 and more particularly delineated on Plan 3. Particulars of the shaded red land are:

- (i) Permissive / public footpaths: the land shaded red to the north, west, and south west of the Power Station on Plan 1 shows the buffer zones in relation to the permissive path and the public footpath mentioned above. The permission granted to the public for use of the permissive path does not include permission to congregate or assemble on or around the path for the purpose of protest. As such any presence by the Defendants within that area would constitute a trespass and the Claimant is entitled to injunctive relief to restrain the same. In respect of the buffer areas for both the permissive path and public right of way, the Claimant seeks injunctive relief on the basis that injunctive relief is no more than is necessary and proportionate to give effective protection to its rights as landowner of the Power Station to restrain trespass onto the Power Station. Alternatively, in respect of the land comprising or including the public right of way, in order to restrain acts of nuisance on the public highway which would interfere with the Claimant's use and enjoyment of the Power Station.

- (ii) Perimeter fence set back from public highway: the land shaded yellow on Plan 3 shows the buffer zone between the perimeter fence and the A465 to the south and New Road to the east. In this area, the perimeter fence is set back more than 3 metres from the public highway. Part of the yellow land is (or may be) highway verge, notably where it adjoins New Road to the east of the Power Station. The rest of the yellow land is all within the Claimant's ownership and includes the landscaped area surrounding the south entrance to the Power Station from the A645. The Claimant seeks injunctive relief to restrain trespass and in order to give effective protection to its rights as landowner of the Power Station to restrain trespass onto the Power Station. All of that is subject to the area shown shaded green – which is an area within the Claimant's ownership which it has agreed with the Police will be made available to persons wishing to protest between 6 and 15 August 2024.

- (iii) So far as concerns the Pumping Station: the land shaded red on Plan 2 comprises a 3 metre wide buffer zone around the perimeter of the Pumping Station. Any presence by the Defendants within that area would constitute a trespass and the Claimant is entitled to injunctive relief to restrain the same.

19. Highways: the Claimant also seeks injunctive relief in relation to those parts of the highway at New Road and the A465 shown shaded red on Plan 1. Injunctive relief is sought in the form of restraining the Second Defendants from assembling or congregating on those areas of footway and the highway verge on the western side of New Road between the carriageway and perimeter fence of the Power Station and highway verge on the northern side of the A645. Injunctive relief is sought in respect of these areas on the grounds that it is no more than is necessary and proportionate to give effective protection to the Claimant's rights as landowner and operator of the Power Station; alternatively, in order to restrain acts of nuisance on the public highway which would interfere with its use and enjoyment of the Power Station.

20. Access: the Claimant also seeks injunctive relief against the Third Defendants restraining acts of private nuisance in the form of the Third Defendants obstructing or

interfering with the rights of access by the Claimant, its employees, agents, contractors or other licensees with or without vehicles (including rail traffic) into and from the Power Station to and from (i) the public highway and (ii) the railway.

21. Airspace: further, the Claimant seeks injunctive relief as against the Fourth Defendants to restrain trespass into the airspace above the Power Station, alternatively nuisance, by the flying of drones through or above that part of the airspace to required for the use and enjoyment of the Power Station and structures thereon.

HUMAN RIGHTS

22. Reliance by the Defendants of rights of freedom of expression and / assembly under Articles 10 and/or 11 of the European Convention of Human Rights would not provide a defence in the particular circumstances of this case. For the most part, the relief sought relates to private land, on which the public has no rights of any kind. To the extent that the relief sought relates to public footpaths and highways, it seeks no more relief than is proportionate to what is at stake and does not interfere materially with anyone else's Convention rights which remain capable of exercise (to the extent lawful) albeit set back by a small distance from the perimeter of the Power Station and subject only to such other constraints as are needed to vindicate the Claimant's (and others') civil rights.

THE RELIEF SOUGHT

23. The Claimant therefore seeks the following Orders:

- (i) An order restraining the First Defendants from entering, occupying or remaining upon the land shown shaded red on Plan 1 or the land shown shaded red on Plan 2 being land at Drax Power Station and associated Pumping Station or from climbing onto, cutting, or 'locking on' to the perimeter fencing thereof;

- (ii) An order restraining the Second Defendants from congregating or assembling on those areas shown shaded red on Plan 1 and Plan 2, including any public highway or public or other way footpath or way thereon;
- (iii) An order restraining the Third Defendants from obstructing or interfering with or attempting to obstruct or interfere with access to and egress from the Power Station with or without vehicles (including rail traffic) by the Claimant, its employees, agents, contractors or other licensees;
- (iv) An order restraining the Fourth Defendants from causing or permitting the flying of drones over Drax Power Station and adjoining land as shown shaded red and blue on Plan 1.
- (v) Further or other relief as the Court sees fit
- (vi) Costs

