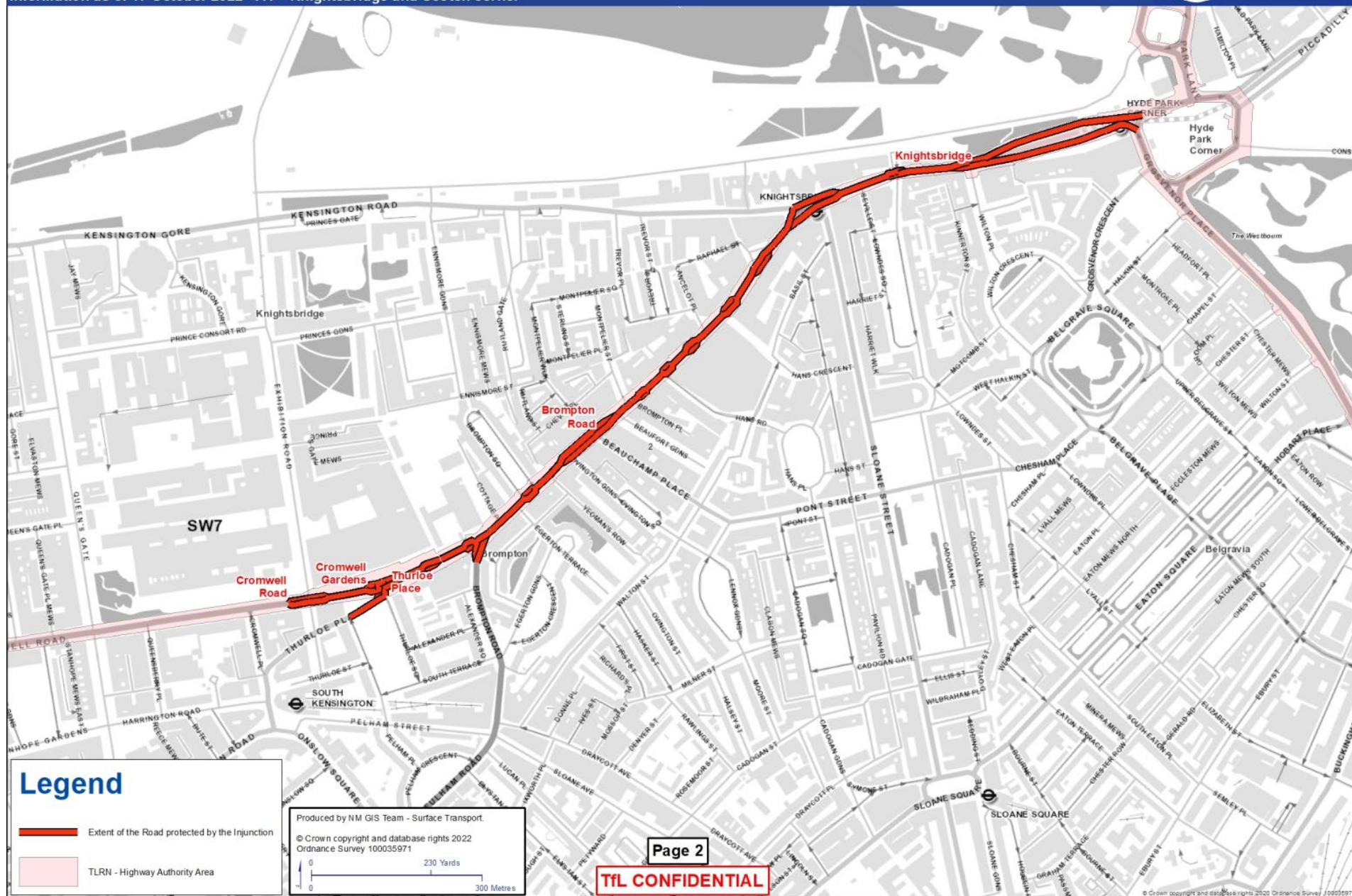


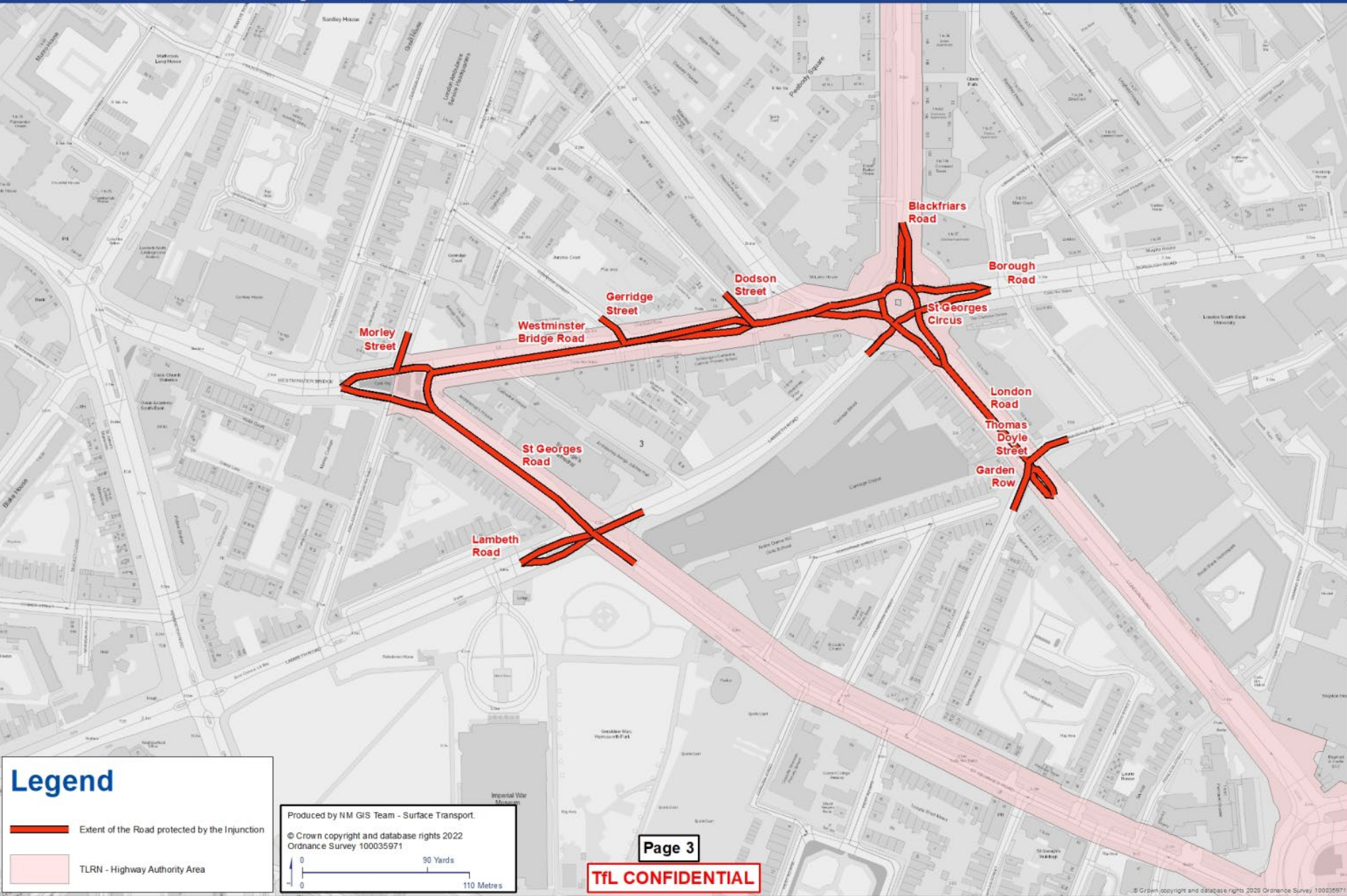
Climate Protest Injunction - Key Areas

Information as of 17 October 2022 - A4 – Knightsbridge and Scotch corner



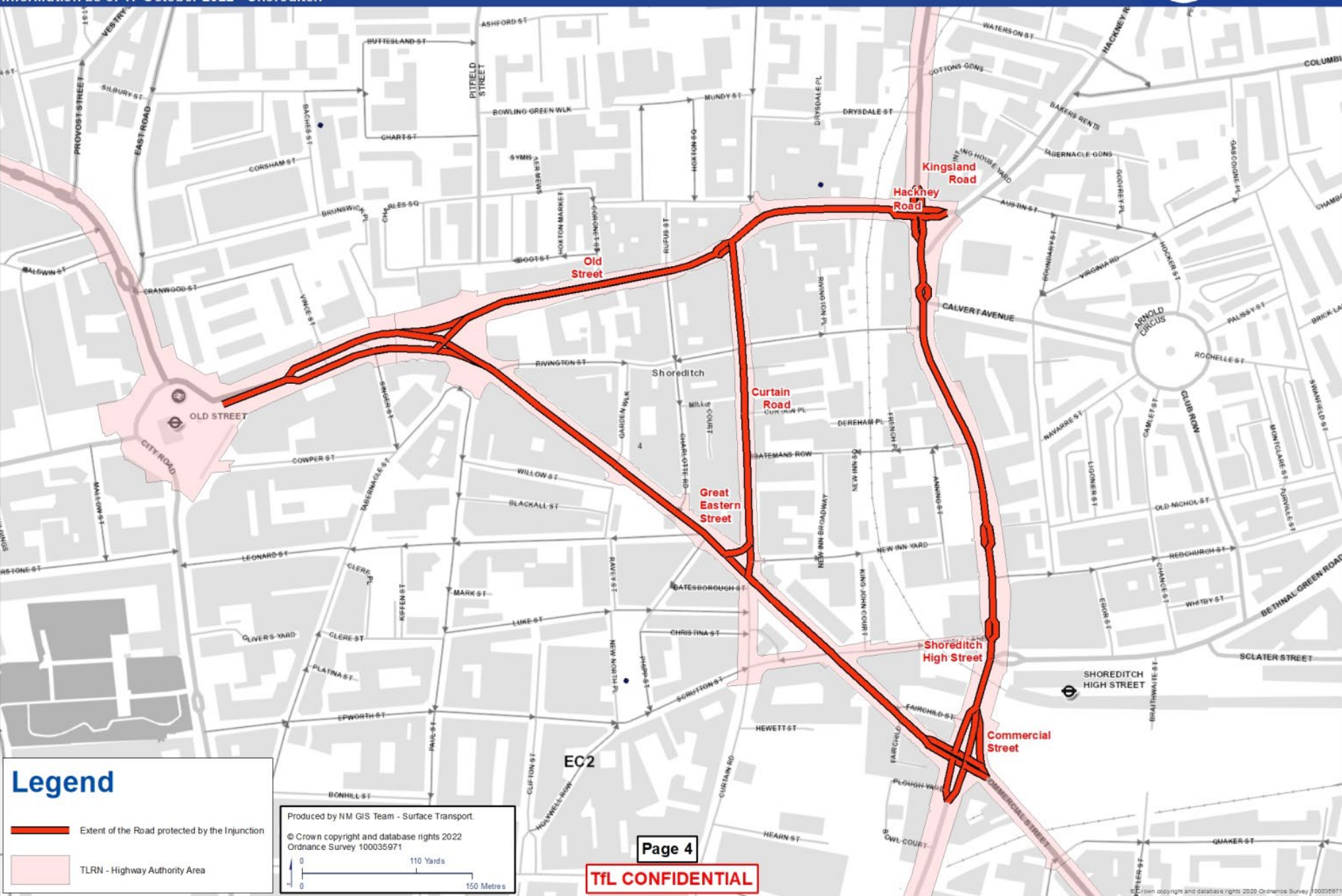
Climate Protest Injunction - Key Areas

Information as of 17 October 2022 - St Georges Circus/Road and Westminster Bridge Rd



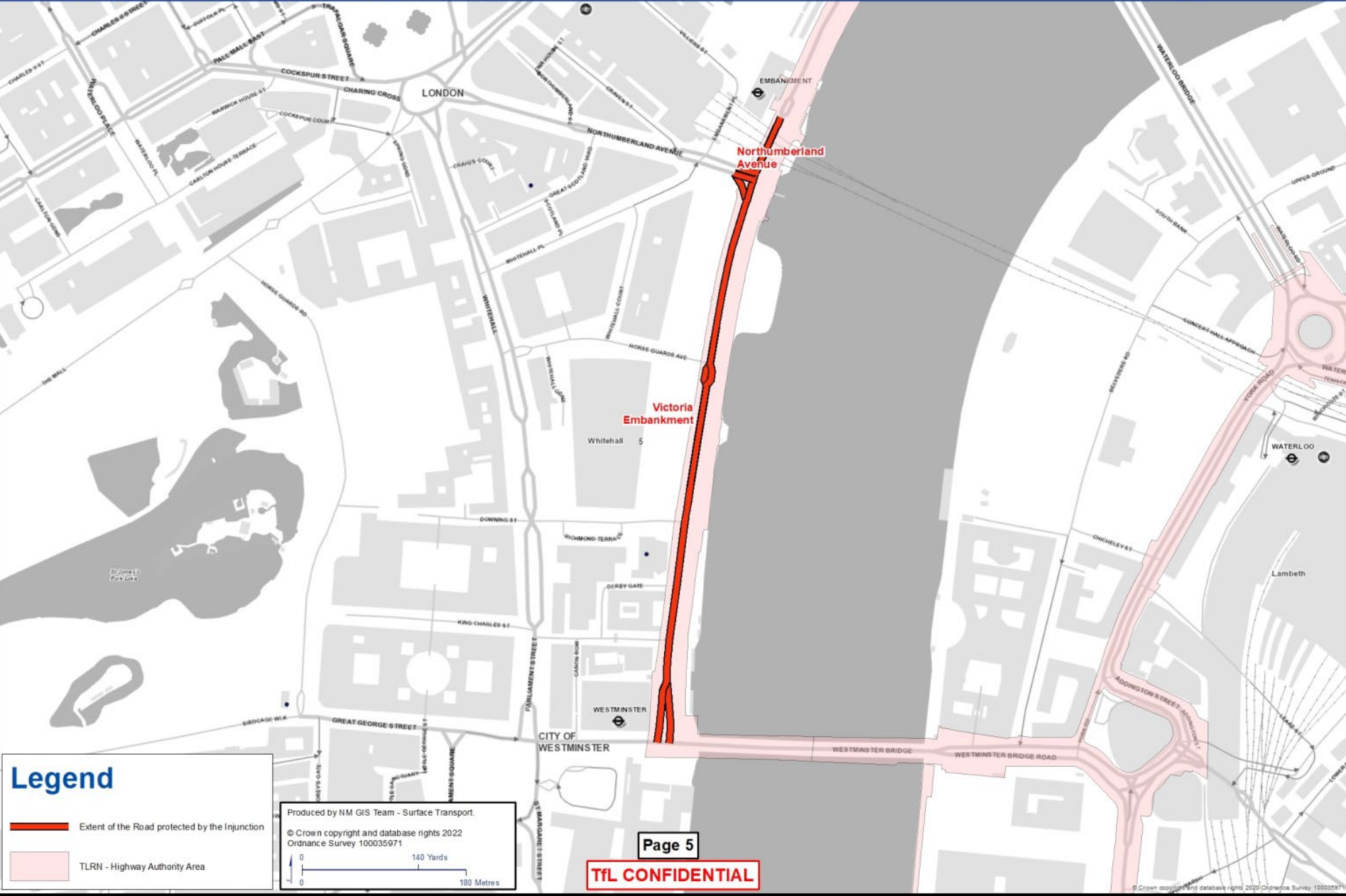
Climate Protest Injunction - Key Areas

Information as of 17 October 2022 - Shoreditch



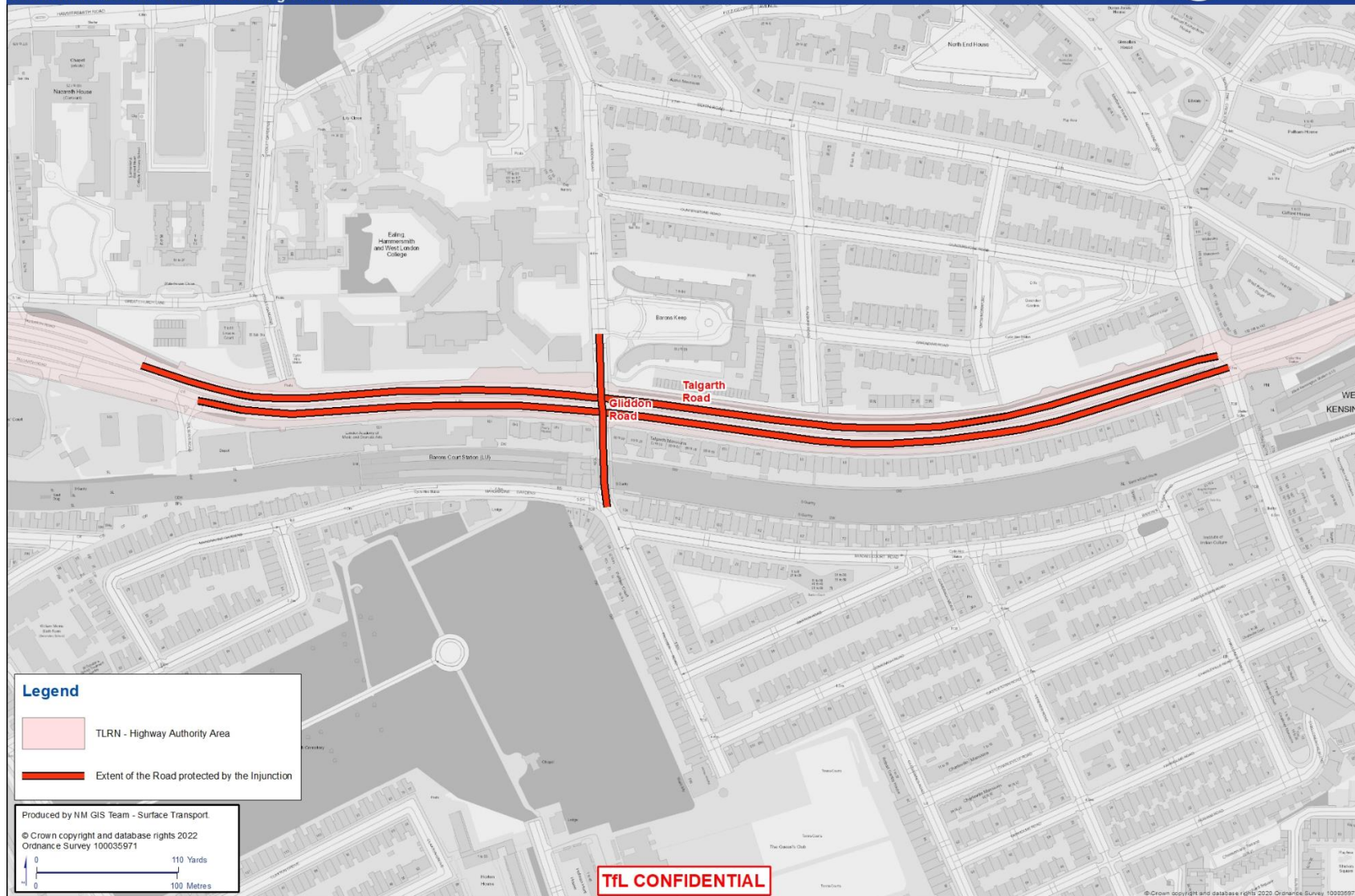
Climate Protest Injunction - Key Areas

Information as of 17 October 2022 - Victoria Embankment



Climate Protest Injunction - Key Areas

Information as of 18 October 2022 - Talgarth Road around Barons Court tube station





Neutral Citation Number: [2023] EWHC 1201 (KB)

Case No: KB-2022-003542

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: Friday, 26th May 2023

Before :

MR JUSTICE EYRE

Between :

TRANSPORT FOR LONDON

- and -

(1) PERSONS UNKNOWN

(2) MS ALYSON LEE AND 167 OTHERS

Claimant

Defendant

Andrew Fraser-Urquhart KC and Charles Forrest (instructed by TfL) for the Claimant Benjamin Buse, Carole Caldwell, Joanna Blackman, Mair Bain, Anthony Harvey, James Green, Benjamin Larson, Matthew Parry and Rachel Payne (Named Defendants 8, 63, 65, 74, 102, 110, 140, 143, and 145) attended.

No attendance by or representation for the other Defendants

Hearing date: 4th May 2023

Approved Judgment

This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down is deemed to be 10:00am on Friday 26th May 2023.

Mr Justice Eyre :

Introduction.

1. The Claimant is the highway authority and traffic authority for the GLA Roads. Those are roads in the Greater London area which were formerly trunk roads. Although the GLA Roads comprise only 5% of the length of London's road network they carry approximately one-third of the traffic in the Greater London area.
2. This judgment follows the trial of the Claimant's claim for a final injunction against 168 named defendants ("the Named Defendants") together with persons unknown. As will be seen below the Claimant no longer seeks an injunction against most of the Named Defendants. The Claimant seeks an injunction preventing certain forms of disruptive protest on a number of the GLA Roads against the remainder of the Named Defendants and against persons unknown. The claim is brought in response to actions taken as a part of the campaigning activity of Just Stop Oil ("JSO").
3. The background to these proceedings is set out in detail in the judgments of Freedman and Cavanagh JJ at [2022] EWHC 3102 (KB) and [2023] EWHC 402 (KB) respectively given when granting the Claimant interim injunctions in this matter. The general history of related protest activity undertaken as part of campaigns by Insulate Britain and Extinction Rebellion is summarised by Morris J in his judgment in *Transport for London v Persons Unknown & others* [2023] EWHC 1038 (KB) ("*Insulate Britain*"). I adopt the analysis of the history set out in those judgments and need only give the shortest of summaries here. After the trial of this matter Cotter J handed down his judgment in *National Highways Ltd v Persons Unknown & others* [2023] EWHC 1073 (KB) which primarily addressed matters arising out the activities of the Insulate Britain campaign but which also referred to aspects of the JSO campaign.
4. JSO is a campaigning group. Its particular demand is that the government should halt all licensing consents for the exploration, development, and production of fossil fuels in the United Kingdom. However, it lends its name to a wider coalition of campaigning groups with related aims and overlapping bodies of supporters. Those groups include Insulate Britain and Extinction Rebellion. Their campaigns arise out of environmental concerns and in particular out of beliefs as to the action needed to address the effects of climate change and/or to prevent further harmful effects from the use of fossil fuels. The failure of the government to take the measures or at the speed which the members and supporters of these groups regard as adequate caused a number of those persons to engage in protests.
5. The protest action with which I am concerned has taken the form of the blocking of roads. It has involved those protesting taking various steps to hinder their removal from the roads in question; to extend the duration of the road blockage; and to heighten the effect of those blockages. The methods used have included the linking together of those engaged in obstructing the highway; the affixing of persons or objects to the highway or to structures on the highway; and the damaging of such structures (examples have included the covering of signs). Latterly the protests have taken the form of slow marching namely walking slowly in a body on a road so as markedly to reduce the speed and flow of traffic along the road. Those actions have had and have been intended to have a significant disruptive effect on the use of the roads in question by other road users. That disruptive effect has not been limited to the roads actually obstructed nor to

the immediate vicinity of the obstruction as Freedman, Cavanagh, and Morris JJ have explained. Those speaking for JSO and individual members of the campaign have asserted their intention to continue with such protests until their objectives are achieved. The peak of the activity was in October 2022 when for a period roads were being obstructed daily in London though there was also a high level of such activity in November and December 2022. There has been some reduction in this disruptive activity since then. The Claimant says that this reduction is not the result of any change of belief or of approach on the part of those engaging in these campaigns but that it has been caused by a combination of the harsher weather during the winter months and of the interim injunctions which have been granted in this matter (together with other court orders in related proceedings).

6. The judgments of Freedman and Cavanagh JJ set out the history to February 2023. As disclosed by the updating evidence from the Claimant the activities of the JSO campaign since then have been largely confined to instances of slow marching on various roads. However, it is of note that those speaking for JSO have said that the group has been engaged in a campaign of civil disobedience since 24th April 2023 and that there appears to have been an increase in the instances of slow marching since then. There has been no renunciation by JSO or those speaking on its behalf of the previous forms of disruption. It is also to be noted that there have been repeated assertions by those speaking for JSO that the campaign of disruption will continue until the group's objectives have been achieved.

The Procedural History.

7. The claim form was issued on 20th October 2022.
8. On 18th October 2022 by an order sealed on 19th October 2022 Yip J granted an interim injunction. The injunction was with some modifications extended until the disposal of this matter by orders made by Freedman and Cavanagh JJ on 4th November 2022 and 27th February 2023 respectively. Those judges also gave various directions for the further conduct of the case.
9. There was some addition of further named defendants in the course of the proceedings. By the time of the trial before me there were 168 Named Defendants. However, the Claimant no longer sought relief in respect of two of those. They were Arne Springorum and Xavier Gonzalez Trimmer (Named Defendants 5 and 48 respectively): the former had not been served and the latter had sadly died in the course of the proceedings.
10. Nine of the Named Defendants attended the hearing. At the hearing eight of these gave undertakings in terms mirroring the injunction sought by the Claimant and the ninth, Joanna Blackman (Named Defendant 65) provided a signed form of undertaking subsequently. In light of that the Claimant no longer sought injunctive relief against those defendants.
11. With the exception of Joanna Blackman those Named Defendants who attended the hearing had sent written submissions to the court or to the Claimant. In the case of Anthony Harvey (Named Defendant 102) I was told that the submission had been approved by and was being made on behalf the other Named Defendants who attended the hearing (with the exception of Joanna Blackman) and further forty-two Named Defendants. I gave those Named Defendants who attended the hearing an opportunity

to address the court. A number of them did so while others chose to confirm that they stood by the contents of their written submissions. Those written and oral submissions explained the conduct and motivation of their makers and commented on the actions of JSO more generally. In addition they raised matters relevant to the assessment of the degree of risk of further conduct of the kind which the Claimant seeks to enjoin and of the proportionality of and need for relief by way of injunction. Although those Named Defendants who have given undertakings are no longer at risk of being subject to the injunction sought I have taken account of their submissions when considering the position of the other Named Defendants and of Persons Unknown in the ways I will explain below.

12. A further six of the Named Defendants did not attend but did send written submissions to the court or to the Claimant. Those were David Crawford (Named Defendant 15), Louise Lancaster (Named Defendant 30), Meredith Williams (Named Defendant 33), Jane Neece (Named Defendant 63), Christine Welch (Named Defendant 64), and Adrian Howlett (Named Defendant 71).
13. At the hearing I indicated that I would not hand down any judgment until after Friday 19th May 2023 to give further Named Defendants an opportunity to proffer undertakings. A considerable number of those defendants did so (including the six Named Defendants listed in the preceding paragraph) with the consequence that no further relief is sought against them. The consequence is that there only remain ten Named Defendants against whom the Claimant seeks a final injunction.
14. No other Named Defendant either attended the hearing or made any representations. I was, however, satisfied that there had been compliance with the directions for alternative service made by Cavanagh J and that it was appropriate to proceed with the trial in the absence of the other Named Defendants.

The Relief sought by the Claimant.

15. In the course of this action the Claimant has revised the relief it is seeking. It now seeks an injunction mirroring that granted by Morris J in *Insulate Britain*.
16. The proposed order would last for a period of five years with annual reviews. The Claimant seeks to enjoin the Named Defendants and persons unknown from blocking, slowing down, obstructing, or otherwise interfering with access to or the flow of traffic onto or along twenty-three specified roads or junctions for the purpose of protesting and from causing, assisting, or encouraging other persons to do so. The proposed order identifies a number of activities including locking onto other persons or to the roads or structures thereon which are within the proposed prohibition. However, it expressly provides that the prohibition does not extend to the practice of slow marching.
17. The Claimant says that these roads and junctions are of particular strategic importance to the London traffic network. It says that they were chosen to be the subject of the proposed order for two reasons. The first is that they are perceived because of that strategic importance to be at higher risk than other roads of being subject to protests in the form of obstruction of the flow of traffic on or along them. The second is the extent of the harm and disruption which would result from a blockage of the particular roads. It is said that in respect of each a blockage would have effects spreading more widely affecting the surrounding areas and potentially affecting the traffic network more

widely. Glynn Barton is the Claimant's Chief Operating Officer and he has provided a witness statement explaining the reasoning for the choice of each road. In respect of each road he has identified the volume of traffic involved; the effect which a blockage of the traffic at that point would be likely to have; and particular facilities, such as hospitals, which would be affected by such a blockage of traffic. Of the twenty-three roads or junctions eleven have previously been the subject of protests involving the disruption of traffic flow as part of the campaign by JSO and associated groups.

18. In enforcing the interim injunction against persons unknown the Claimant has adopted an approach of not seeking to commit a person breaching the injunction for contempt on the first occasion that such a person breaches the order. The Claimant's response to the first breach by a person who becomes a defendant by reason of such a breach has been to serve notice of the injunction on that person with an indication that the person in question would be at risk of committal proceedings in the event of a further breach. The Claimant says that it intends to continue that approach if the final injunction is granted in the terms sought. I have concluded that this cannot be a material factor in my consideration of the appropriateness or otherwise of the order sought. I have to consider whether it is appropriate to make the proposed injunction against persons unknown in circumstances where a single breach would suffice to put a person in breach at risk of committal proceedings.

The Applicable Law.

19. In his judgment in *Insulate Britain* at [33] - [35] Morris J explained the necessary elements of the three causes of action on which the Claimant relies thus:

“33. Trespass to land is the commission of an intentional act which results in the immediate and direct entry onto land in the possession of another without justification. If land is subject to a public right of way or similar, a person who unlawfully uses the land for any purpose other than that of exercising the right to which it is subject is a trespasser. However the public have a right of reasonable use of the highway which may include protest. A protest involving obstructing the highway may be lawful by reason of Articles 10 and 11 ECHR.

34. Private nuisance is any continuous activity or state of affairs causing a substantial and unreasonably interference with a claimant's land or his use or enjoyment of that land. In the case of an easement, such as a right of way, there must be a substantial interference with the enjoyment of it.

35. A public nuisance is one which inflicts damage, injury, or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of its operation (*HS2* at §84). The position in relation to an obstruction of the highway for the purposes of public nuisance is stated in *Halsbury's Laws* Vol 55 (2019) at §354: (a) a nuisance with reference to a highway has been defined as ‘any wrongful act or omission upon or near a highway, whereby the public are prevented from freely, safely and conveniently passing along it’; (b) whether an obstruction amounts to a nuisance is a question of fact; (c) an obstruction is caused where the highway is rendered impassable or more difficult to pass along by reason of some physical obstacle; but an obstruction may be so inappreciable or so temporary as not to amount to a nuisance; (d) generally, it is a nuisance to interfere with any part of the highway; and (e) it is not a defence to

show that, although the act complained of is a nuisance with regard to the highway, it is in other respects beneficial to the public.”

20. The requirements which have to be satisfied before an anticipatory injunction can be granted are well-established. The effect of the decision of Marcus Smith J in *Vastint Leeds BV v Persons Unknown* [2018] EWHC 2456 (Ch), [2019] 4 WLR 2 and of the decision of the Court of Appeal in *National Highways Ltd v Persons Unknown & others* [2023] EWCA Civ 182 is that such an injunction will only be granted where there is a strong probability that unless restrained the defendant will act in breach of the claimant’s rights and that the harm resulting from such a breach would so grave and irreparable that damages would not be an adequate remedy. At [31] Marcus Smith J identified a non-exhaustive list of factors relevant to that assessment. The words and actions of a defendant will be of particular significance in making that assessment. The court can be satisfied that there is a sufficiently strong probability of breach even in respect of a defendant who has not yet breached the claimant’s rights (see the Court of Appeal’s decision at [37] – [39]). However, as Julian Knowles J pointed out in *High Speed Two Ltd & another v Persons Unknown & others* [2022] EWHC 2360 (KB) at [95] – [96], as a matter of common sense rather than law the court may be more readily satisfied that there is sufficient probability that a defendant will act in breach a claimant’s rights unless restrained when the defendant in question has already breached those rights. Again as a matter of common sense this will be all the more so where the defendant has not disavowed those past actions and still more where an intention of repetition has been expressed.
21. A protest on a highway may amount to an exercise of the protester’s rights of freedom of expression and/or freedom of assembly under articles 10 and 11 of the European Convention on Human Rights. In those circumstances the effect of the decisions in *DPP v Zeigler* [2021] UKSC 23, [2022] AC 408, *City of London Corporation v Samede* [2012] EWCA Civ 160, [2012] PTSR 1624, and *Cuadrilla Bowland Ltd & others v Persons Unknown & others* [2020] EWCA Civ 9, [2020] 4 WLR 29 is that the court must consider five further questions namely:
 - (1) Is what the defendant did in exercise of one of the rights in Articles 10 or 11?
 - (2) If so, is there an interference by a public authority with that right?
 - (3) If there is an interference, is it prescribed by law? The relevance of this requirement being that article 10 envisages the right to freedom of expression being subject to such restrictions as are prescribed by law and that article 11 provides that only such restrictions as are prescribed by law shall be placed on the right to freedom of assembly.
 - (4) If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of Article 10 or Article 11?
 - (5) If so, is the interference ‘necessary in a democratic society’ such that a fair balance is struck between the legitimate aim and the requirements of freedom of expression and freedom of assembly?
22. The fifth of those questions raises an issue of proportionality which requires the court to consider a further four sub-questions which are:

- (1) Is the aim of the interference which would result from the injunction sufficiently important to justify interference with a fundamental right?
 - (2) Is there a rational connexion between the means chosen and the aim in view?
 - (3) Are there less restrictive or intrusive alternative means available to achieve that aim?
 - (4) Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?
23. The assessment of proportionality is a fact-specific exercise requiring close consideration of the circumstances of the particular case. Potentially relevant factors were identified by Lord Neuberger MR in *Samede* at [39] and following and by Lords Hamblen and Stephens in *Zeigler* at [71] – [78]. In addition to those matters it can, as explained by Leggatt LJ in *Cuadrilla* at [94] – [95], be relevant to consider whether the disruption resulting from a protest was a side-effect or an intended consequence of the actions in question and whether those engaged in a protest are seeking to persuade others or are attempting to compel those others to act or to desist from acting in a particular way.
24. The sincerity of the views of those protesting and the importance of the issue or issues being addressed are potentially relevant to the balancing exercise. Thus the freedom of expression rights of those genuinely seeking to raise concerns on matters of political or economic importance and of general concern will carry more weight than those of persons seeking to give vent to matters of more limited concern or of less importance. However, it is important to note both the limited weight that attaches to that factor and also that the court's agreement or disagreement with the views expressed by those protesting or with the outcome which the protesters wish to achieve is entirely irrelevant to that exercise and can play no part in the court's conclusion as to the grant or refusal of relief. It is not for the court to evaluate the views being expressed and still less to express agreement or disagreement with them: see the explanations given in *Samede* at [39] – [41]; by Freedman J in his judgment at the interim stage in this case at [53] – [55]; by Lavender J in *National Highways Ltd v Persons Unknown* [2021] EWHC 3081 (QB) at [34] – [37]; and by Cotter J in *National Highways Ltd v Persons Unknown* at [83] and [106] – [107].
25. I have had regard to the approach to the balancing exercise which Morris J adopted in the *Insulate Britain* case together with the decisions of Lavender J in *National Highways Ltd v Persons Unknown* and of Bennathan J in *National Highways Ltd v Persons Unknown & others* [2022] EWHC 1105 (QB). In doing so, however, I bear in mind that the balancing exercise is fact-specific and that regard must be had to the particular circumstances of the current case. It follows that those decisions illustrate factors which can be relevant and conclusions which can be reached as to where the applicable balance falls but that they cannot determine the outcome of the balancing exercise which I must undertake. I have also had regard to the judgments of Freedman and Cavanagh JJ in this case. In their judgments Freedman and Cavanagh JJ were considering the particular circumstances of this case as they were at the time of those judgments. It follows that the identification by those judges of the potentially relevant factors and of the proportionality of granting relief in this case must carry great weight. It is nonetheless to be remembered that Freedman and Cavanagh JJ were identifying

relevant factors and assessing proportionality at the interim stage. I have to assess the position at the stage of trial with a view to the making of a final injunction (with the Claimant seeking an injunction to run for five years). It is possible that the weight to be attached to particular factors might be different at the interim and final stages of the process and also possible that the conclusion as to proportionality might be different at those stages.

26. There are additional requirements which have to be satisfied before the court will grant an anticipatory injunction against persons unknown. As explained by Morris J in *Insulate Britain* at [50] the seven guidelines for the grant of an interim injunction against such persons unknown as identified by the Court of Appeal in *Canada Goose UK Retail Ltd & another v Persons Unknown & others* [2020] EWCA Civ 303, [2020] 1 WLR 2802 at [82] also govern the grant of final injunctions against persons unknown. I will address those guidelines below when considering the appropriateness or otherwise of the relief sought against Persons Unknown.
27. I turn now to the application of those requirements to the circumstances of this case. In respect of the Named Defendants it will be necessary to consider their positions individually though as will be seen they fall into three categories with substantially the same considerations applying to all of those in a particular category but with marked differences between the positions of those in each category. It is of note that none of the remaining Named Defendants have chosen to engage in the court or the Claimant in any way. I have taken account of the submissions and the statements made by those of the Named Defendants who gave undertakings when considering the issues of risk and proportionality more generally. In respect of the other remaining Named Defendants their decision not to participate in the proceedings whether by way of attendance or the provision of submissions is of considerable relevance as explained by the Court of Appeal in *National Highways Ltd v Persons Unknown & others* at [40]. At that point the Chancellor (delivering the judgment of the court) was addressing relevance for the purposes of summary judgment but the position is all the greater at trial. The failure of those Named Defendants to participate in the proceedings or to make submissions is to be taken as indicating that they have chosen not to challenge the case being asserted in relation to them. In addition a failure to engage with the court or with the Claimant can, particularly when combined with the failure to take an opportunity to resolve matters through the giving of an undertaking, give an insight into the intention of the defendant in question as to his or her future conduct (as Cotter J explained in his judgment at [121]).

The Causes of Action.

28. In *Insulate Britain* Morris J was satisfied that the actions in question would if committed be a breach of the Claimant's rights. With the substitution of the roads with which I am concerned for "the IB roads" the analysis in the following terms at [40] of Morris J's judgment applies here.

"On the evidence before me I am satisfied that, subject to the considerations arising under Articles 10 and 11 ECHR, the conduct, both in the past and threatened in the future, of the Defendants in protesting on the IB Roads by deliberately blocking and obstructing those roads, prima facie constitutes the torts of trespass, private nuisance and public nuisance. As to trespass, the protesters directly enter on to land in the possession of the Claimant and use the land for a purpose other than exercising a public right of way; whether they are

justifiably exercising a right to protest turns upon the application of Articles 10 and 11. Secondly, as to private nuisance the protests causes a substantial and unreasonable interference with the enjoyment and exercise of the rights of way of other road users. Thirdly, as to public nuisance, as a result of the protests, the public are prevented from freely, safely and conveniently passing along the IB Roads (the highway); the protests deliberately cause a physical obstacle on the IB Roads rendering them impassable or more difficult to pass along. ...”

Is there a strong Probability that the Remaining Named Defendants and/or Persons Unknown will act in Breach of the Claimant’s Rights?

29. I will first consider whether there is in general terms a risk of the resumption or initiation of the actions which the Claimant seeks to restrain at the locations with which I am concerned and then turn to address the positions of the particular Named Defendants.
30. I take account of the fact that during 2023 the principal tactic of those engaged in the JSO campaign has been that of slow marching, an activity which the Claimant does not seek to restrain. Nonetheless I am satisfied that in the absence of an injunction there is a strong probability that at least some of those engaged in that campaign will resume the blocking of roads along the lines of the action taken in October 2022 and immediately thereafter. In that regard I accept the Claimant’s contention that the reduction in such activity has been in part due to weather conditions and also that it has been a consequence of the injunctions which have been imposed. It is highly likely that the onset of warmer weather combined with the discharge of the existing injunction would be followed by a resumption of the blocking of roads.
31. It is also of note that not only has there been no assertion by those speaking on behalf of JSO that there will be no resumption of its former activities but that rather on 24th April 2023 it was said that JSO was committed to a campaign of civil disobedience. There has, moreover, been an increase in the frequency of protests taking the form of slow marching since then.
32. Considerable caution is needed in taking account of the submissions made by those Named Defendants who did participate in the proceedings as a basis for conclusions about the intentions of those who did not. Nonetheless I do take account of those submissions as providing an insight into the state of mind of those associated with the JSO campaign. That is because I am satisfied that the submissions made by those of the Named Defendants who participated in the court process throw light on the state of mind of those who have associated themselves with the JSO campaign. This is particularly so as the picture which emerges from those submissions is consistent as between the submissions and is consistent also with the position as revealed by the other evidence. It is relevant that none of those making submissions disavowed the objectives or tactics of the JSO campaign and none of them said that the objectives of the campaign had been achieved such that protest action was no longer needed. Rather those persons have chosen for differing reasons to give undertakings rather than be subject to a continuing injunction and to the risks of liability for costs.
33. In those circumstances I am satisfied that there is a real and imminent risk that in the absence of an injunction there would be protests under the banner of the JSO campaign and taking the form of the blocking of roads at the locations identified by the Claimant.

I have taken account of the fact that not all of those locations have previously been the site of such protests. Nonetheless all are locations in London where the blocking of the road will be liable to cause substantial and widespread congestion. They are precisely the kind of location at which such protests have previously occurred and the fact that a particular location has not previously been targeted is not an indication of the absence of risk. That risk is not confined to the remaining Named Defendants but also extends to other persons both those whose identity is currently unknown but who have participated in such protests previously and those who join or associate themselves with the JSO campaign in the future. It follows that there is a real and imminent risk of obstruction of these locations by persons unknown.

34. I turn to the remaining Named Defendants. It was open to each of them to give an undertaking or to engage with the court process as the great majority of the other Named Defendants have done. There has been no response from these defendants to the proceedings let alone any indication that they do not intend to engage in the blocking of roads. As explained above such a failure to engage is to be seen as a deliberate decision on the part of the relevant defendants not to challenge the case advanced against them and as an indication of their intentions in terms of future conduct.
35. The remaining Named Defendants fall into three broad groups. The first is made up of those defendants who have at least once engaged in the blocking of roads or related actions in furtherance of the JSO and/or Insulate Britain campaigns and who have also participated at least once in further actions in the context of those protests. Several have done so repeatedly; a number have been subject to injunctions; and three have acted in breach of injunctions. That category comprises Named Defendants 3, 7, 20, 45, 46, 56, 84, and 137. The second category contains only Named Defendant 51 in respect of whom the case is simply that he has been subjected to two injunctions in other proceedings. The final category is made up of Named Defendant 142 who is said to have engaged on one occasion in the blocking of a road as part of the JSO activities in October 2022.
36. In Schedule 1 I have listed those Named Defendants in the first category and have summarised the matters which are said to justify the conclusion that there is a strong probability that they would, if unrestrained, act in breach of the Claimant's rights. Each of these defendants has engaged in JSO or Insulate Britain protests at least twice when at least one of those occasions has involved the blocking of roads. In the case of several of these defendants there have been multiple instances of such conduct combined with acting in breach of an injunction and/or the gluing of the defendant to court furniture. I have included Andrew Worsley Named Defendant 3 in this category because although only one instance of the blocking of a road is expressly put forward in his case he has been subject to two injunctions in connexion with JSO or Insulate Britain protests. One of those injunctions was that granted by the Court of Appeal in *National Highways v Persons Unknown* and as I will explain below the effect of that is that he had been found to have engaged in a protest in relation to the events leading up to that injunction. In circumstances where there has been no engagement with the court by any of these defendants and where none has disavowed the objectives or tactics of the JSO campaign I am satisfied that there is a strong probability that in the absence of an injunction each of these defendants would act in breach of the Claimant's rights by obstructing one or more of the roads with which I am concerned.