Statement of Truth

The Claimant believes that the facts stated in these particulars of claim are true. The Claimant understands that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

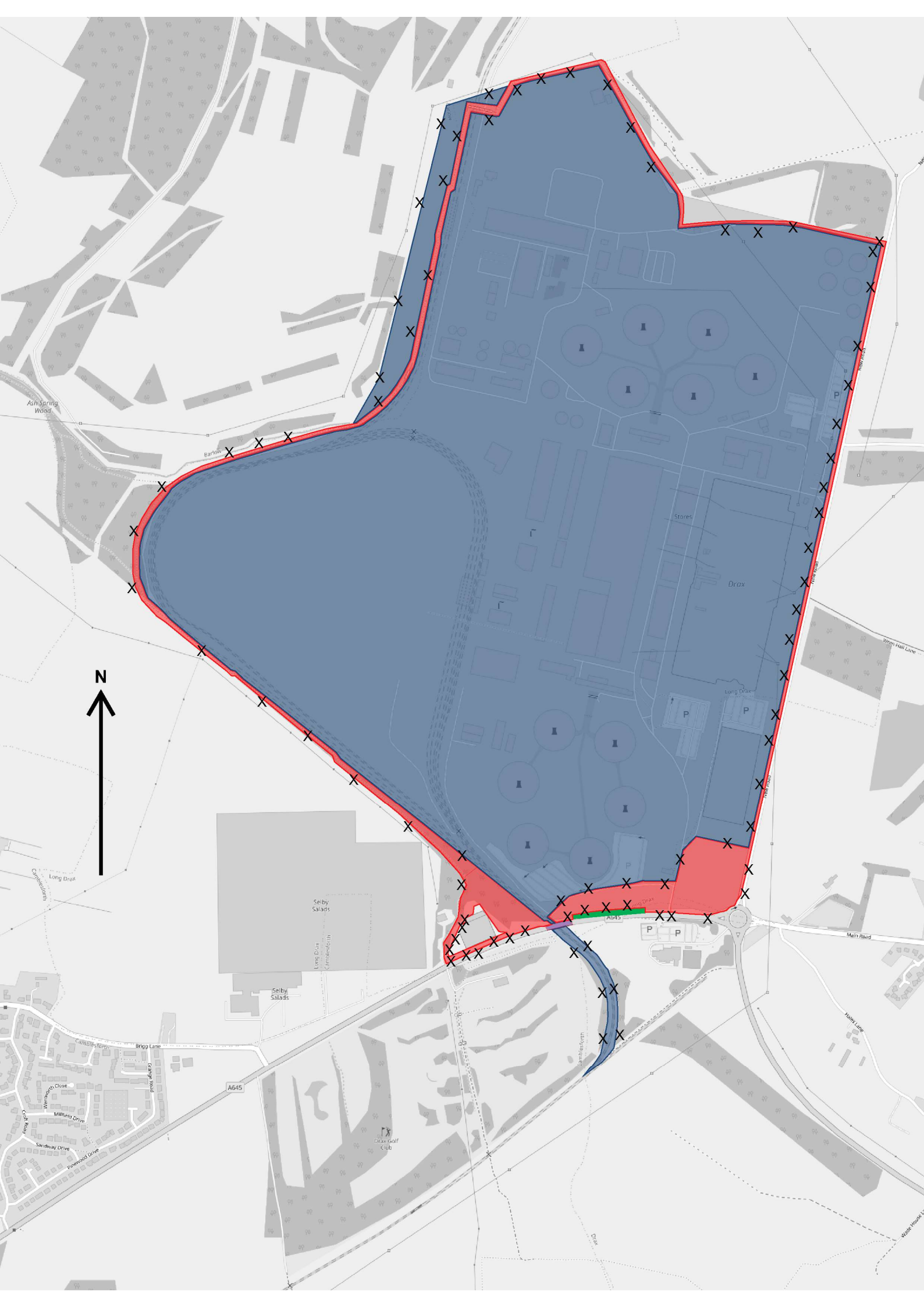
I am duly authorised by the Claimant to sign this statement.