37. Ben Newman Named Defendant 51 falls into a different category. The justification advanced for including him as a named defendant is that he has been subject to two other injunctions in respect of protests as part of the JSO or Insulate Britain campaign. He was subject to the injunctions granted in *Thurrock Council & another v Adams & others* [2022] EWHC 1324 (QB) and to the injunction granted by the Court of Appeal in *National Highways v Persons Unknown*. The effect is that on two separate occasions the court has concluded that there is a sufficiently grave and imminent risk of this defendant engaging in protest activity to warrant the grant of an injunction against him. If the evidence went no further than that I would doubt whether this defendant's inclusion in the current injunction would be warranted. The fact that a court is satisfied that there is a risk of particular activity at a different location would not without more suffice to establish the necessary degree of risk that there would be protest activity at the locations with which I am concerned. However, on proper analysis the evidence does go further than that. It is apparent from paragraph 8 of HH Judge Simon's judgment in the *Thurrock Council* case and from paragraph 35 of Bennathan J's judgment in the *National Highways Ltd* case that in order to have been joined in those actions as a named defendant it was necessary that Mr Newman had been arrested in connexion with protest activity at the sites with which those injunctions were concerned. As Bennathan J noted it is possible that a particular arrest was mistaken or unjustified. The position, however, is that Mr Newman has twice been arrested in the context of JSO or Insulate Britain protest activity with the arrests being at different locations. Mr Newman has chosen not to participate in these proceedings. It would have been open to him to contend that his presence at the sites in question was unrelated to the protest activity or to disavow that activity. He has chosen not to take such a step and in those circumstances I am satisfied that the Claimant has established that there is a real and imminent risk of Mr Newman engaging in the obstruction of the roads in question here if not restrained.
38. Finally, Gregory Dring Named Defendant 142 was involved in obstructing one of the roads with which I am concerned on a single occasion as part of the protests by JSO in October 2022. I note that there has been no relevant protesting activity by him since October 2022 and in his case there was only one instance of such activity. I have reflected whether this conduct is sufficient to establish that there is a strong probability that if unrestrained this defendant will act in breach of the Claimant's rights. I am satisfied that such a strong probability is shown here. The balance is tipped in favour of that conclusion by the combination of the facts that he took part in a JSO protest on a relevant road; that he has chosen not to engage in the court process; and that he has neither disavowed the aims of the JSO campaign nor stated that he will no longer engage in the same.
39. It follows that the necessary strong probability that the defendant will act in breach of the Claimant's rights has been established in respect of each of the remaining Named Defendants.

Will such a Breach cause grave and irreparable Harm such that Damages will not be an adequate Remedy?

40. I am satisfied that the breach of the rights of the Claimant and of others by the blocking of roads at the locations in question here would cause grave and irreparable harm. I will address the nature and extent of the harm further when considering the question of proportionality below. It suffices at this stage to say that the blocking of these roads

will inevitably cause serious disruption to the lives of many people. The harm will be to their economic interests but also to their personal lives in ways which although not measurable in financial terms will be real and lasting. Some of those affected will be prevented from attending meetings or appointments or taking part in particular one-off activities in circumstances where the opportunity to participate which has been lost will never be regained. In addition there will be a substantial diversion of finite public resources from other tasks of public value.

41. In *Insulate Britain* at [43] Morris J explained that damages would not be an adequate remedy because much of the harm would be unquantifiable; the Claimant would not be able to recover for the losses sustained by others; and because the ability of the Defendants to pay such damages as could be quantified is questionable at best. The same considerations apply here and I adopt that analysis.

The first four Zeigler Questions.

42. These questions can be answered shortly and as will be seen I substantially adopt the approach taken by Freedman J in his judgment at the interim stage in this matter; by Lavender J at [31] in *National Highways Ltd v Persons Unknown*; and by Morris J in the *Insulate Britain* case at [44].
43. It was accepted by the Claimant that participation by the Named Defendants and by persons unknown in JSO protests on the public highway would be an exercise of their article 10 and article 11 rights of freedom of expression and assembly. I proceed on that basis.
44. The grant of a final injunction would clearly be an interference with the exercise of those rights.
45. The grant of an injunction would also clearly be an interference prescribed by law as being one flowing from the court's powers under section 37 of the Senior Courts Act 1981 and by way of enforcement of the Claimant's rights and duties under the Highways Act 1980 and at common law.
46. The interference with the Defendants' article 10 and 11 rights would be in pursuit of a legitimate aim within the scope of those articles. That aim would be protection of the rights and freedoms of others being not just the Claimant but also those whose passage along and use of the highway would be impeded by the actions which the Claimant asks the court to restrain.

The Balancing Exercise and Consideration of whether the Interference with the Named Defendants' Article 10 and Article 11 Rights is Necessary and Proportionate.

47. The first three of the sub-questions forming part of the balancing exercise can be addressed shortly before I turn to the issue of proportionality and of the drawing of a fair balance between the Defendants' rights and those of others and the interests of the wider community. In the following analysis it will be seen that I have drawn heavily on the conclusions reached by Freedman J in his judgment at the interim stage in this matter and by Morris J in *Insulate Britain*.

48. The aim of protecting the rights of the Claimant and the rights and freedoms of others to use these important roads is of sufficient importance to warrant an interference with the Defendants' Convention rights provided that a proper balance is drawn and the interference is proportionate.
49. There is a clear rational connexion between the way in which there is an interference with the Defendants' rights and the aim of protecting the rights and freedom of others. The aim is to allow others to use the roads with which the court is concerned and the proposed injunction would prohibit the obstruction of those roads in such a way as to interfere with those rights.
50. I am satisfied that there are no less restrictive or intrusive ways in which that aim could be achieved. As I have already noted damages would be an inadequate remedy for the harm to the rights of the Claimant and of the public more generally. It is apparent that the risk of being liable for damages has not deterred those Named Defendants who have chosen not to give undertakings. In addition I adopt by reference to the roads with which I am concerned the analysis of Morris J [45(3)] that:

“... Prosecutions for offences involved in protests can only be brought after the event and in any case are not a sufficient deterrent because IB (and JSO) protesters have said they protest in full knowledge of and regardless of this risk and many have returned to the roads multiple times having been arrested, bailed, prosecuted, and convicted. Other traditional security methods such as guarding or fencing of IB Roads are wholly impractical for resource and logistical reasons. Recent changes to the law in the form of the Policing, Crime, Sentencing and Courts Act 2022, which came into force in May and June 2022, have not changed the approach of protesters.”

51. I turn then to the question of proportionality and the fair balance between the Defendant's Convention rights and the rights of others.
52. The following factors operate in particular against the granting of an injunction:
- i) Proper regard must be had to the importance of the Defendants' Article 10 and 11 rights. The court must not simply pay lip service to such rights but must give them real weight. In that context there is force in the contention that some degree of disruption to others is if not necessarily inherent in the right to protest then a likely corollary of many forms of protest.
 - ii) The subject matter of the Defendants' protests is an issue of real seriousness and importance. In that regard it is of note that those engaging in the protests have not done so lightly and it is apparent that many of them feel that they are compelled to act in this way believing that no other action is effective to prevent future harm to others.
 - iii) The protests are not violent. This was a point which was made in a number of the submissions put to me but in the context with which I am concerned it has only very limited weight. It is correct that those engaging in the obstruction of roads are not themselves violent to others but the purpose of their actions is to obstruct others. The persons affected by the obstruction of the roads are compelled to suffer that impact until those creating the obstruction choose to depart or are physically removed. Those involved in the JSO campaign do not depart from the roads which they have chosen to block voluntarily. Moreover,

in many instances their actions by way of linking themselves together or attaching themselves to structures are deliberately designed to hinder and delay their removal.

- iv) It was said in the submissions made to me that those engaged in the JSO protests deliberately leave a “blue light” lane free or that they will voluntarily clear the road sufficiently to allow an ambulance or fire engine displaying its flashing lights to pass through an obstruction. This point was combined with an argument that the drivers of emergency vehicles are trained to deal with congestion and are experienced in working their way through congested streets. In addition the point was made that congestion can occur on London’s roads as a consequence of accidents or road works or a host of other matters and that these are not generally regarded as thwarting the movement of emergency vehicles. I accept that those engaged in the protests will be prepared to allow through an emergency vehicle with flashing lights at the point of their obstruction of the road. However, when regard is had to the nature and effect of the obstructions this is of little weight. The effect of the obstruction of the roads with which I am concerned is to cause substantial congestion of traffic over a wide area. Indeed that is its objective. Such congestion will necessarily have an impact on the passage of emergency vehicles and will do so over an area extending beyond the immediate point of obstruction. Skilled and experienced though the drivers of such vehicles are their passage through congested traffic will inevitably be slower than their passage along roads which are not heavily congested. It barely needs stating that delay in the passage of emergency vehicles creates a risk of harm to health or property: that is why they are equipped with sirens and flashing lights and why other road users cede them right of way. The lifting of an obstruction at the point of obstruction to allow the passage of an emergency vehicle is only a minor amelioration of the effect on such vehicles and of the risk to those awaiting their arrival or travelling in them. There is similarly little force in the point that congestion can and does arise from other causes. That is because the congestion resulting from the obstruction of roads such as those in issue here is in addition to that occurring in the normal course of events. Moreover, the importance of these roads and junctions to the flow of traffic is such that their obstruction will cause more extensive congestion than that resulting from road works or accidents at other locations.

53. The following matters stand in the other side of the balance:

- i) First is the extent and effect of the disruption which will be caused by the obstruction of these roads. As explained at [17] above the obstruction of the passage of traffic at the roads in question will have wide-ranging effects. There is likely as a consequence to be congestion of traffic across a wide area. In a number of instances there is no alternative or no practicable alternative to use of the roads in question. As Freedman J said, at [61], “the protesters choose where to protest, but they deprive other road users of any choice to avoid the protests and to avoid being held up for long periods of time with all the personal or economic consequences which may follow.” Those personal and economic consequences will be varied but they will be real and will affect many people.
- ii) Addressing the protests and dealing with the congestion resulting from the obstruction of these roads has occupied the time and resources of the police

service and of the Claimant as the highway authority. That time and those resources are finite and the time and money spent in addressing these matters cannot be used in other ways conducive to the public good. The harm resulting is necessarily difficult to identify with precision but it is nonetheless real and at the very lowest the consequence is that there is a delay in achieving the public goods which would otherwise be achieved by use of that time and those resources.

- iii) Next it is significant that the objective of the blockage of the roads is the disruption of the lives of others and the diversion of resources to which I have just referred. The obstruction of others; the infliction on those others of the personal and economic consequences; and the diversion of public resources are not side-effects of these protests rather they are the objectives of the protest. This is apparent from the fact that the obstructions have taken place without warning and without cooperation with the police. Those obstructing the roads are not seeking thereby to persuade others of their arguments nor thereby to bring their arguments to the attention of others who would be otherwise unaware of them. This is not a case where the protesters are seeking to force others to stop acting in a way of which the protesters disapprove but their objective is nonetheless coercion rather than persuasion. Their objective is to put pressure on the government not by way of persuasion or democratic argument but by disrupting the lives of their fellow citizens and by the contention that the price to be paid for the ending of the disruption is implementation of the measures for which they are campaigning. In that regard it is of note that the locations in question are not connected with parliament or with government other than by chance. As Freedman J said, at [61], “the protests in this case are not directed at a specific location which the subject of the protest”.
- iv) Where inconvenience to others is a side-effect of a protest and particularly where the inconvenience is modest then the reaction to the protest of those subjected to the inconvenience can carry little weight in the balancing exercise. In many cases the anger of those inconvenienced cannot be a reason of substance for curtailing the Convention rights of others. Such modest inconvenience may be seen as inherent in a democratic society. However, the position is different where the inconvenience to others is the intended effect of the protest and where large numbers of persons are subjected to a significant interference with their lives. That is the position here and in those circumstances it is relevant, albeit still a factor of only limited weight, that the protest gives rise to a risk of public disorder. Those whose passage along these roads is obstructed and whose lives are as a consequence disrupted will in some instances be liable through anger and frustration to seek to remove the protesters themselves. The risk of the consequent disorder is a factor operating in favour of the injunction.
- v) Next, as Freedman and Morris JJ both noted the injunction sought does not prohibit all protest. It prohibits protest of a particular kind at a limited number of locations. The Defendants will not be in breach of the injunction by protesting at other locations and even at the specified locations slow marching will not be prohibited by the injunction. Echoing the point made by Freedman J the Defendants will remain free to choose where to protest subject only to the exclusion of the locations covered by the injunction.

- vi) Finally, just as proper regard must be had to the Defendants' Convention rights so proper regard must be had to the importance of the rights which the proposed injunction will protect. The importance of enabling large numbers of citizens to go about their normal lives and occupation and to pursue their personal and economic interests is a potent factor.
- 54. In those circumstances I am satisfied that the proposed injunction is proportionate and strikes a fair balance between the Convention rights of the Defendants and the rights of others including the community generally.
- 55. I will consider the duration of the injunction and the issue of whether it should be in the same terms against all the Named Defendants when I consider the form of the order below.

The Position in respect of Persons Unknown.

- 56. I have already explained that I am satisfied that there is a real and imminent risk of the obstruction of the roads with which I am concerned by persons in addition to the Named Defendant. In *Insulate Britain* Morris J set out at [47] –[51] the additional requirements for the grant of a precautionary injunction against Persons Unknown and explained why the requirements were satisfied on the facts of that case. I agree with and adopt his analysis of the applicable law. Similarly, for the same reasons as Morris J but with the substitution of JSO for IB I am satisfied that the requirements of the *Canada Goose* guidelines are met in this case and that it is just and convenient to grant the final injunction sought against Persons Unknown.

The Form of the Order.

- 57. The Claimant seeks an injunction lasting for five years with provision for annual reviews and for a Defendant or any other person affected by the order to apply on notice for its variation or discharge. In those respects the proposed order mirrors the terms of the order made by Morris J in *Insulate Britain*. I agree with Morris J for the reasons he gave in his judgment at [52] that an order of that duration is necessary for there to be adequate protection of the rights of the members of the public generally. I am also satisfied that an injunction of that duration is proportionate having regard to the balancing exercise I have explained above. However, because of the close relation between these proceedings and those leading to the *Insulate Britain* order and to avoid any confusion or uncertainty the injunction will run for five years from the date of the order made by Morris J in that action with the consequence that both will come to an end at the same time.
- 58. A number of the Named Defendants in this action are already subject to the injunction granted by Morris J in *Insulate Britain*. Those are Named Defendants 3, 7, 20, 45, 46, 51, and 56. That injunction applies to many of the roads and junctions in relation to which the Claimant has sought relief in this action. Of the twenty-three roads and junctions with which I am concerned only six are not also covered by Morris J's order. Those are Millbank, A4 Knightsbridge and Scotch Corner, St Georges Circus/Road, Shoreditch, Victoria Embankment, and Talgarth Road around Barons Court tube station.

59. The proceedings leading to Morris J's order were triggered by protests under the banner of the Insulate Britain campaign. However, Morris J made it clear that the terms of his order are such that obstructing the roads in the ways specified was prohibited regardless of the campaign of which the actions were a part. In particular Morris J spelt out that such actions would be a breach of the injunction if undertaken as part of the JSO campaign: see at [29] and [41].
60. For the Claimant Mr Fraser-Urquhart KC nonetheless contended that it was appropriate for me to grant an injunction in respect of all twenty-three locations against all the remaining Named Defendants even though it would mean that some of them were subject to two injunctions each granted to the Claimant and each prohibiting the same conduct at the same location. He said that this would be conducive of certainty and clarity because the focus of Morris J's order was the Insulate Britain campaign while the Claimant was seeking from me an order focussed on the JSO campaign. He also said that in practice the Claimant would only seek the committal of a defendant under one or other but not both of the injunctions. I do not accept that submission. In light of the terms of Morris J's order and of his judgment there is no uncertainty nor is there any scope for confusion. Indeed rather than being conducive of clarity there would be a risk of confusion as to the basis on which action was being taken against a defendant said to be in breach of the order if there were two orders in respect of the same conduct at the same location. Moreover, it cannot be said that injunctive relief in respect of obstructing the road at a particular location is necessary against a particular Named Defendant if that person is already subject to a final injunction in favour of the Claimant prohibiting the same behaviour at the same location.
61. Accordingly, in respect of those Named Defendants who are subject to the *Insulate Britain* order the injunction I will grant will be confined to the six locations which are not subject to Morris J's order. I will invite submissions in due course as to the appropriate form of order to achieve this result.
62. As explained above a large number of Named Defendants have signed undertakings which have been provided to the Claimant and which are in the course of being sent to the court. Initially I had concerns as to the steps which might be necessary for the court to be satisfied that those giving these undertakings understood the gravity of the step they were taking. However, I have reflected further on the terms of the undertakings and have considered the approach set out by Cotter J in his judgment at [116] – [118]. In light of those matters I am satisfied that the terms of the undertaking are clear and that the effect of a breach are sufficiently spelt out on the face of the undertaking such that there is no realistic risk that any Named Defendant who signs the undertaking will not understand the consequences of doing so. Accordingly, I will not require any further communication to the court from those who have signed the undertakings. I will in due course invite submissions as to the recording of the undertakings in the final order.

Alternative Service.

63. The provisions of the proposed order in relation to service mirror those of Morris J's *Insulate Britain* order. Morris J addressed these at [53] – [60] and the proposed order here includes the additional provisions identified by him at [60]. I agree with Morris J that these are appropriate and that they are sufficient to minimise the risk of a person who is minded to take part in protests at a relevant location being unaware of the court order.

64. It follows that an injunction in the terms proposed by the Claimant subject to the modifications indicated above is to be granted against the remaining Named Defendants and Persons Unknown.

Costs.

65. My provisional view subject to further submissions is that those Named Defendants against whom I have granted an injunction are to be ordered to pay the Claimant's costs.

SCHEDULE 1

Defendant Number	Name	Summary of Activity
3	Andrew Worsley	Subject to two injunctions and has also taken part in an Insulate Britain road blockage.
7	Ben Taylor	Subject to three injunctions; repeated involvement in the blocking of roads in the context of JSO and Insulate Britain protests including acting in breach of an injunction.
20	Emily Brocklebank	Repeated involvement in the blocking of roads in the context of JSO and Insulate Britain protests including acting in breach of an injunction.
45	Tessa-Marie Burns	Subject to two injunctions; multiple instances of involvement in the blocking of roads in the context of JSO protests.
46	Theresa Norton	Subject to two injunctions; in breach of two injunctions; two instances of involvement in the blocking of roads in the context of JSO protests; and one instance of gluing herself to court steps.
56	Samuel Johnson	Engaged in digging tunnels as part of a JSO protest and in blocking a road as part of an Insulate Britain protest.
84	Lora Johnson	Involved in blocking roads on two occasions in JSO protests in October 2022.
137	Tristan Strange	Involved on one occasion in blocking in a JSO protest in October 2022 and in one instance of gluing himself to a painting in a JSO protest.

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Before: The Honourable Mr Justice Morris
On: the 3rd day of May 2023

Claim No. QB-2021-003841

BETWEEN

TRANSPORT FOR LONDON

-and-

(1) PERSONS UNKNOWN DELIBERATELY CAUSING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE 1) HANGER LANE GYRATORY INCLUSIVE OF ALL ADJOINING ENTRY AND EXIT SLIPS; 2) VAUXHALL BRIDGE INCLUDING VAUXHALL GYRATORY AND ALL ENTRY AND EXIT ROADS; 3) HAMMERSMITH GYRATORY INCLUSIVE OF ALL ADJOINING ENTRY AND EXIT ROADS; 4) BLACKWALL TUNNEL AND BOTH APPROACHES; 5) TOWER BRIDGE AND BOTH APPROACHES; 6) LONDON BRIDGE AND BOTH APPROACHES; 7) PARK LANE, INCLUSIVE OF MARBLE ARCH AND HYDE PARK CORNER; 8) ELEPHANT AND CASTLE INCLUSIVE OF ALL ENTRY AND EXIT ROADS; 9) VICTORIA ONE WAY SYSTEM; 10) A501/INNER RING ROAD FROM EDGWARE ROAD TO OLD STREET; 11) STAPLES CORNER; 12) CHISWICK ROUNDABOUT; 13) REDBRIDGE ROUNDABOUT; 14) KIDBROOKE INTERCHANGE, FOR THE PURPOSE OF PROTESTING ON BEHALF OF, IN ASSOCIATION WITH, UNDER THE INSTRUCTION OR DIRECTION OF, OR USING THE NAME OF, INSULATE BRITAIN

(2) MR ALEXANDER RODGER AND OTHER DEFENDANTS LISTED IN THE SCHEDULE TO THE CLAIM FORM

Defendants

Claim No: QB-2021-004122

AND BETWEEN

TRANSPORT FOR LONDON

-and-

(1) PERSONS UNKNOWN DELIBERATELY CAUSING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE 1) LAMBETH BRIDGE AND BOTH ADJOINING ROUNDABOUTS; 2) HOGARTH ROUNDABOUT INCLUSIVE OF ALL ADJOINING ENTRY AND EXIT ROADS; 3) MARBLE ARCH INCLUSIVE OF ALL ENTRY AND EXIT ROADS; 4) ROTHERHITHE TUNNEL AND BOTH APPROACHES; 5) BECKTON ROUNDABOUT; 6) GANTS HILL ROUNDABOUT; 7) BRIXTON; 8) A406 (KNOWN AS THE NORTH CIRCULAR) BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A40 HANGER LANE TO THE A13 ALFRED'S WAY INCLUSIVE OF ALL INTERSECTIONS; 9) A1 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A406 AT GREAT NORTH WAY TO ELSTREE WAY, BOREHAM WOOD; 10) A10 GREAT CAMBRIDGE ROAD BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A406 NORTH CIRCULAR ROAD TO THE GLA ROAD BOUNDARY AT M25 JUNCTION 25; 11) A12 APPROACH TO BLACKWALL TUNNEL INCLUSIVE OF ALL INTERSECTIONS TO GLA BOUNDARY AT M25 J28; 12) A127 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A12 AT GALLOWS CORNER TO THE GLA ROAD BOUNDARY AT M25 J29; 13) A13/A1203/A1261 BETWEEN LIMEHOUSE LINK (INCLUSIVE) AND M25 JUNCTION 30 INCLUSIVE OF

ALL INTERSECTIONS WITH THE BLACKWALL TUNNEL TO THE GLA ROAD BOUNDARY; 14) A102 APPROACH TO BLACKWALL TUNNEL INCLUSIVE OF ALL INTERSECTIONS THAT PROVIDE ENTRY AND EGRESS TO THE TUNNEL SOUTH AND NORTH SIDES; 15) A3 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS AT THE WANDSWORTH GYRATORY TO THE HOOK ROAD JUNCTION WHERE IT MEETS THE A309; 16) A40 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITHIN THE INNER RING ROAD AT A5 EDGWARE ROAD / HARROW ROAD TO THE GLA BOUNDARY; 17) A2 OLD BEXLEY LANE TO BLACKWALL TUNNEL INCLUSIVE OF ALL INTERSECTIONS; 18) A4 HYDE PARK CORNER INCLUSIVE OF ALL INTERSECTIONS TO KEW BRIDGE; 19) A302 WESTMINSTER BRIDGE BETWEEN BRIDGE STREET / VICTORIA EMBANKMENT AND WESTMINSTER BRIDGE ROAD / LAMBETH PALACE ROAD; 20) A201 BLACKFRIARS BRIDGE BETWEEN NEW BRIDGE STREET AND BLACKFRIARS ROAD AND SOUTHWARK STREET/STAMFORD STREET, FOR THE PURPOSE OF PROTESTING ON BEHALF OF, IN ASSOCIATION WITH, UNDER THE INSTRUCTION OR DIRECTION OF, OR USING THE NAME OF, INSULATE BRITAIN

(2) MR ALEXANDER RODGER AND OTHER DEFENDANTS LISTED IN THE SCHEDULE TO THE CLAIM FORM

Defendants

JUDGMENT ORDER

UPON READING among other things the Claimant's Skeleton Argument dated 14 March 2023, the Witness Statements of Abbey Ameen including exhibits dated 27 February 2023, 2 April 2023 and 28 April 2023 and the Witness Statement of Glynn Barton dated 27 February 2023

AND UPON undertakings having been received from Named Defendants 9, 65, and 135, ("**the Undertaking Defendants**") to whom this Order does not apply

AND UPON HEARING in the Trial of these Claims: Counsel for the Claimant, Andrew Fraser-Urquhart KC and Charles Forrest, and Named Defendants 9 and 135 who attended unrepresented for part of Day 1 of Trial

IT IS ORDERED THAT:

1. The term "Defendants" refers to both "persons unknown" and Named Defendants, as defined. In this Judgment Order, "Named Defendants" is a reference to those individuals listed, each with an identifying number, in Annex 1 (Schedule of Named Defendants, as amended) to the Claim Form in each of the above Claims. "Undertaking Defendants" and "Discontinuance Defendants" refers to specific Named Defendants who are identified above and below respectively.

2. The Claimant has permission under r38.2(2)(a) to discontinue its Claim(s) against Named Defendants 8, 34, 91, 102, 108, and 112 (**“the Discontinuance Defendants”**). This discontinuance shall take effect and the Claim(s) against the Discontinuance Defendants shall be brought to an end on the date of this Order (not the date it was sealed, if different)
3. Service under r38.3(1)(b) of the notice of discontinuance on the Discontinuance Defendants is dispensed with under r6.28
4. Except the Undertaking Defendants and Discontinuance Defendants, the Claims against all Defendants in the above Claims are allowed. A Final Injunction Order against such Defendants is the subject of a different Order.
5. Except the Undertaking Defendants and Discontinuance Defendants, the Defendants must pay the Claimant’s costs in these Claims, including those costs which had been reserved by previous orders. Those costs shall be subject to detailed assessment, with the total amount to be divided equally amongst those Defendants to whom this paragraph applies. Such sums to be paid within 28 days of the service upon them of a notification of the final sum payable.
6. Each Discontinuance Defendant is awarded on the standard basis any recoverable costs incurred up to the date of this Order as a result of these Claims. Those costs are to be assessed if not agreed by the Claimant.
7. The Claimant shall:
 - a. Place a copy of this Order on the TfL and Mayor of London/GLA London.gov.uk websites; and
 - b. Email a copy of this Order to:
 - i. Insulate Britain’s email addresses ring2021@protonmail.com and insulatebritainlegal@protonmail.com
 - ii. Just Stop Oil’s email addresses: juststopoil@protonmail.com and juststopoilpress@protonmail.com
 - iii. Extinction Rebellion’s email address: press@extinctionrebellion.uk
 - iv. Animal Rebellion email addresses: actions@animalrebellion.org, fundraising@animalrebellion.org, integration@animalrebellion.org, talks@animalrebellion.org, global@animalrebellion.org, localgroups@animalrebellion.org, media@animalrebellion.org,

governance@animalrebellion.org, pressoffice@animalrebellion.org,
finance@animalrebellion.org and techsupport@animalrebellion.org;

- c. Publish a social media post on the TfL Twitter feed advertising the existence of this Order and providing a link to the TfL website webpage where it can be viewed
- d. Send a notification of the existence of this Order to the Press Association
- e. Place a notice of this Order in the London Gazette

8. For the avoidance of doubt, compliance with paragraph 7 shall not constitute service.

Communications with the Claimant

9. The Claimant's solicitors and their contact details are:

FAO Mr Abbey Ameen
Team Legal, Transport for London,
5 Endeavour Square, 4th Floor, Stratford, Yellow Zone,
Stratford, E20 1JN
Tel: 02030547921

BY THE COURT

The Honourable Mr Justice Morris

Dated: 3 May 2023

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Before: The Honourable Mr Justice Morris
On: the 3rd day of May 2023



Claim No. QB-2021-003841

BETWEEN

TRANSPORT FOR LONDON

Claimant

-and-

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(2) MR ALEXANDER RODGER AND OTHER DEFENDANTS LISTED IN THE SCHEDULE TO THE CLAIM FORM

Defendants

Claim No: QB-2021-004122

AND BETWEEN

TRANSPORT FOR LONDON

Claimant

-and-

(1) PERSONS UNKNOWN DELIBERATELY CAUSING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE 1) LAMBETH BRIDGE AND BOTH ADJOINING ROUNDABOUTS; 2) HOGARTH ROUNDABOUT INCLUSIVE OF ALL ADJOINING ENTRY AND EXIT ROADS; 3) MARBLE ARCH INCLUSIVE OF ALL ENTRY AND EXIT ROADS; 4) ROTHERHITHE TUNNEL AND BOTH APPROACHES; 5) BECKTON ROUNDABOUT; 6) GANTS HILL ROUNDABOUT; 7) BRIXTON; 8) A406 (KNOWN AS THE NORTH CIRCULAR) BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A40 HANGER LANE TO THE A13 ALFRED'S WAY INCLUSIVE OF ALL INTERSECTIONS; 9) A1 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A406 AT GREAT NORTH WAY TO ELSTREE WAY, BOREHAM WOOD; 10) A10 GREAT CAMBRIDGE ROAD BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A406 NORTH CIRCULAR ROAD TO THE GLA ROAD BOUNDARY AT M25 JUNCTION 25; 11) A12 APPROACH TO BLACKWALL TUNNEL INCLUSIVE OF ALL INTERSECTIONS TO GLA BOUNDARY AT M25 J28; 12) A127 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITH THE A12 AT GALLOWS CORNER TO THE GLA ROAD BOUNDARY AT M25 J29; 13) A13/A1203/A1261 BETWEEN LIMEHOUSE LINK (INCLUSIVE) AND M25 JUNCTION 30 INCLUSIVE OF

ALL INTERSECTIONS WITH THE BLACKWALL TUNNEL TO THE GLA ROAD BOUNDARY; 14) A102 APPROACH TO BLACKWALL TUNNEL INCLUSIVE OF ALL INTERSECTIONS THAT PROVIDE ENTRY AND EGRESS TO THE TUNNEL SOUTH AND NORTH SIDES; 15) A3 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS AT THE WANDSWORTH GYRATORY TO THE HOOK ROAD JUNCTION WHERE IT MEETS THE A309; 16) A40 BETWEEN AND INCLUSIVE OF ALL INTERSECTIONS WITHIN THE INNER RING ROAD AT A5 EDGWARE ROAD / HARROW ROAD TO THE GLA BOUNDARY; 17) A2 OLD BEXLEY LANE TO BLACKWALL TUNNEL INCLUSIVE OF ALL INTERSECTIONS; 18) A4 HYDE PARK CORNER INCLUSIVE OF ALL INTERSECTIONS TO KEW BRIDGE; 19) A302 WESTMINSTER BRIDGE BETWEEN BRIDGE STREET / VICTORIA EMBANKMENT AND WESTMINSTER BRIDGE ROAD / LAMBETH PALACE ROAD; 20) A201 BLACKFRIARS BRIDGE BETWEEN NEW BRIDGE STREET AND BLACKFRIARS ROAD AND SOUTHWARK STREET/STAMFORD STREET, FOR THE PURPOSE OF PROTESTING ON BEHALF OF, IN ASSOCIATION WITH, UNDER THE INSTRUCTION OR DIRECTION OF, OR USING THE NAME OF, INSULATE BRITAIN

(2) MR ALEXANDER RODGER AND OTHER DEFENDANTS LISTED IN THE SCHEDULE TO THE CLAIM FORM

Defendants

FINAL INJUNCTION ORDER

PENAL NOTICE

IF YOU THE NAMED DEFENDANTS AND PERSONS UNKNOWN OR ANY OF YOU DISOBEY THIS ORDER OR INSTRUCT OR ENCOURAGE OTHERS TO BREACH THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

IMPORTANT NOTICE TO THE DEFENDANTS

This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order.

UPON READING among other things the Claimant's Skeleton Argument dated 14 March 2023, the Witness Statements of Abbey Ameen including exhibits dated 27 February 2023, 2 April 2023 and 28 April 2023 and the Witness Statement of Glynn Barton dated 27 February 2023

AND UPON HEARING in the Trial of these Claims: Counsel for the Claimant, Andrew Fraser-Urquhart KC and Charles Forrest, and Named Defendants 9 and 135 (as defined and identified in Annex 1 to the Claim Forms herein) who attended unrepresented for part of Day 1 of Trial

AND UPON the Claimant confirming that this Order is not intended to prohibit lawful protest onto, off or along the Roads to which this Order relates

IT IS ORDERED THAT:

1. In this Final Injunction Order, except in the second recital above, the “Named Defendants” are those Defendants whose names appear in the schedule annexed to this Order (Annex 1). The term “Defendants” refers to both “persons unknown” and the Named Defendants, as defined.
2. For the purposes of this Order, ‘the Roads’ means the Roads identified by the descriptions and plans annexed to this Order (Annex 2) including any verges, central reservations, and any apparatus related to those Roads.
3. This Final Injunction Order consolidates and replaces the Interim Injunctions in these Claims made by Cotter J on 11 October 2022 (sealed on 13 October 2022), which are discharged with effect from today.

Injunction in force

4. With immediate effect until the earlier of (i) 23:59 on 2 May 2028, or (ii) Further Order, the Defendants and each of them are forbidden from deliberately undertaking the following activities:
 - a. Blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or along or off the Roads for the purpose of protesting.
 - b. Blocking, slowing down, obstructing or otherwise interfering with access to or from the Roads for the purpose of protesting which has the effect of slowing down or otherwise interfering with the flow of traffic onto or along or off the Roads.
 - c. Causing, assisting or encouraging any other person to do any act prohibited by sub-paragraphs a-b above.
 - d. Continuing any act prohibited by sub-paragraphs a-c above.
 - e. For the avoidance of doubt, this wording does not apply to the practice of ‘slow marching’ on the road

5. The activities prohibited by paragraphs 4a-b include, but are not limited to, the following when done for the purpose of protesting and with the deliberate effect of blocking, slowing down, obstructing or otherwise interfering with the flow of traffic onto or along or off the Roads:
 - a. Affixing themselves (“locking on”) to any other person or object on the Roads or to the surface of the Roads
 - b. Erecting any structure on the Roads.
 - c. Tunnelling in the vicinity of the Roads.
 - d. Abandoning any vehicle or item on the Roads with the intention of causing an obstruction.
 - e. Causing damage to the surface of or to any apparatus on or around the Roads or any structure supporting the Roads including but not limited to painting, damaging by fire, or affixing any item or structure thereto.

6. The publication by the Claimant of any orders or other documents (such as the Claim Form or Particulars of Claim) in these proceedings shall not include (in the published version) the addresses of the Named Defendants. Liberty to any of the Named Defendants on prior notice to the Claimant to apply for any wider protection as regards the addresses

7. The Claimant shall:
 - a. Place a copy of this Order on the TfL and Mayor of London/GLA London.gov.uk websites; and
 - b. Email a copy of this Order to:
 - i. Insulate Britain’s email addresses ring2021@protonmail.com and insulatebritainlegal@protonmail.com
 - ii. Just Stop Oil’s email addresses: juststopoil@protonmail.com and juststopoilpress@protonmail.com
 - iii. Extinction Rebellion’s email address: press@extinctionrebellion.uk
 - iv. Animal Rebellion email addresses: actions@animalrebellion.org, fundraising@animalrebellion.org, integration@animalrebellion.org, talks@animalrebellion.org, global@animalrebellion.org, localgroups@animalrebellion.org, media@animalrebellion.org, governance@animalrebellion.org, pressoffice@animalrebellion.org, finance@animalrebellion.org and techsupport@animalrebellion.org;
 - c. Publish a social media post on the TfL Twitter feed advertising the existence of this Order and providing a link to the TfL website webpage where it can be viewed
 - d. Send a notification of the existence of this Order to the Press Association
 - e. Place a notice of this Order in the London Gazette

8. For the avoidance of doubt, compliance with paragraph 7 shall not constitute service.

Alternative Service

9. The Claimant is permitted, in addition to personal service and any other permitted mode of service as the case may be, to serve this Order, the Claim Form, and any other documents in these proceedings by both of the following methods together (thereby dispensing with personal service of this Order for the purposes of CPR r81.4(2)(c)):
- a. Service on Insulate Britain by email; and
 - b. Posting a package containing a copy through the letterbox (or a separate mailbox if there is no letterbox) of each Defendant, or, if the premises do not have a letterbox or mailbox, affixing a waterproof package containing a copy to the front door. In either case, the package should be marked with a notice in prominent lettering drawing the recipient's attention to the fact that the package contains a court order and should be read urgently. The Notice shall be given in the following form: **"VERY URGENT: THIS PACKAGE CONTAIN AN ORDER OF THE HIGH COURT AND YOU SHOULD READ IT IMMEDIATELY AND SEEK LEGAL ADVICE. IF YOU NEED ANOTHER COPY PLEASE CALL – Mr Abbey Ameen of Tfl on 02030547921"**
10. Where alternative service is used, pursuant to CPR r6.15(4) and r6.27, a document is deemed served on the third business day following completion by the Claimant of the later of the following (see 9a-b above): email of it to Insulate Britain or delivery of it to/collection of it by the process server chosen to carry out alternative service under paragraph 9b of this Order.

Further directions

11. There shall be every 12 months for as long as this Final Injunction Order is in force, a hearing to review this Final Injunction Order. The Claimant shall liaise with the Court to list such hearings and inform the Defendants of any such listing as soon as practicable.
12. The Defendants or any other person affected by this Order may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimant's solicitors immediately (and in any event not less than 28 days before the hearing of any such application).

13. Any person applying to vary or discharge this Order must provide their full name and address, an address for service.

14. Any person who applies to vary or discharge this Order shall file a skeleton argument and any evidence to be relied upon no later than 14 days before the application hearing.

15. The Claimant has permission to apply to extend or vary this Order or for further directions.

Communications with the Claimant

16. The Claimant's solicitors and their contact details are:

FAO Mr Abbey Ameen
Team Legal, Transport for London,
5 Endeavour Square, 4th Floor, Stratford, Yellow Zone,
Stratford, E20 1JN
Tel: 02030547921

BY THE COURT

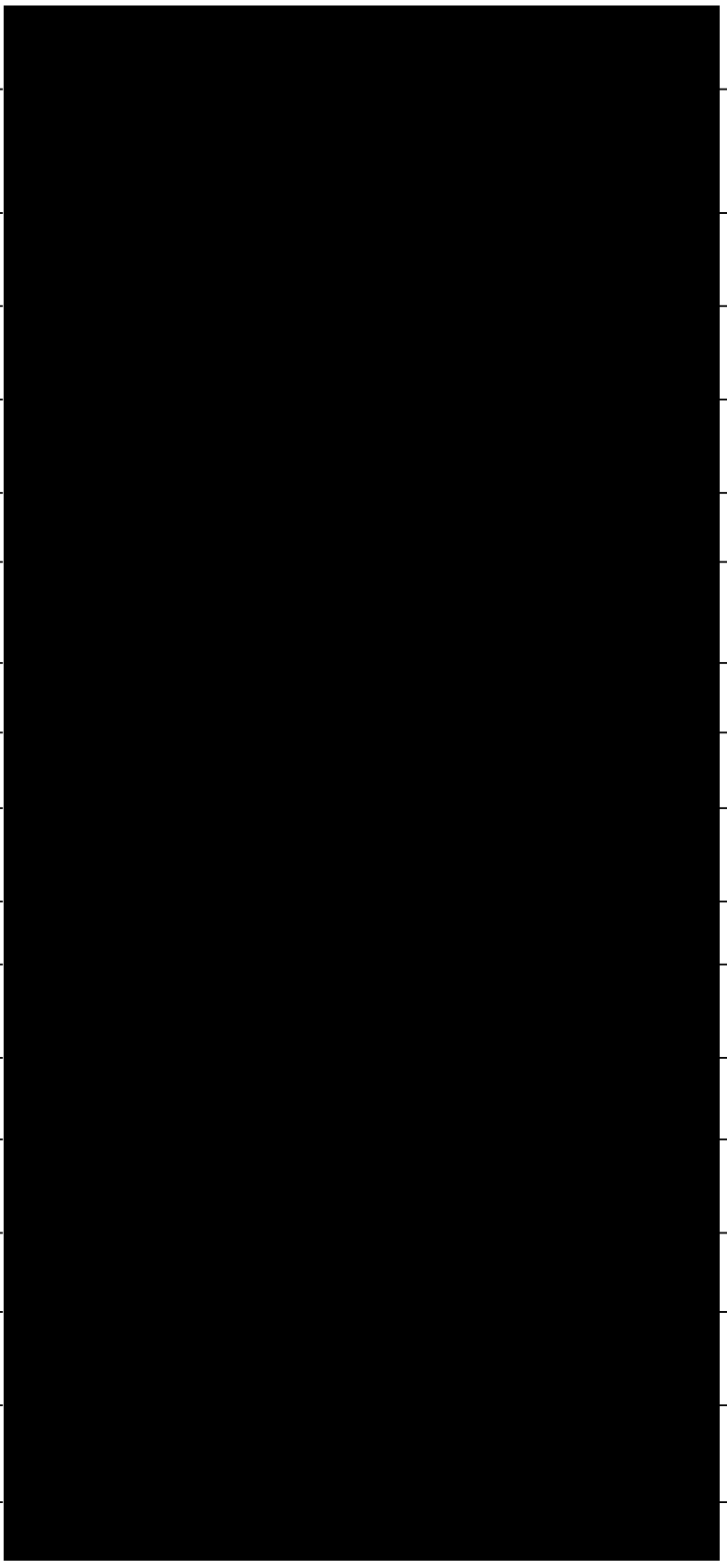
The Honourable Mr Justice Morris

Dated: **3 May 2023**

**ANNEX 1 TO FINAL INJUNCTION IN CLAIM NO. QB-2021-003841 & CLAIM NO.
QB-2021-004122– SCHEDULE OF NAMED DEFENDANTS SUBJECT TO THE
FINAL INJUNCTION ORDER**