Signed

James Damarell
Senior Associate
Walker Morris LLP
Claimant's solicitor

**ANNEX TO PARTICULARS OF CLAIM
PLAN 1**



Ash Spring Wood

Barlow

Long Drax

Seiby Salads

Seiby Salads

Long Drax

Drax Golf Club

Stores

Drax

Long Drax

A645

A64

Main Road

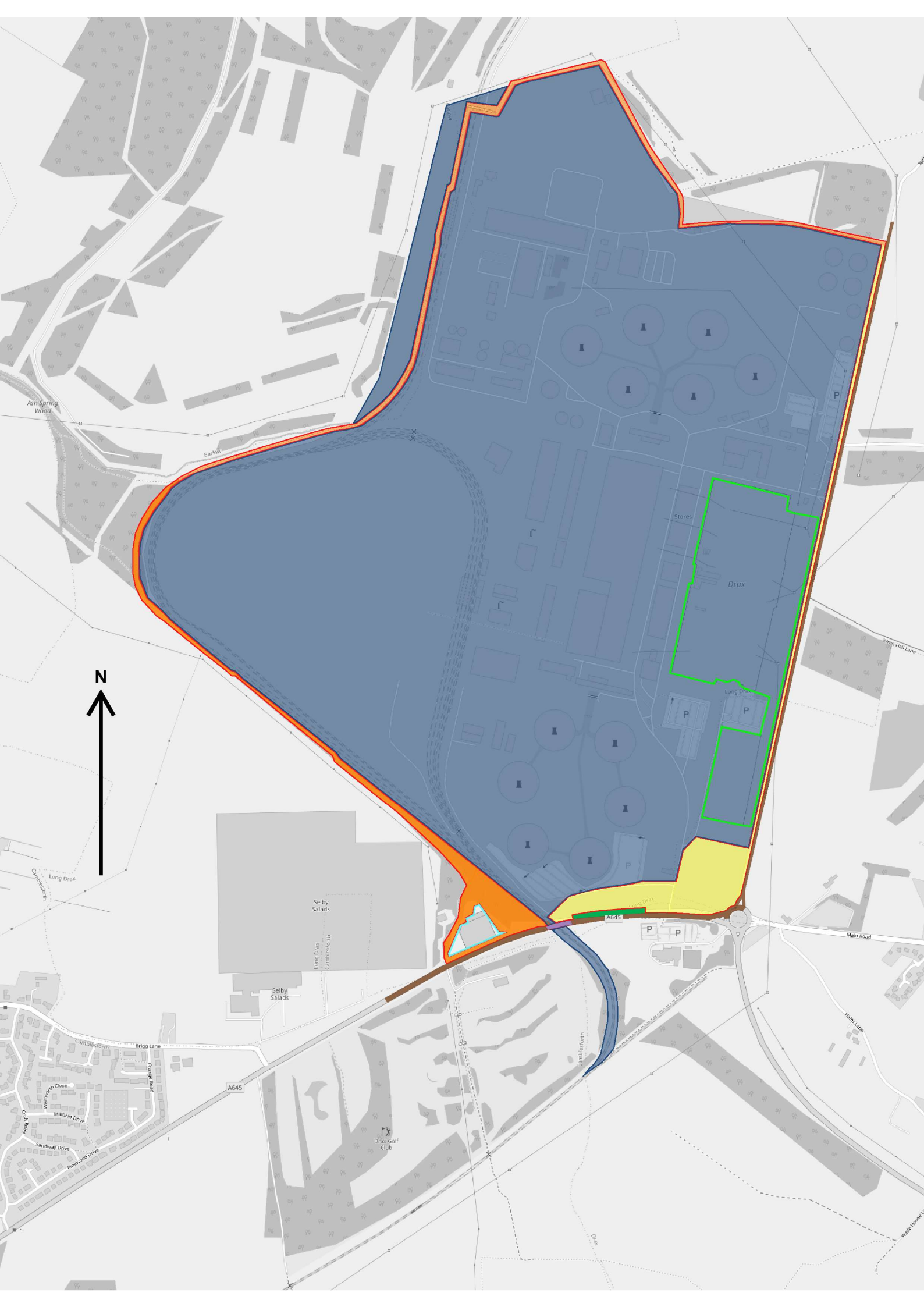
Hills Lane

Wainhouse

PLAN 2



PLAN 3



Ash Spring Wood

Barlow



Long Drax

Selby Salads

Selby Salads

Long Drax

Cambleforth

Cambleforth

Brigg Lane

A645

Wainthorpe Close

Millkenny Drive

Sandway Drive

Wainthorpe Drive

Wainthorpe Drive

Wainthorpe Drive

Wainthorpe Drive

Wainthorpe Drive

Wainthorpe Drive

Drax Golf Club

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Stores

Drax

Long Drax

Main Road

Hills Lane

Hills Lane

Hills Lane

Hills Lane

PLAN 5