	Name	Address
1	Alexander RODGER	[REDACTED]
2	Alyson LEE	[REDACTED]
3	Amy PRITCHARD	[REDACTED]
4	Ana HEYATAWIN	[REDACTED]
5	Andrew WORSLEY	[REDACTED] [REDACTED]
6	Anne TAYLOR	[REDACTED]
7	Anthony WHITEHOUSE	[REDACTED]
8		
9		
10	Ben TAYLOR	[REDACTED]
11	Benjamin BUSE	[REDACTED] [REDACTED]
12	Biff William Courtenay WHIPSTER	[REDACTED]
13	Cameron FORD	[REDACTED]
14	Catherine RENNIE- NASH	[REDACTED]
15	Catherine EASTBURN	[REDACTED]
16	Christian MURRAY- LESLIE	[REDACTED]

17	Christian ROWE	[REDACTED]
18	Cordelia ROWLATT	[REDACTED]
19	Daniel SARGISON	[REDACTED]
20	Daniel SHAW	[REDACTED]
21	David CRAWFORD	[REDACTED]
22	David JONES	[REDACTED]
23	David NIXON	[REDACTED]
24	David SQUIRE	[REDACTED] J
25	Diana BLIGH	[REDACTED]
26	Diana HEKT	[REDACTED]
27	Diana Lewen WARNER	[REDACTED]
28	Donald BELL	[REDACTED]
29	Edward HERBERT	[REDACTED]
30	Elizabeth ROSSER	[REDACTED] [REDACTED]
31	Emily BROCKLEBANK	[REDACTED]
32	Emma Joanne SMART	[REDACTED] [REDACTED]
33	Gabriella DITTON	[REDACTED] [REDACTED]
34		
35	Gwen HARRISON	6 [REDACTED]

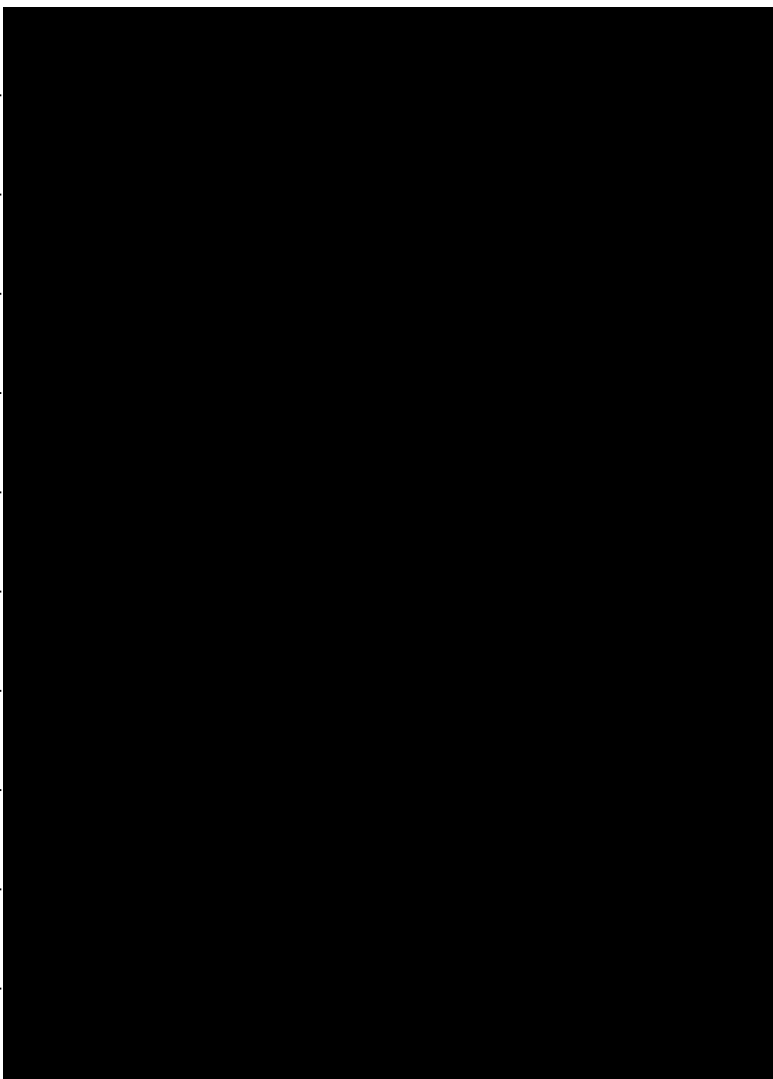
36	Harry BARLOW	
37	Ian BATES	
38	Ian Duncan WEBB	
39	James BRADBURY	
40	James SARGISON	
41	James THOMAS	
42	Janet BROWN	
43	Janine EAGLING	
44	Jerrard Mark LATIMER	
45	Jessica CAUSBY	
46	Jonathan COLEMAN	
47	Joseph SHEPHERD	
48	Joshua SMITH	
49	Judith BRUCE	
50	Julia MERCER	
51	Julia SCHOFIELD	
52	Karen MATTHEWS	
53	Karen WILDIN	

54	Liam NORTON	
55	Louis MCKECHNIE	
56	Louise Charlotte LANCASTER	
57	Lucy CRAWFORD	
58	Mair BAIN	
59	Margaret MALOWSKA	
60	Marguerite DOUBLEDAY	
61	Maria LEE	
62	Martin NEWELL	
63	Mary ADAMS	
64	Matthew LUNNON	
65		
66	Meredith WILLIAMS	
67	Michael BROWN	
68	Michael WILEY	
69	Michelle CHARLSWORTH	
70	Natalie MORLEY	
71	Nathaniel SQUIRE	
72	Nicholas COOPER	

73	Nicholas ONLEY	
74	Nicholas TILL	
75	Oliver ROCK	
76	Paul COOPER	
77	Paul SHEEKY	
78	Peter BLENCOWE	
79	Peter MORGAN	
80	Phillipa CLARKE	
81	Priyadaka CONWAY	
82	Richard RAMSDEN	
83	Rob STUART	
84	Robin COLLETT	
85	Roman Andrzej PALUCH-MACHNIK	
86	Rosemary WEBSTER	
87	Rowan TILLY	
88	Ruth Ann COOK	
89	Ruth JARMAN	
90	Sarah HIRONS	

91		
92	Simon REDING	
93	Stefania MOROSI	
94	Stephanie AYLETT	
95	Stephen GOWER	
96	Stephen PRITCHARD	
97	Sue CHAMBERS	
98	Sue PARFITT	
99	Sue SPENCER- LONGHURST	
100	Susan HAGLEY	
101	Suzie WEBB	
102		
103	Tessa-Marie BURNS	
104	Theresa NORTON	
105	Tim SPEERS	
106	Tim William HEWES	
107	Tracey MALLAGHAN	
108		
109	Valerie SAUNDERS	

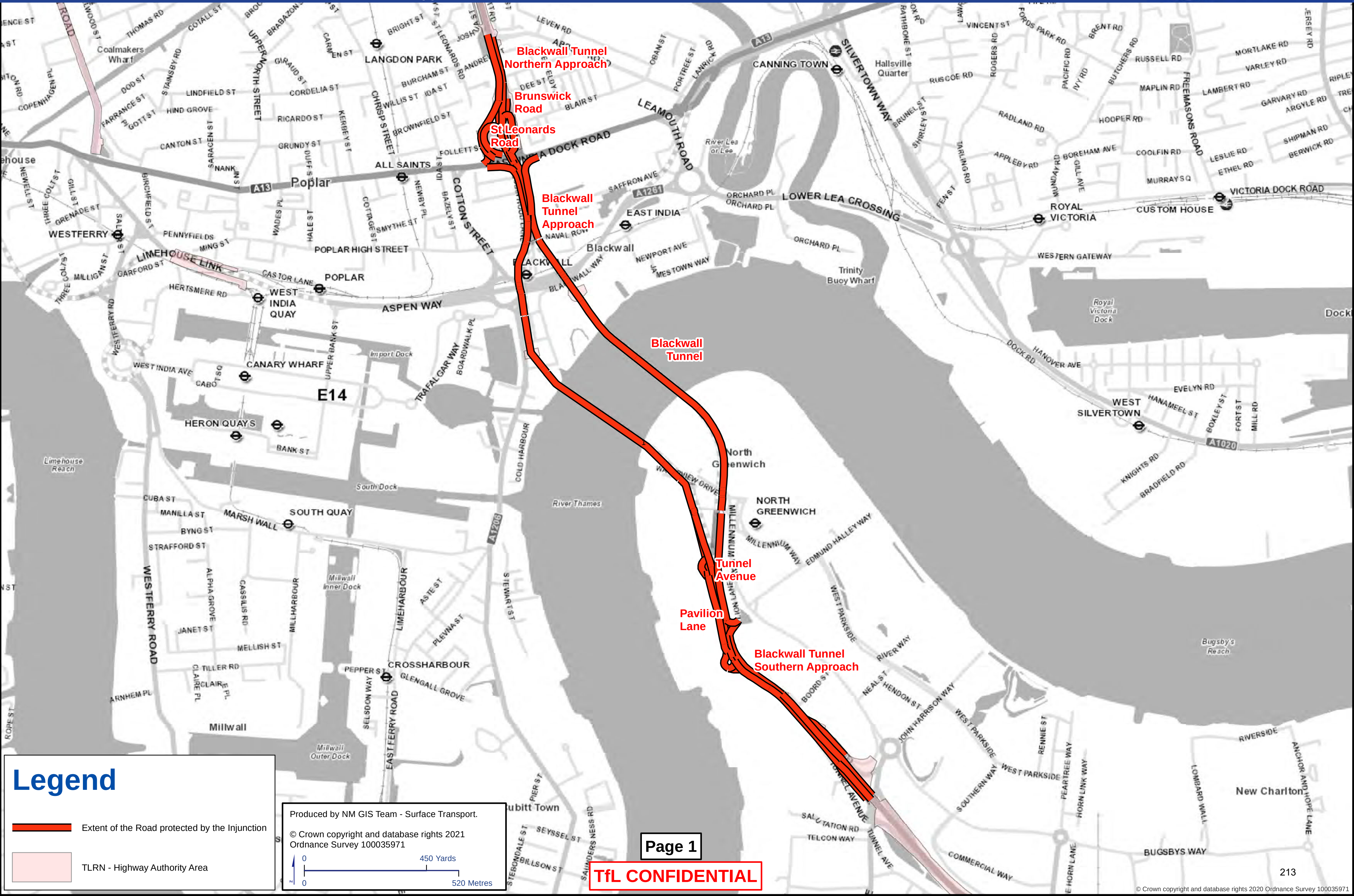
110	Venitia CARTER	
111	Victoria Anne LINDSELL	
112		
113	Bethany MOGIE	
114	Indigo RUMBELOW	
115	Adrian TEMPLE-BROWN	
116	Ben NEWMAN	
117	Christopher PARISH	
118	Elizabeth SMAIL	
119	Julian MAYNARD SMITH	
120	Rebecca LOCKYER	
121	Simon MILNER-EDWARDS	
122	Stephen BRETT	
123	Virginia MORRIS	
124	Jan GOODEY	
125	Alex GOUGH	
126	Gareth Richard HARPER	
127	Samuel JOHNSON	

128	Giovanna LEWIS	
129	Susan LYLE	
130	Darcy MITCHELL	
131	Morien MORGAN	
132	Lucia WHITTAKER DE ABREU	
133	Pam WILLIAMS	
134	Molly BERRY	
135		
136	Ellie LITTEN	
137	George BURROW	
138	Jonathan HEBERT	

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Blackwall Tunnel and both approaches

ANNEX 2 TO FINAL INJUNCTION IN CLAIM NO. QB-2021-003841 & CLAIM NO. QB-2021-004122— PLANS OF THE ROADS PROTECTED UNDER THIS INJUNCTION



Legend

Extent of the Road protected by the Injunction

TLRN - Highway Authority Area

Produced by NM GIS Team - Surface Transport.

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0

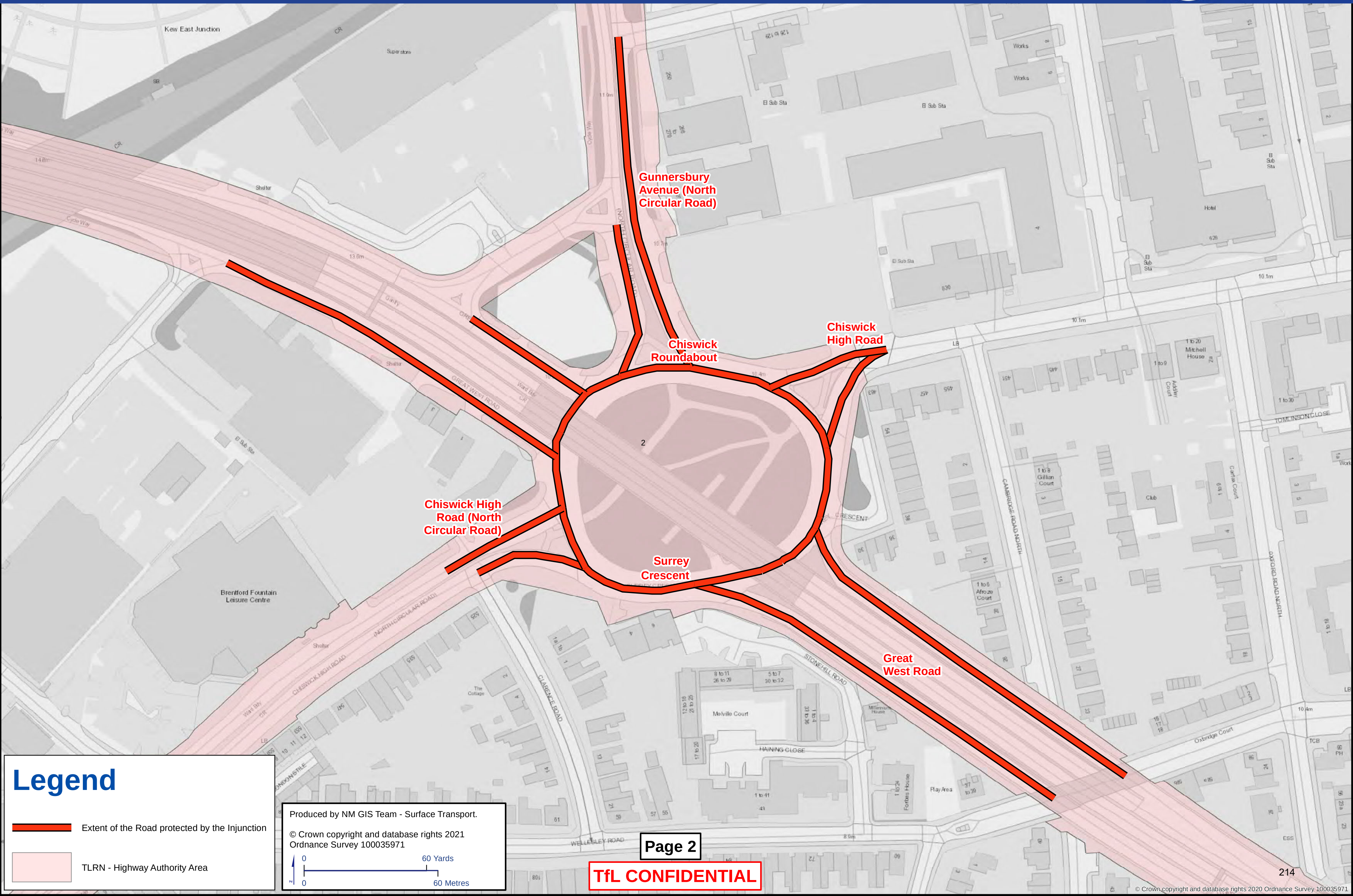
450 Yards

0

520 Metres

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Chiswick Roundabout



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

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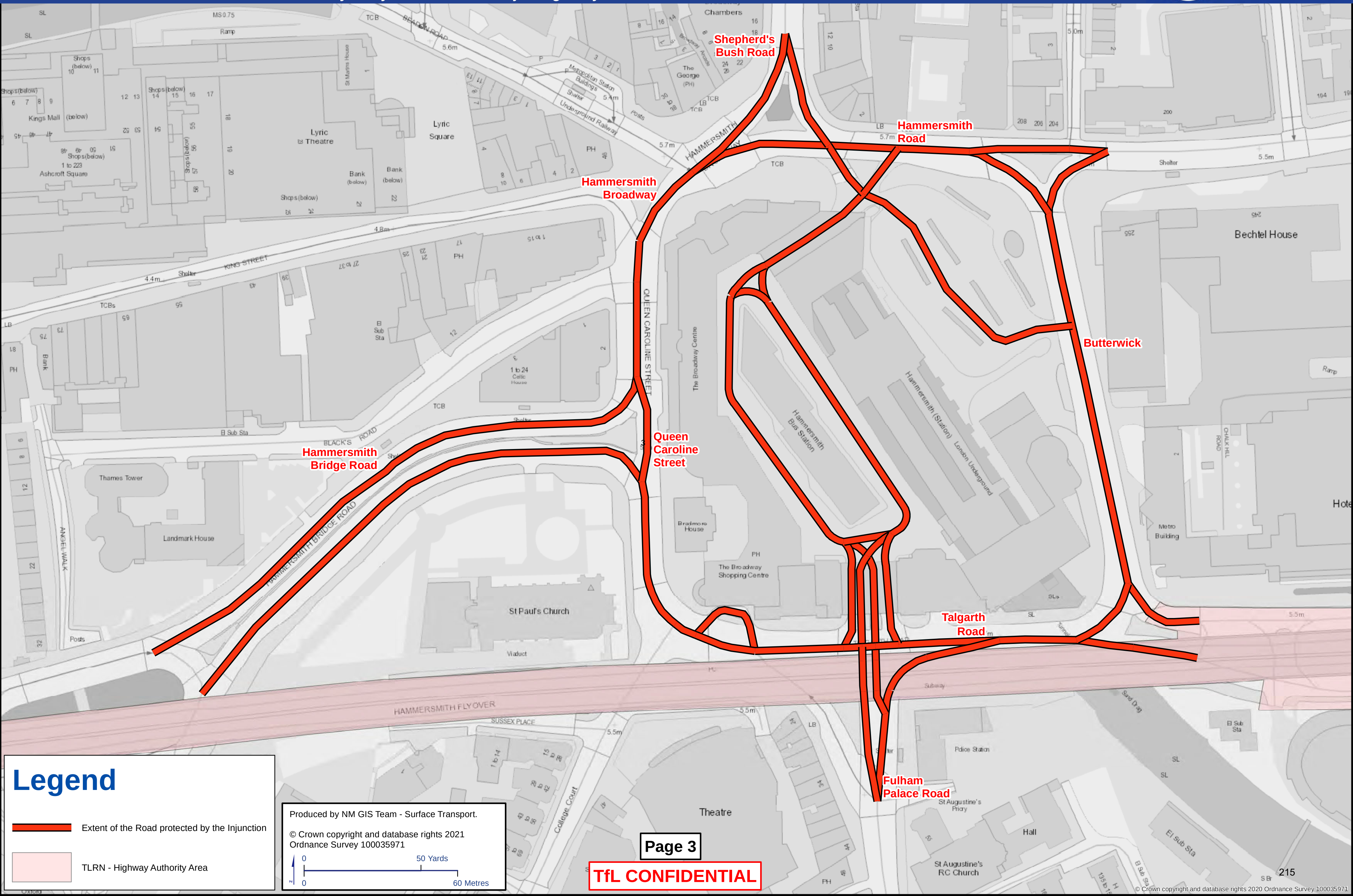
60 Yards

0

60 Metres

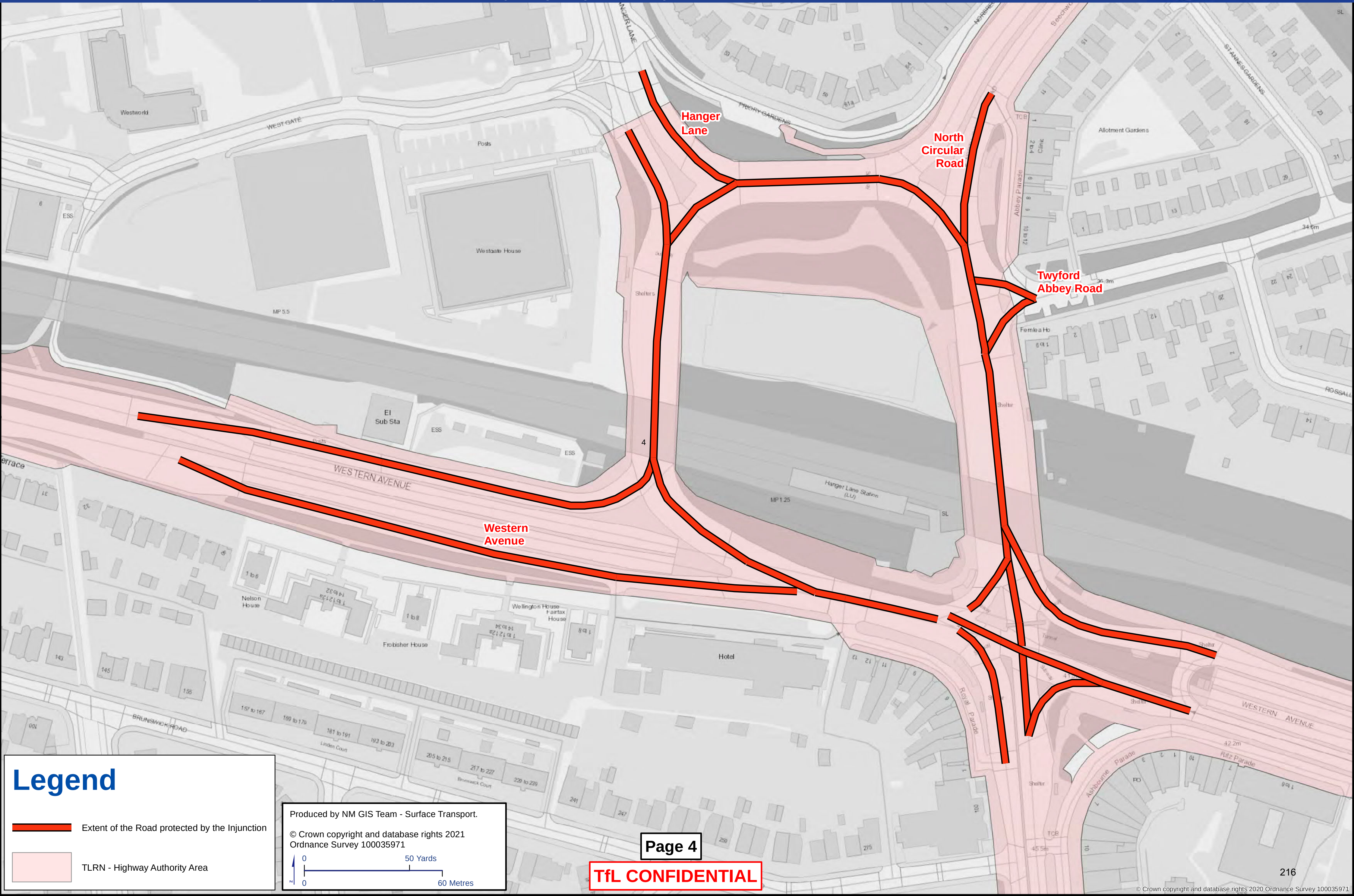
Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Hammersmith Gyration Inclusive of all adjoining entry and exit roads



Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Hanger Lane Gyratory Inclusive of all adjoining entry and exits points



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

Produced by NM GIS Team - Surface Transport.

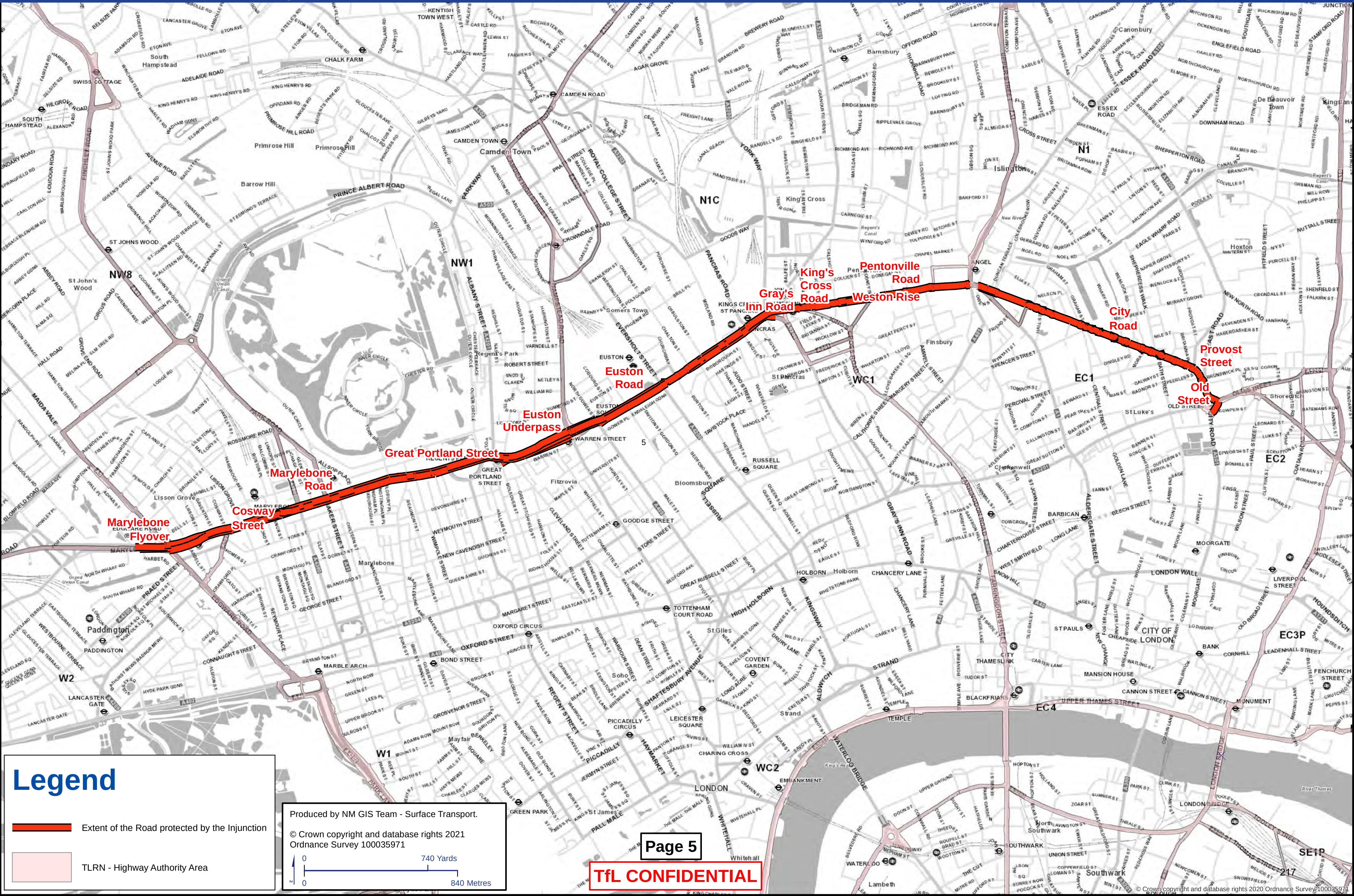
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0 50 Yards
0 60 Metres

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - A501 Edgware Road to Old Street



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

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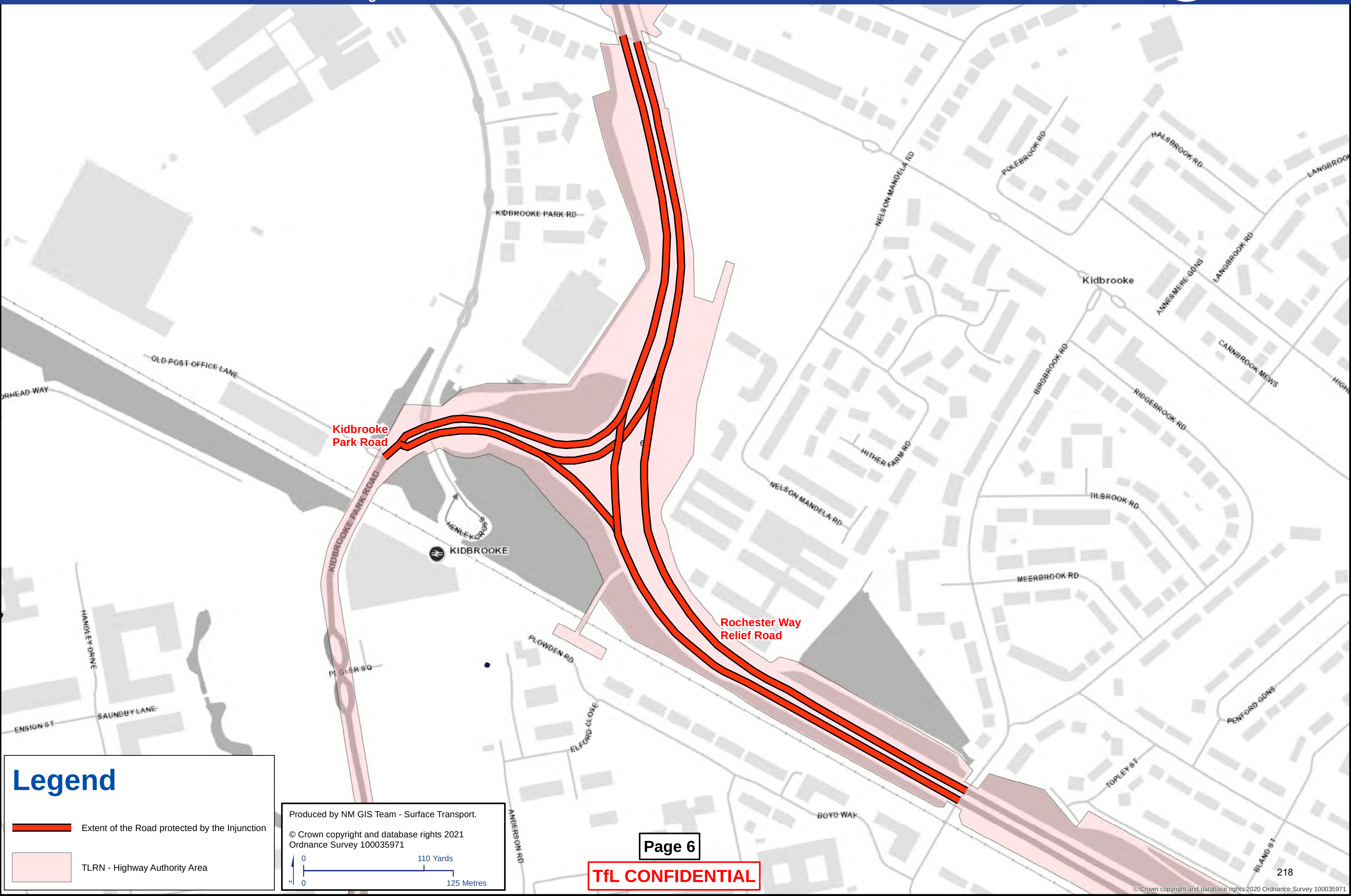
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0 740 Yards
0 840 Metres

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Kidbrooke Interchange



Legend

Extent of the Road protected by the Injunction

TLRN - Highway Authority Area

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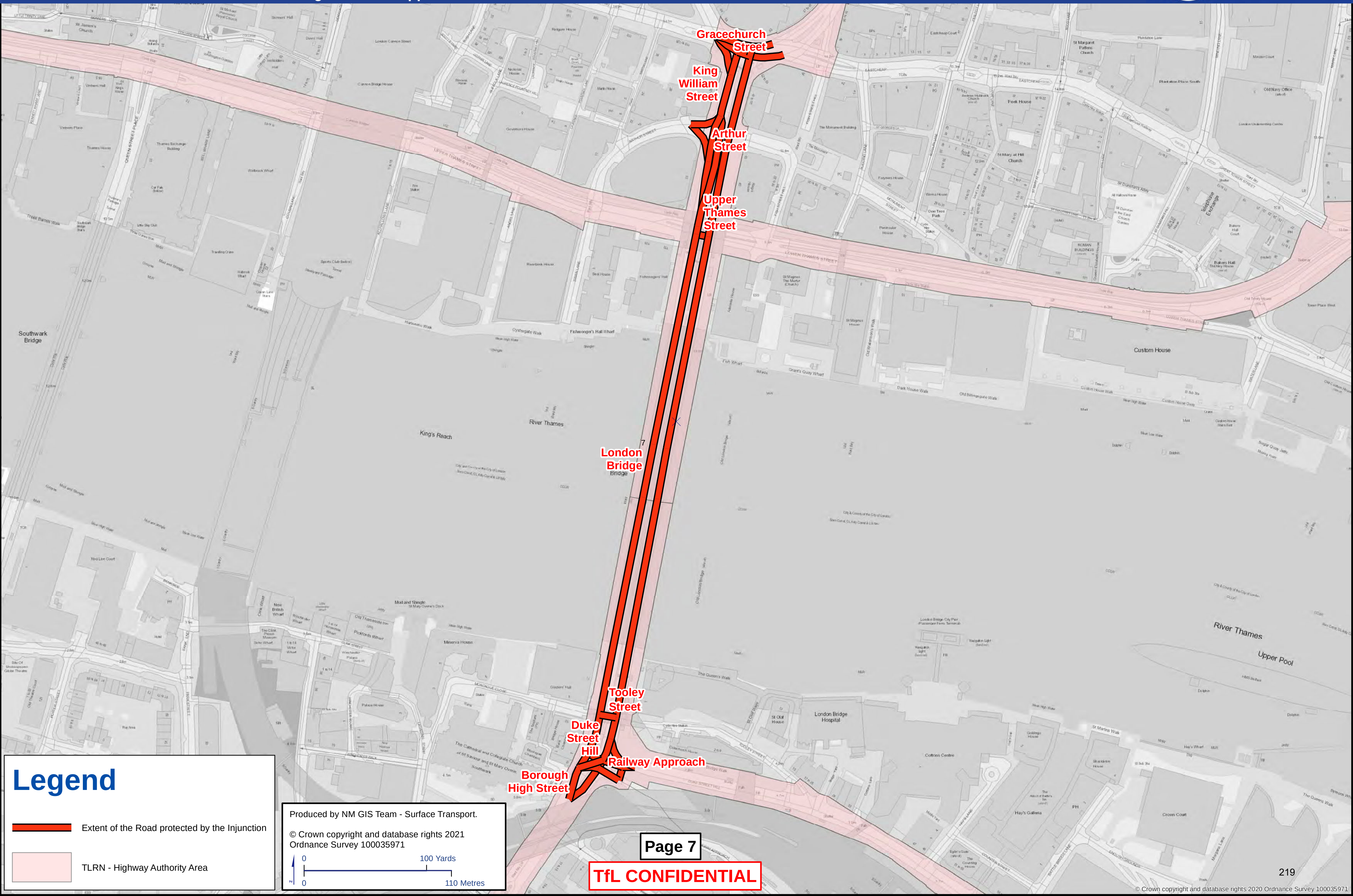
110 Yards

0

125 Metres

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - London Bridge and both approaches



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

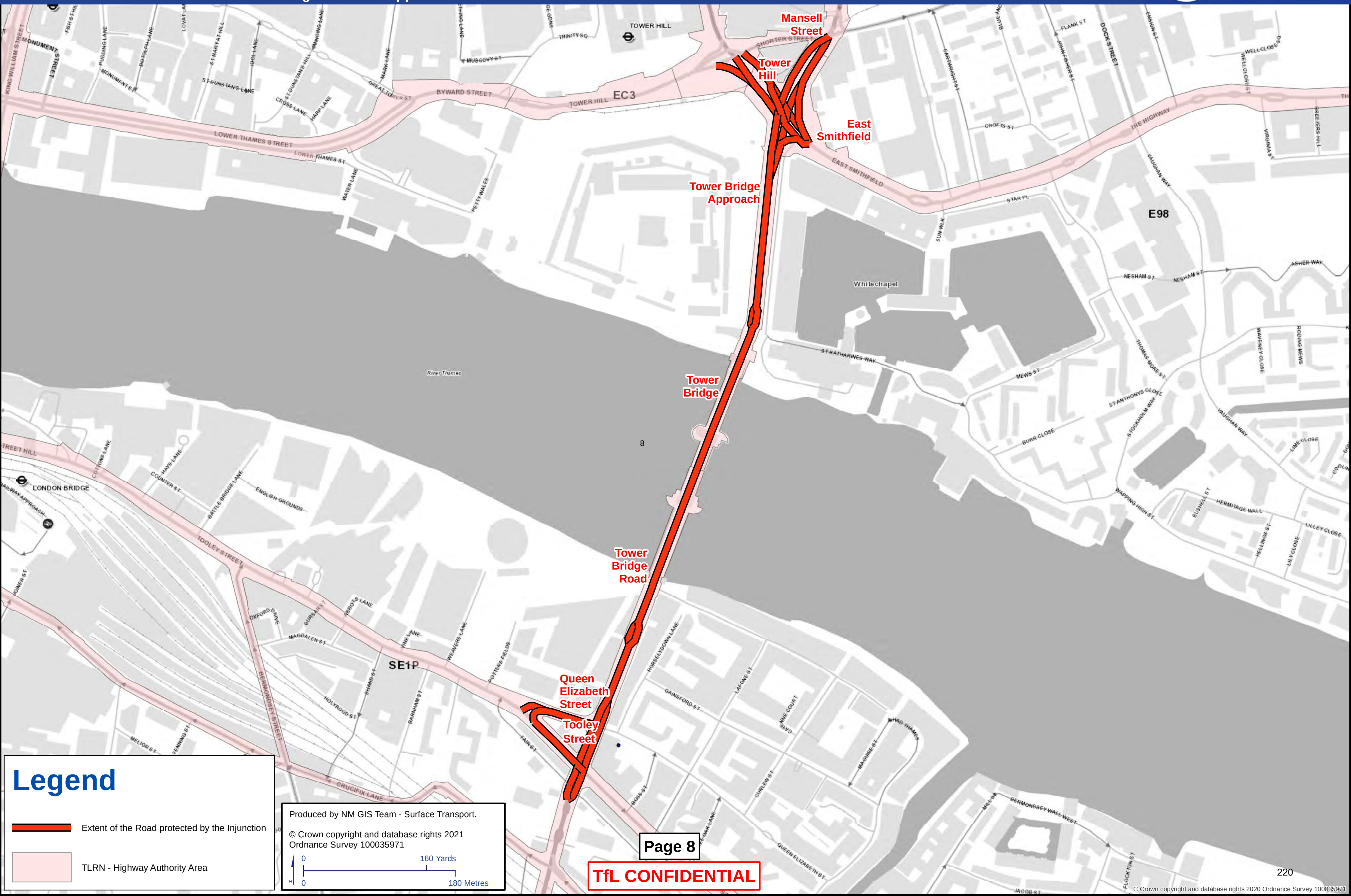
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Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Tower Bridge and both approaches



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

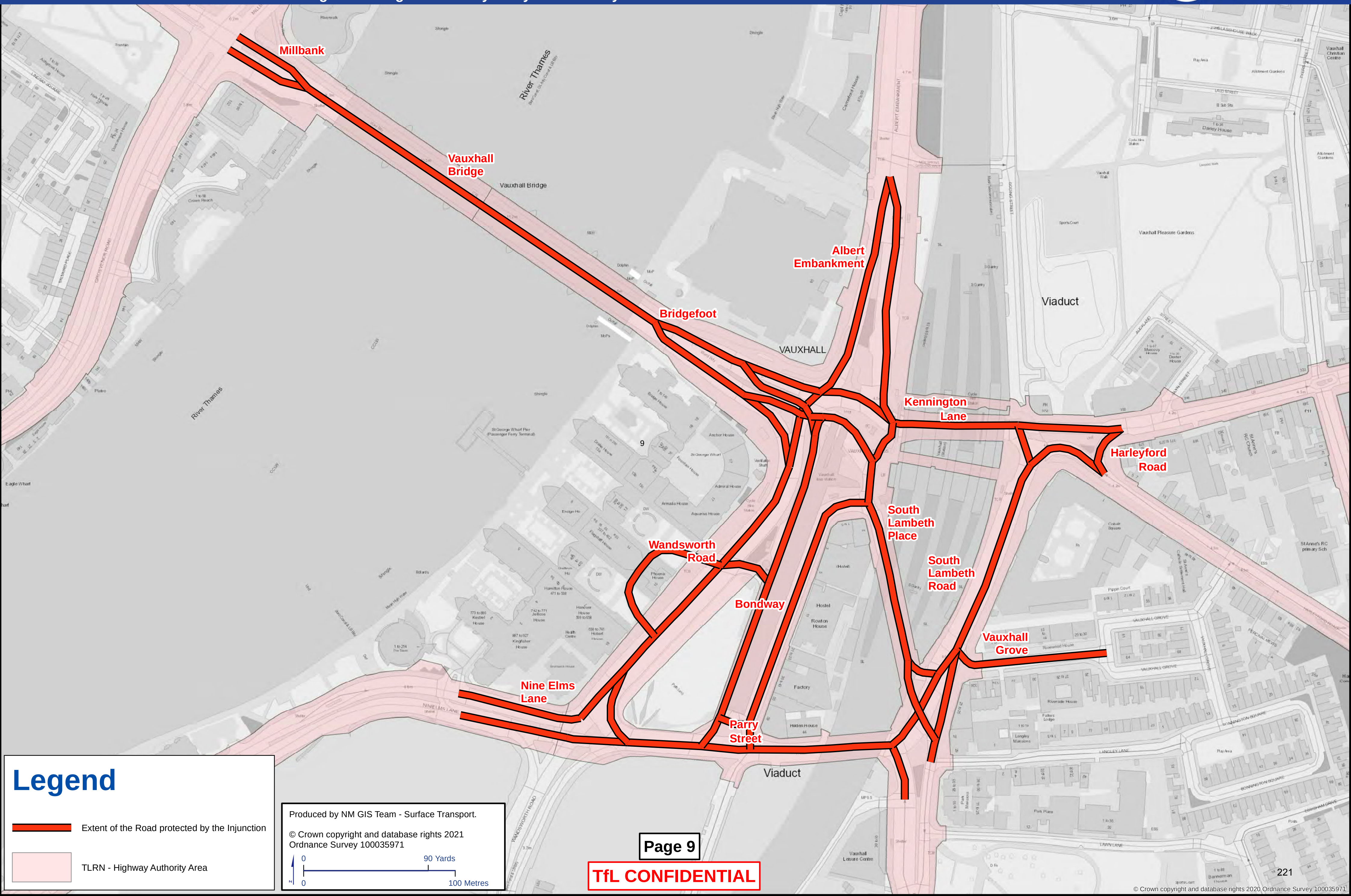
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Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Vauxhall Bridge including Vauxhall Gyratory and all entry and exit roads



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

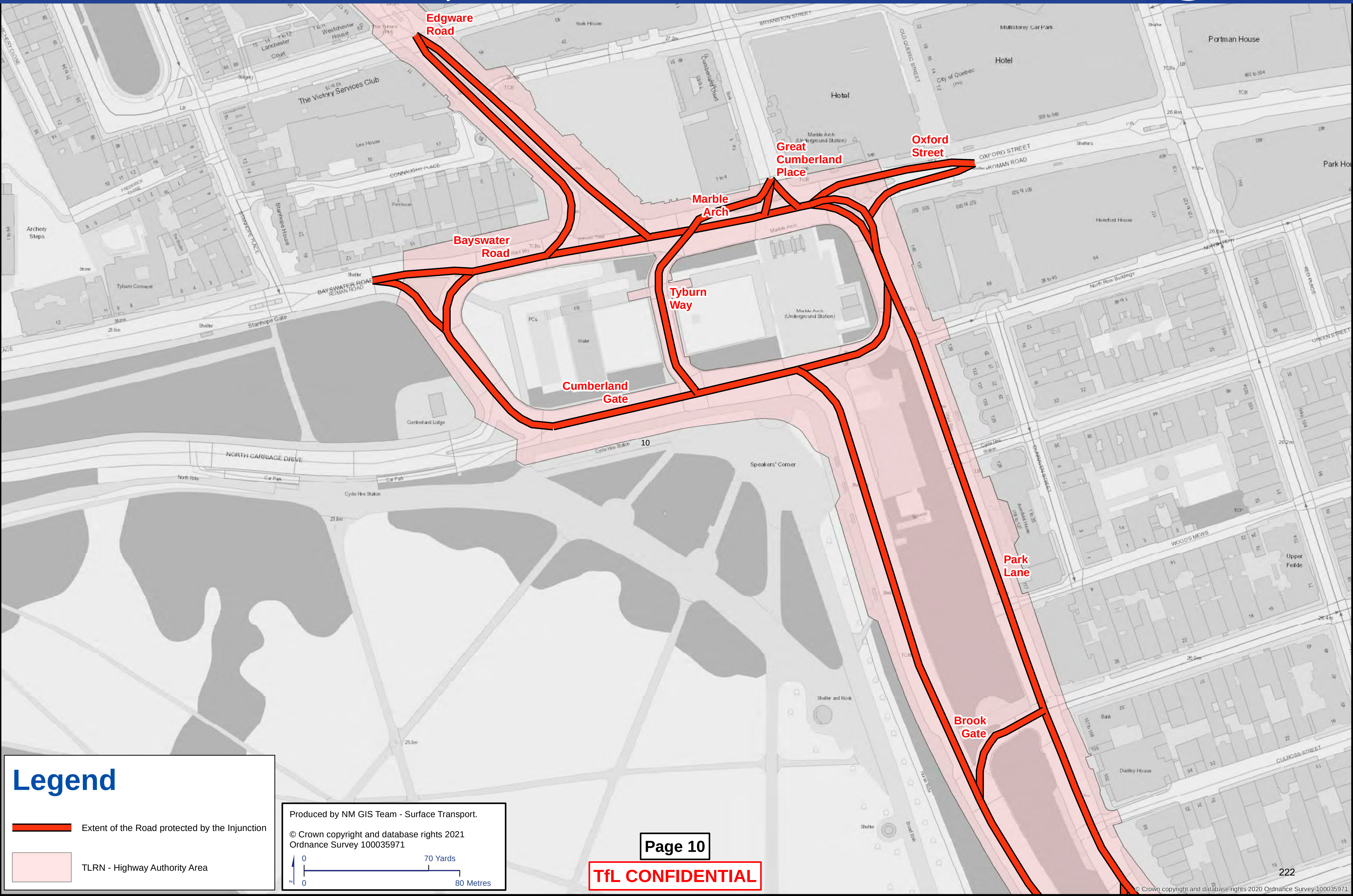
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Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Marble Arch Inclusive of all entry and exit roads



Legend

Extent of the Road protected by the Injunction

TLRN - Highway Authority Area

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0

70 Yards

80 Metres

Legend

- Extent of the Road protected by the Injunction
- TLRN - Highway Authority Area

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0 240 Yards
 0 275 Metres

Page 11

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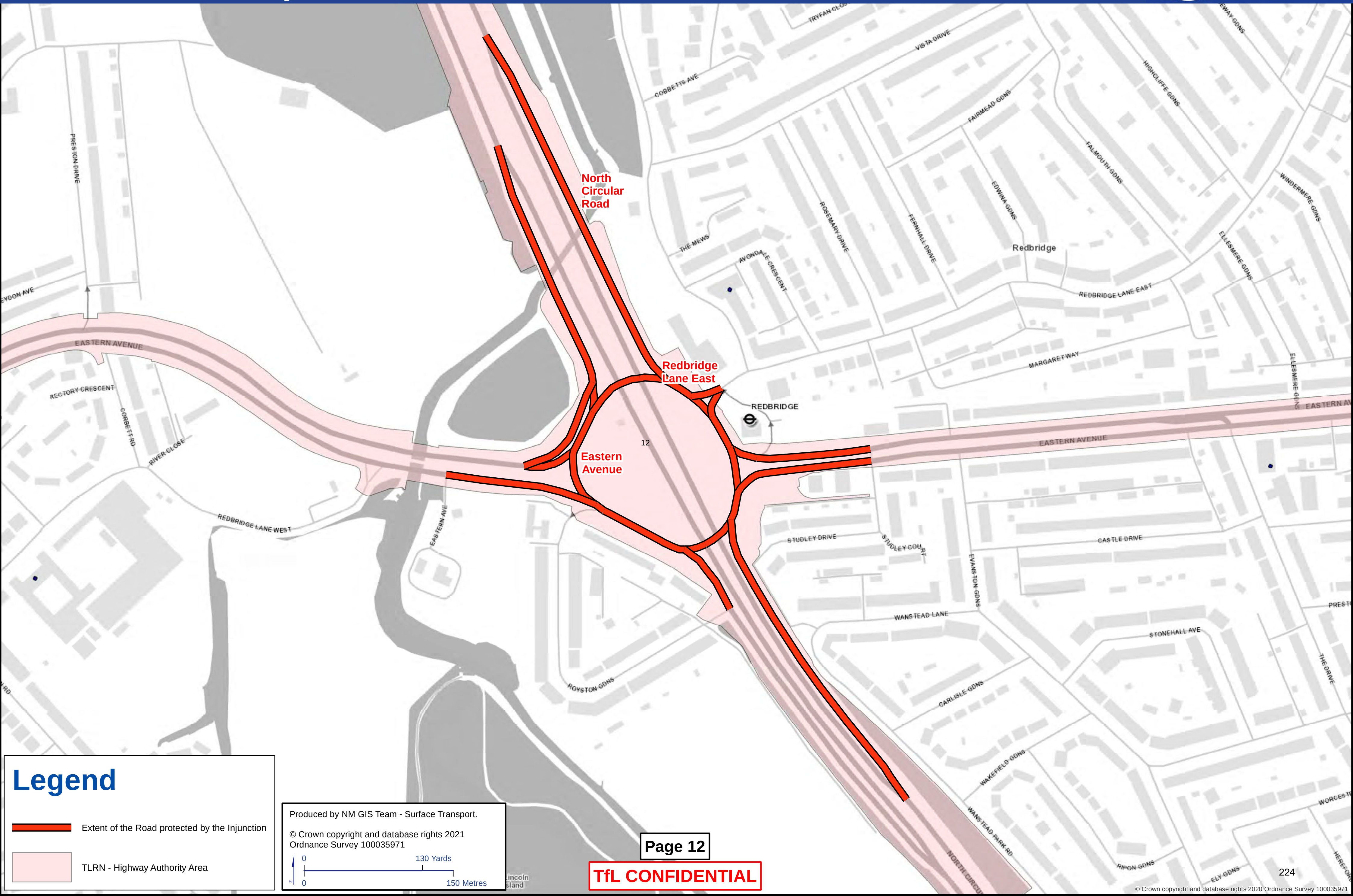
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A horizontal scale bar with a vertical line at the left end. Above the bar, the text '240 Yards' is written. Below the bar, the text '0' is at the left end and '275 Metres' is at the right end. A north arrow is located to the left of the bar, pointing upwards.

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Redbridge Roundabout



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

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0

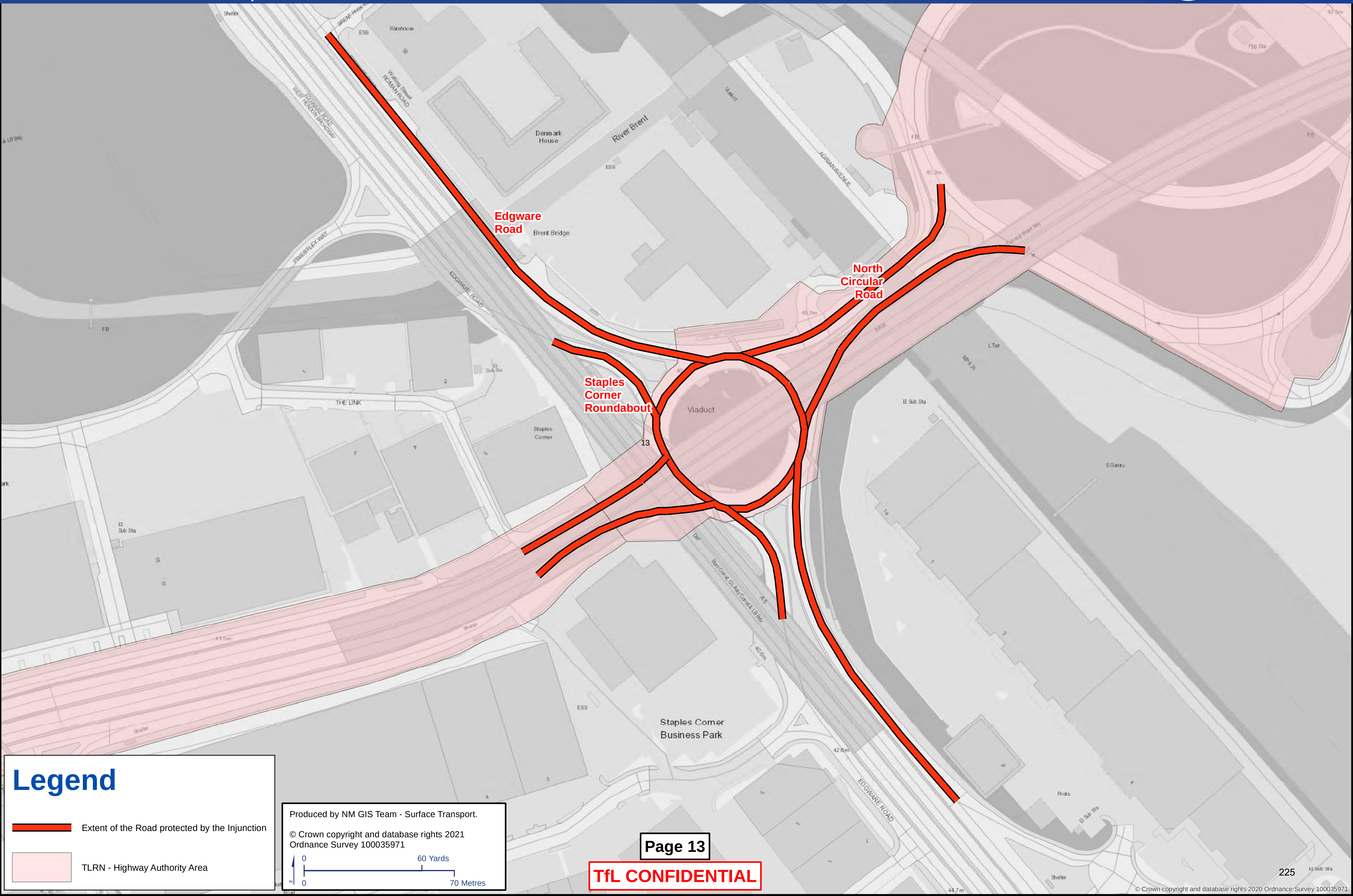
130 Yards

0

150 Metres

Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Staples Corner



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

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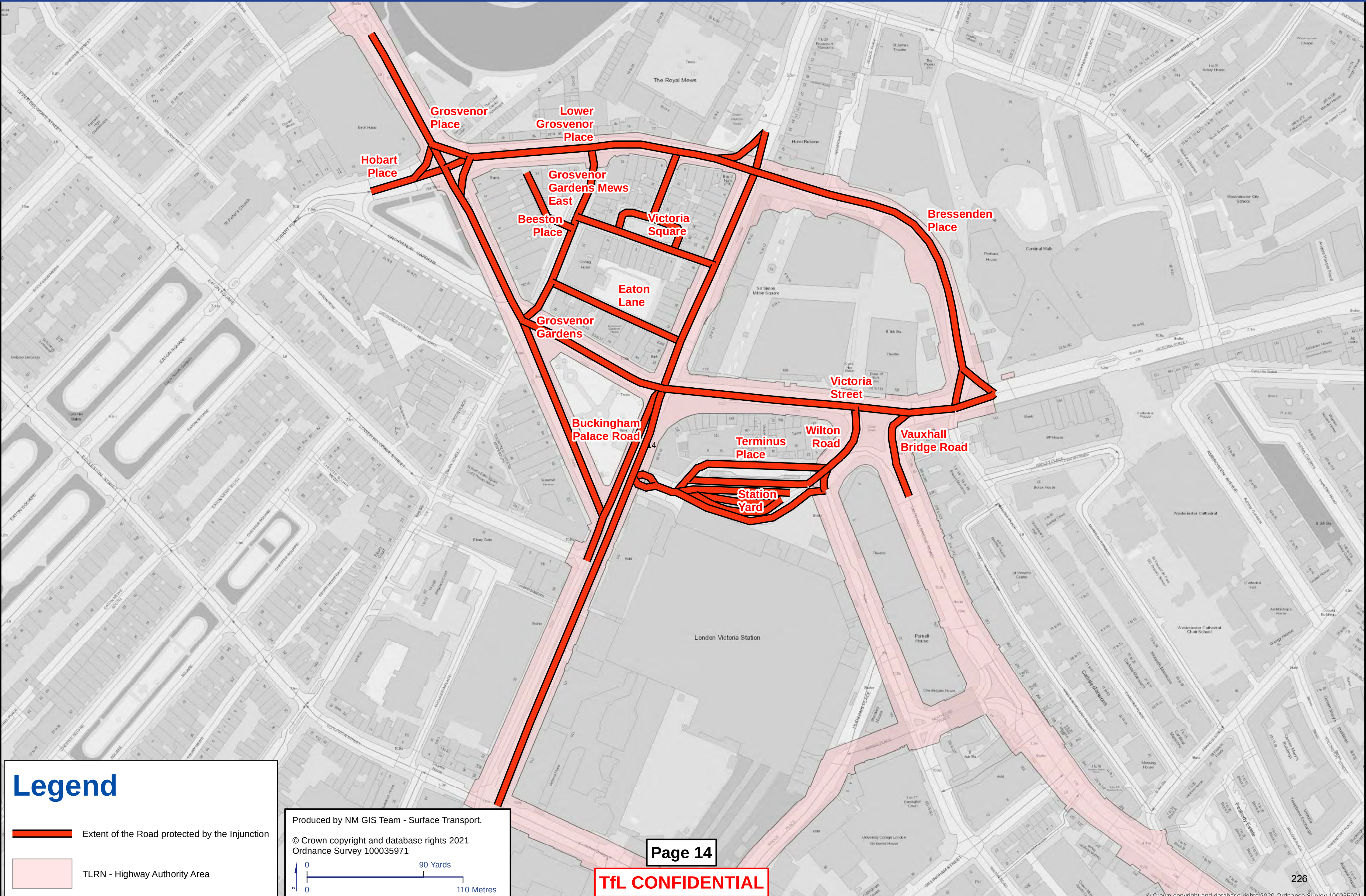
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0 60 Yards
0 70 Metres

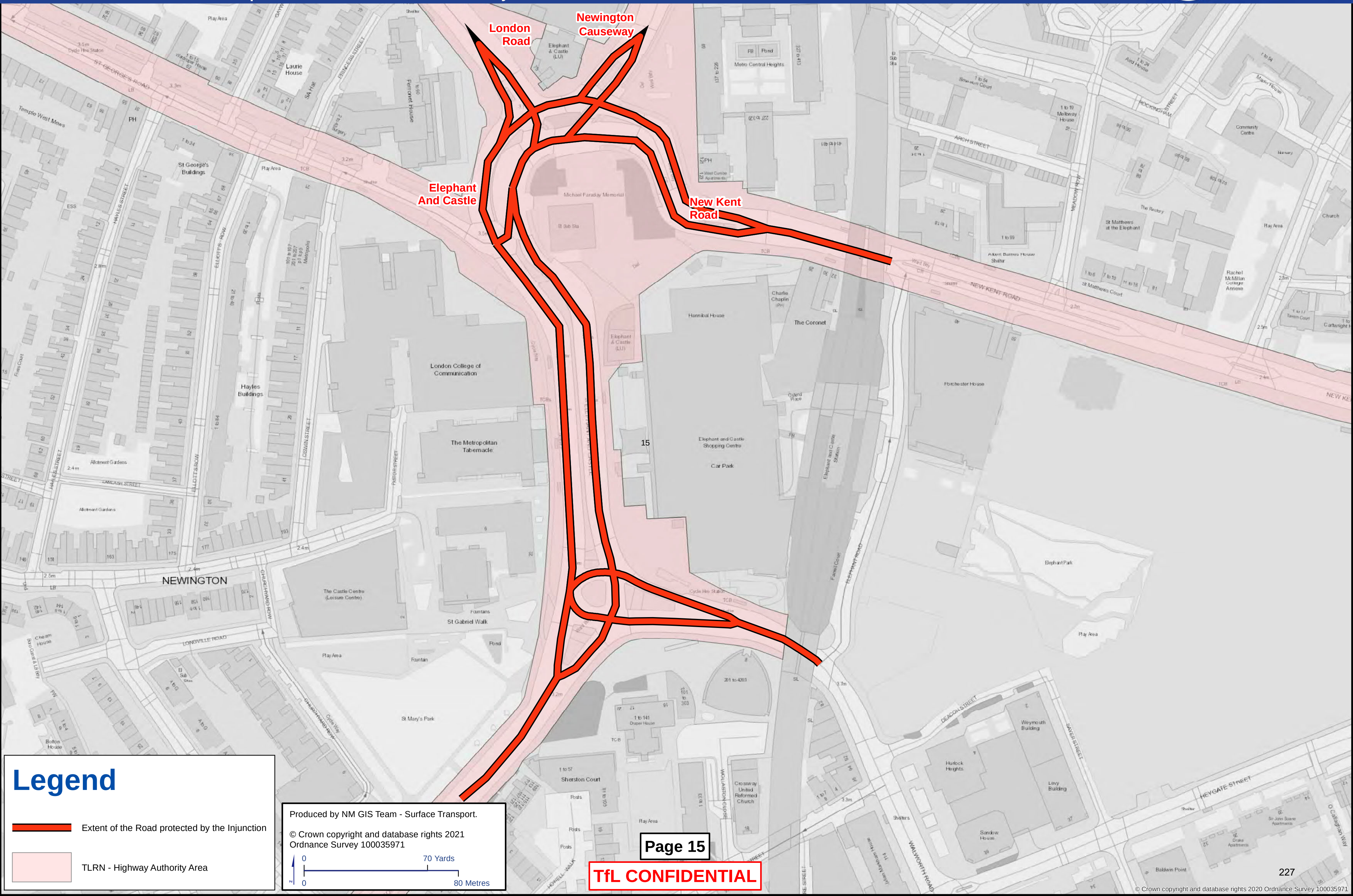
Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Victoria One Way system



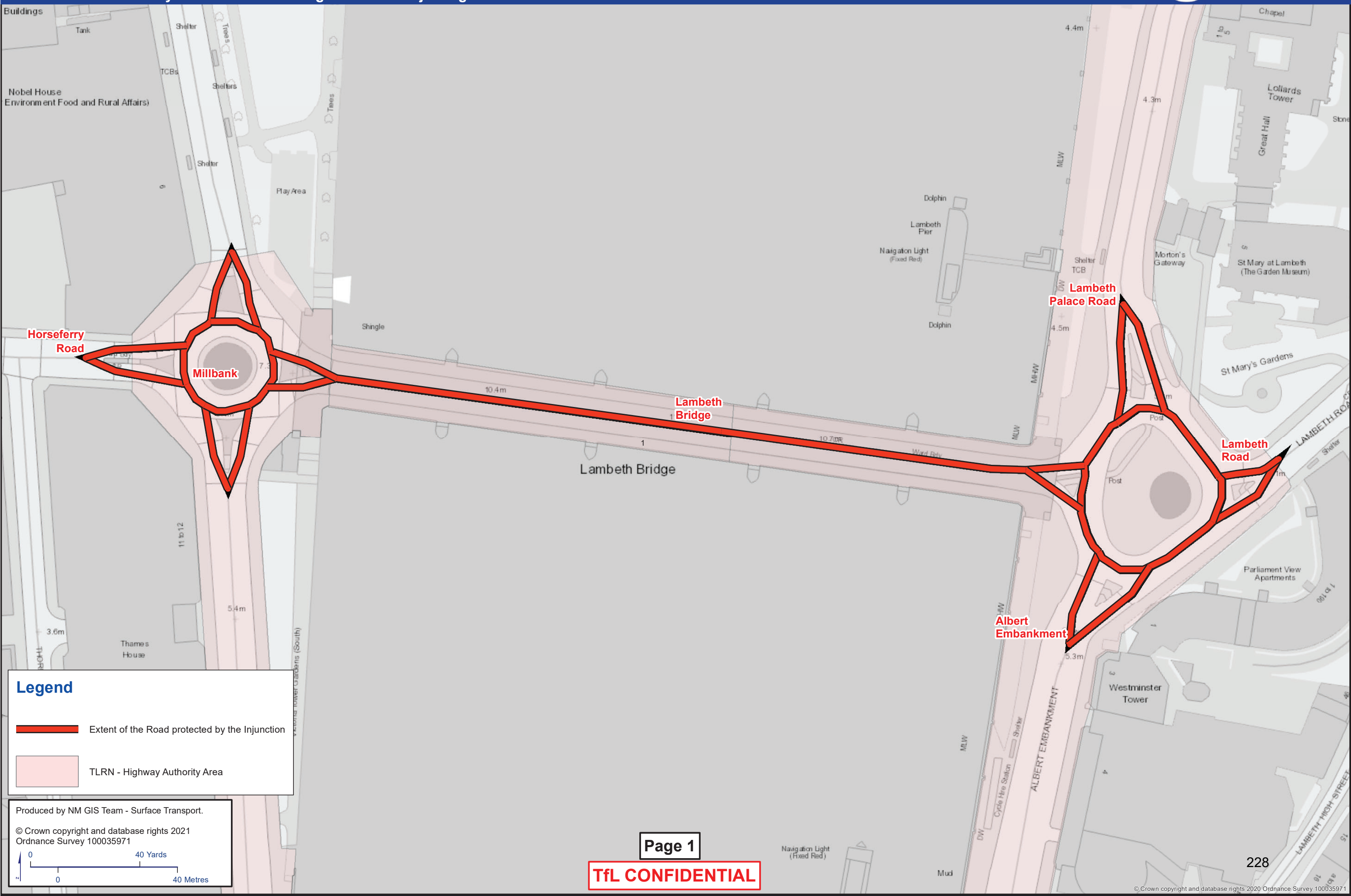
Climate Protest Injunction - Key Areas

Information as of 21 June 2022 - Elephant and Castle Inclusive of all entry and exit roads.



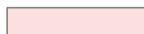
Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Lambeth Bridge and Both adjoining roundabouts



Legend

 Extent of the Road protected by the Injunction

 TLRN - Highway Authority Area

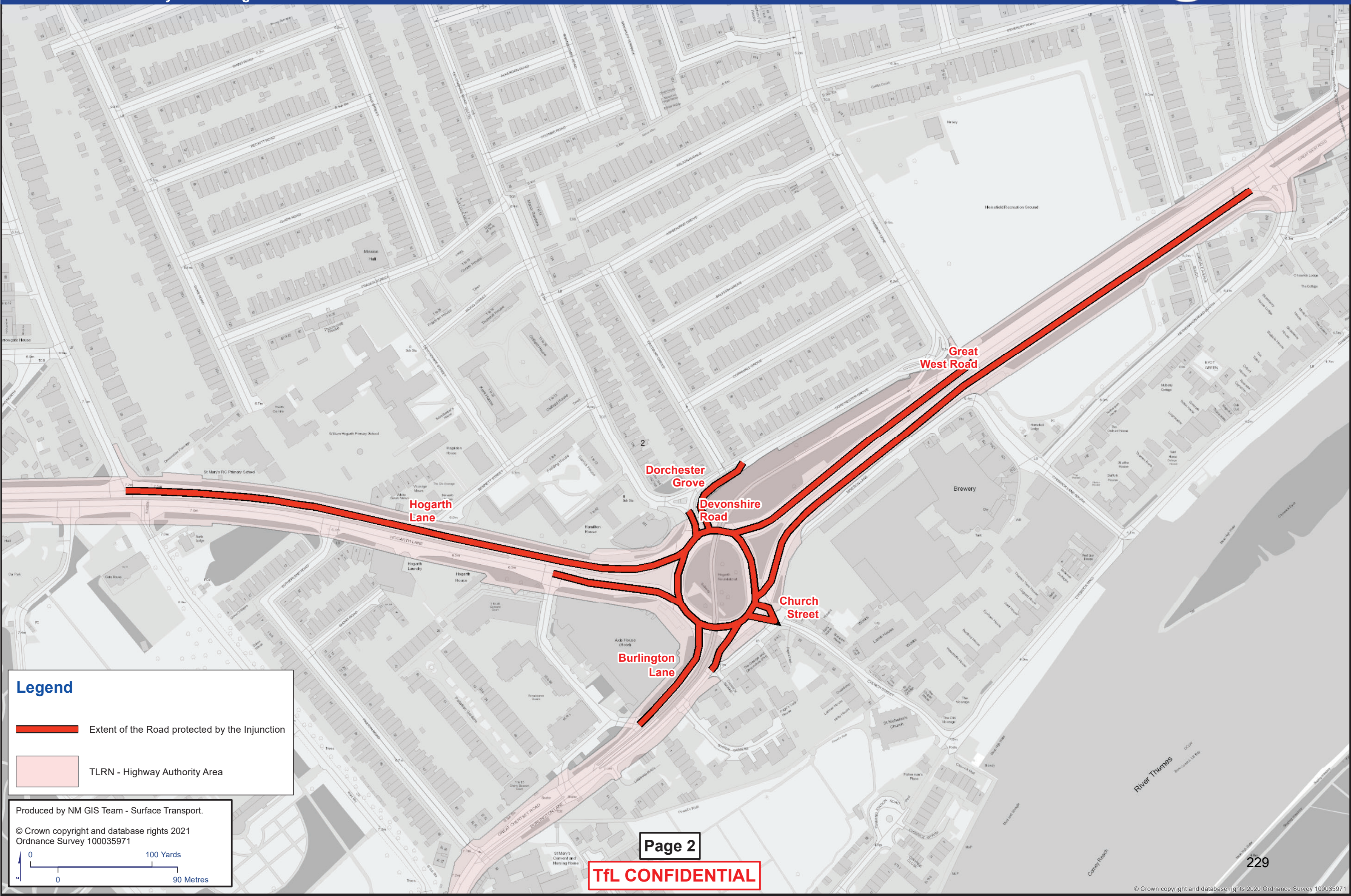
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Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Hogarth Roundabout



Legend

 Extent of the Road protected by the Injunction

 TLRN - Highway Authority Area

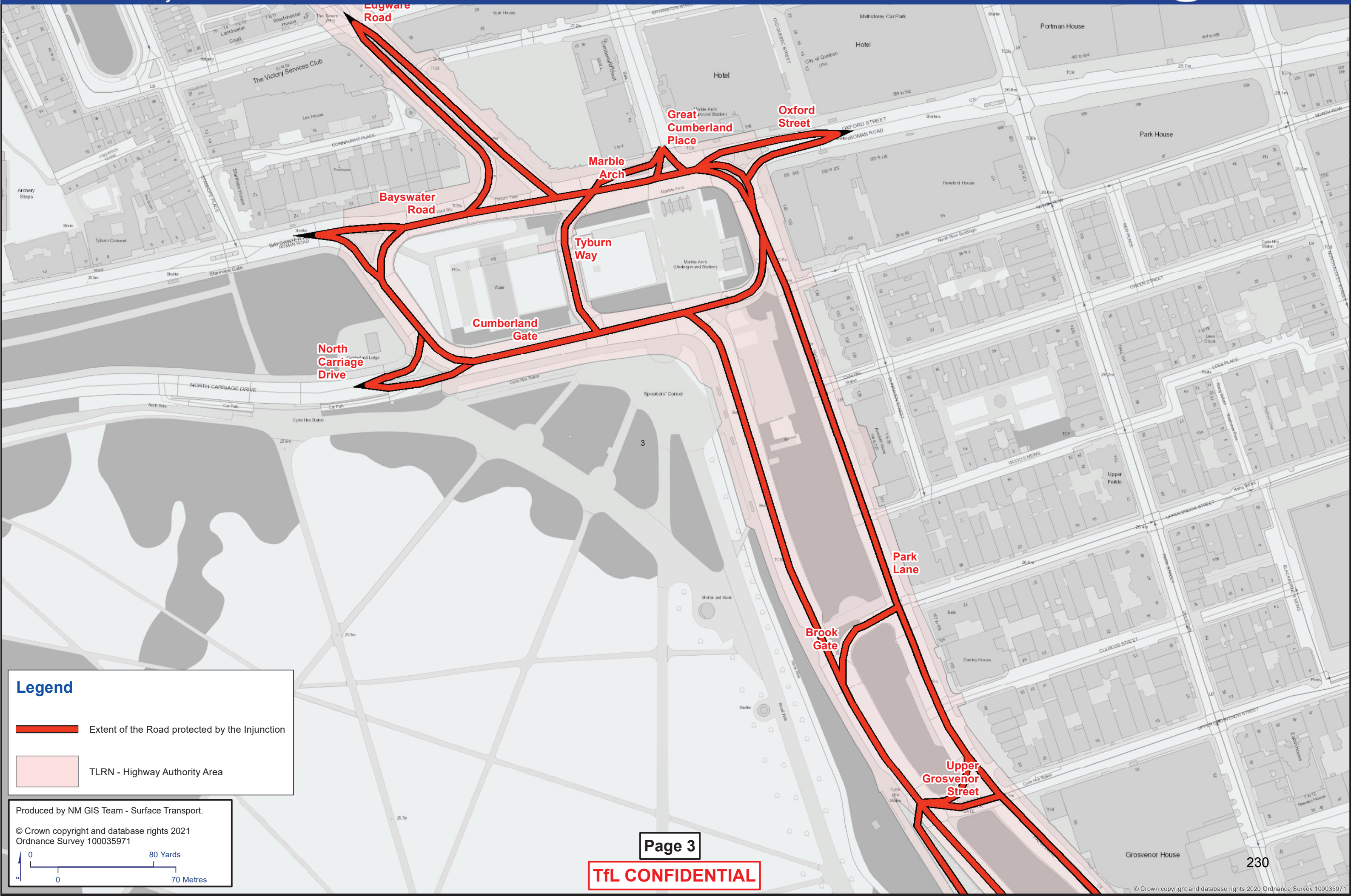
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Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Marble Arch



Legend

 Extent of the Road protected by the Injunction

 TLRN - Highway Authority Area

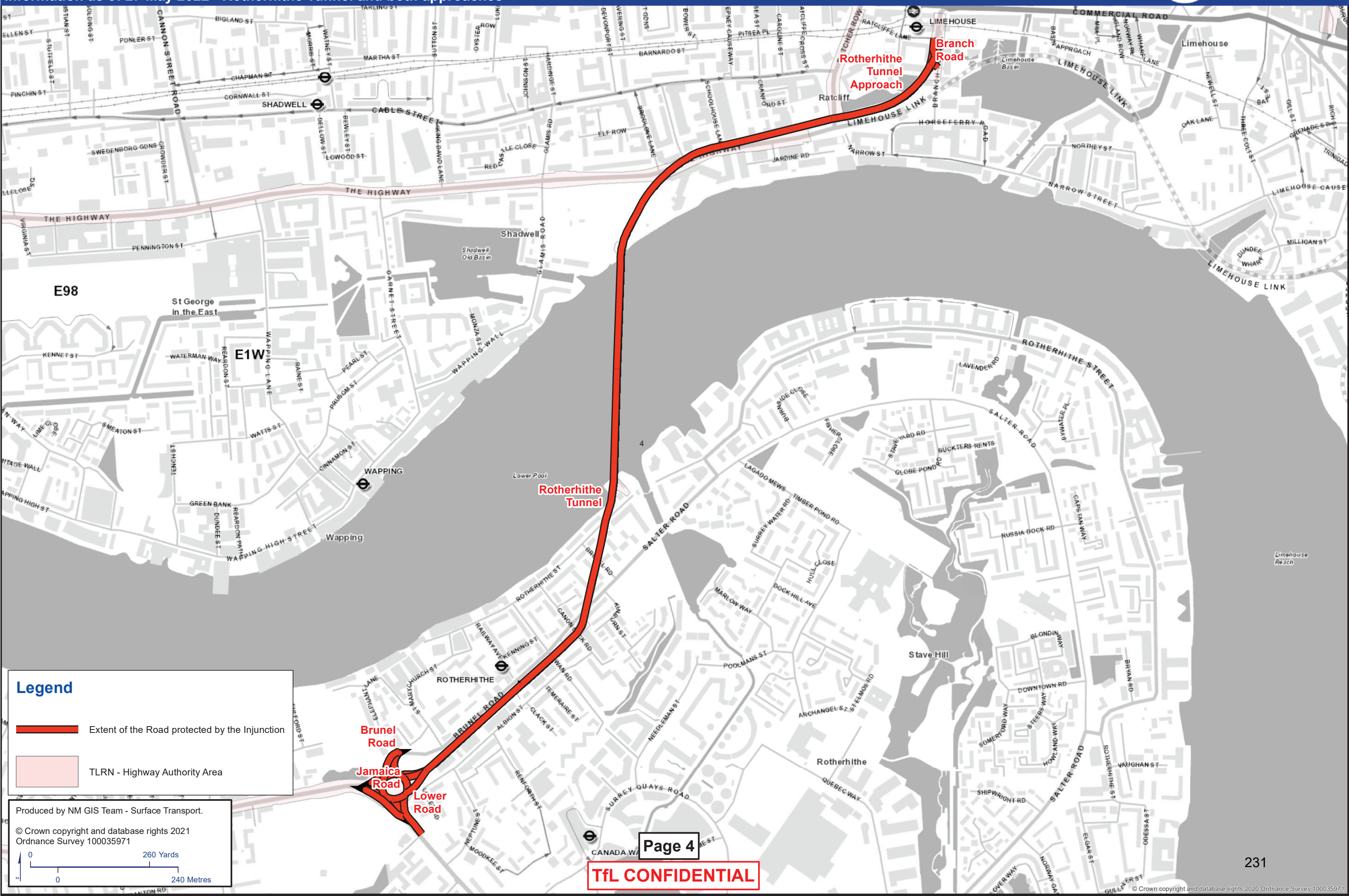
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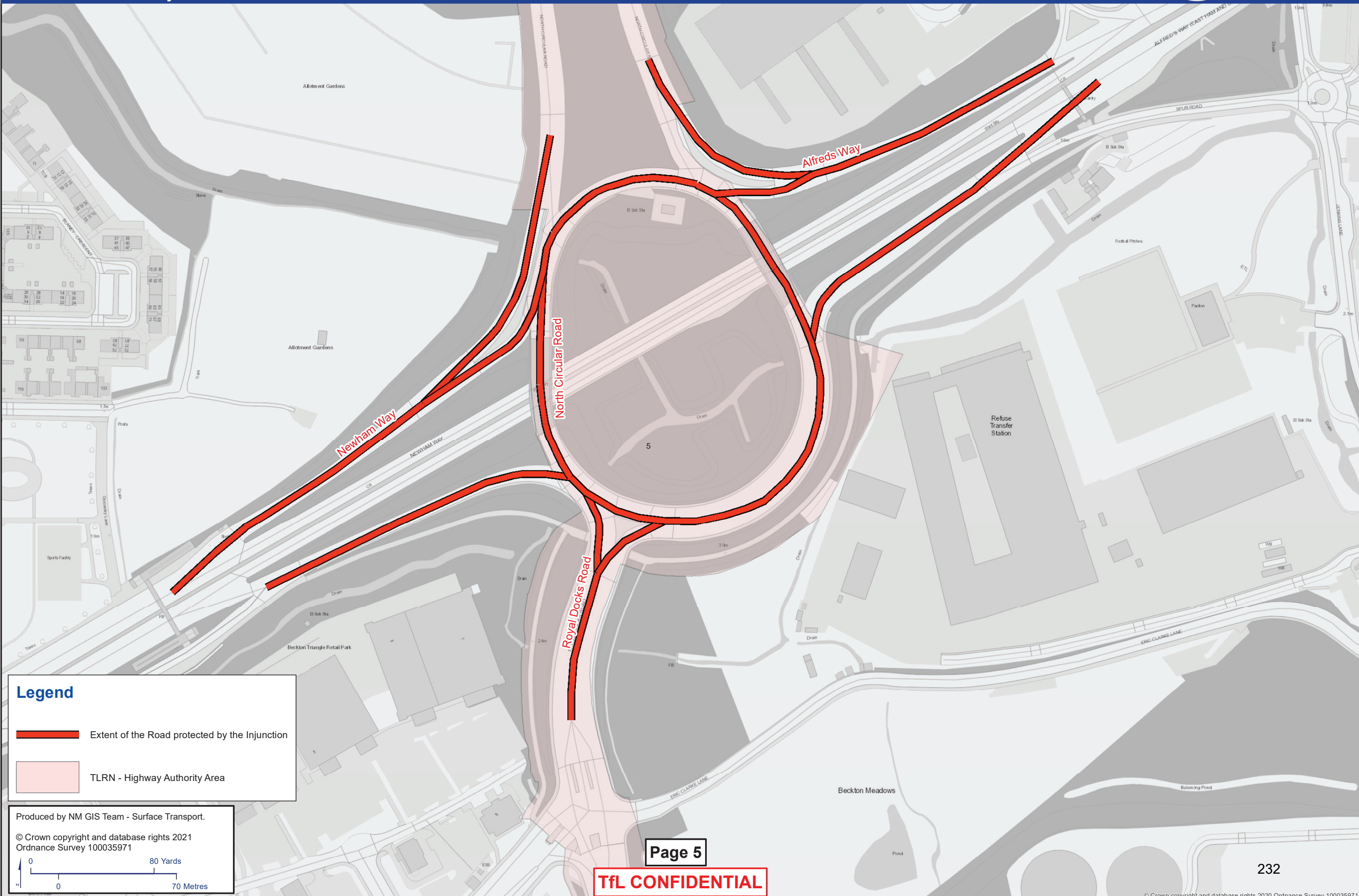
Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Rotherhithe Tunnel and both approaches



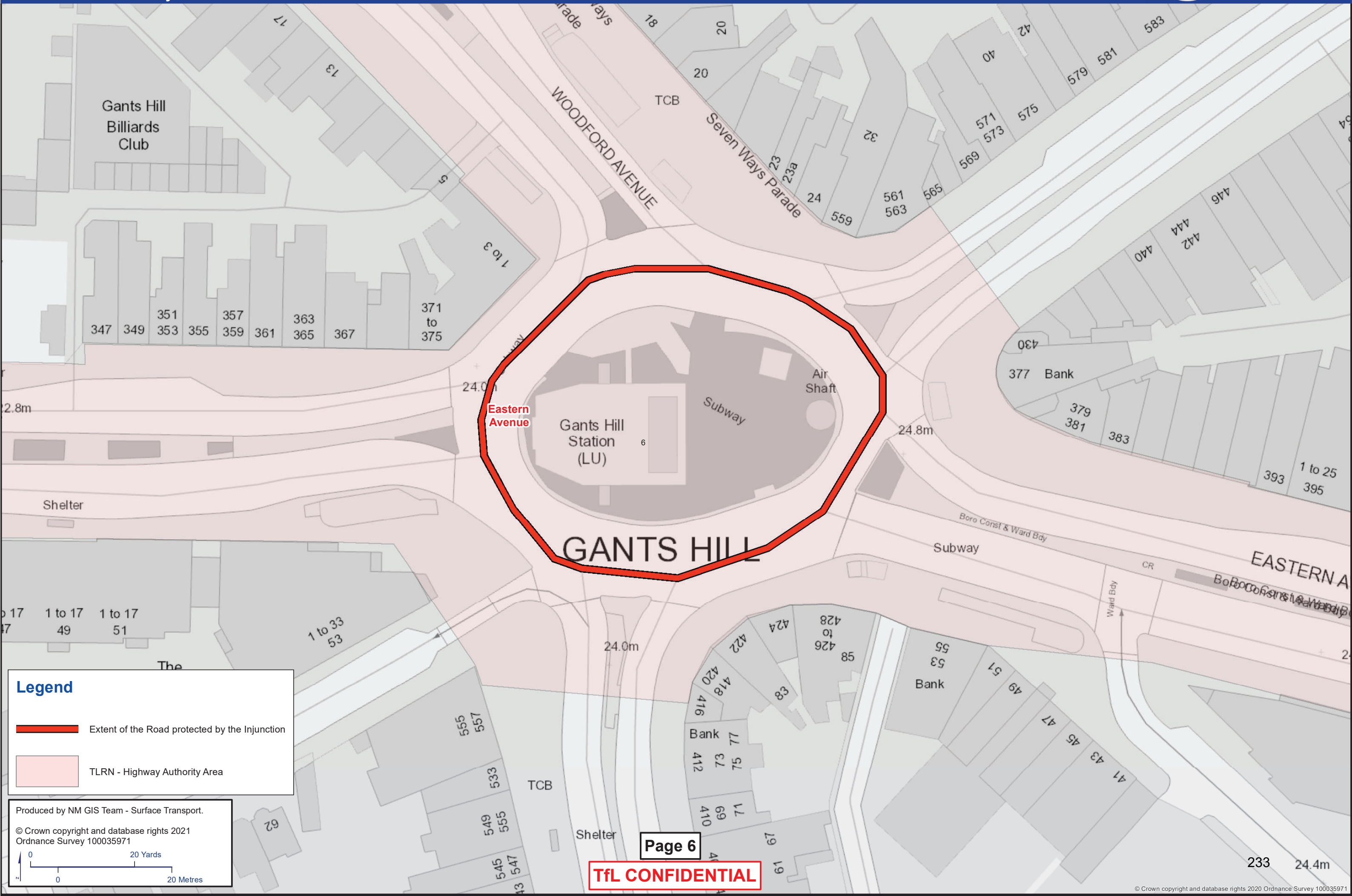
Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Beckton Roundabout



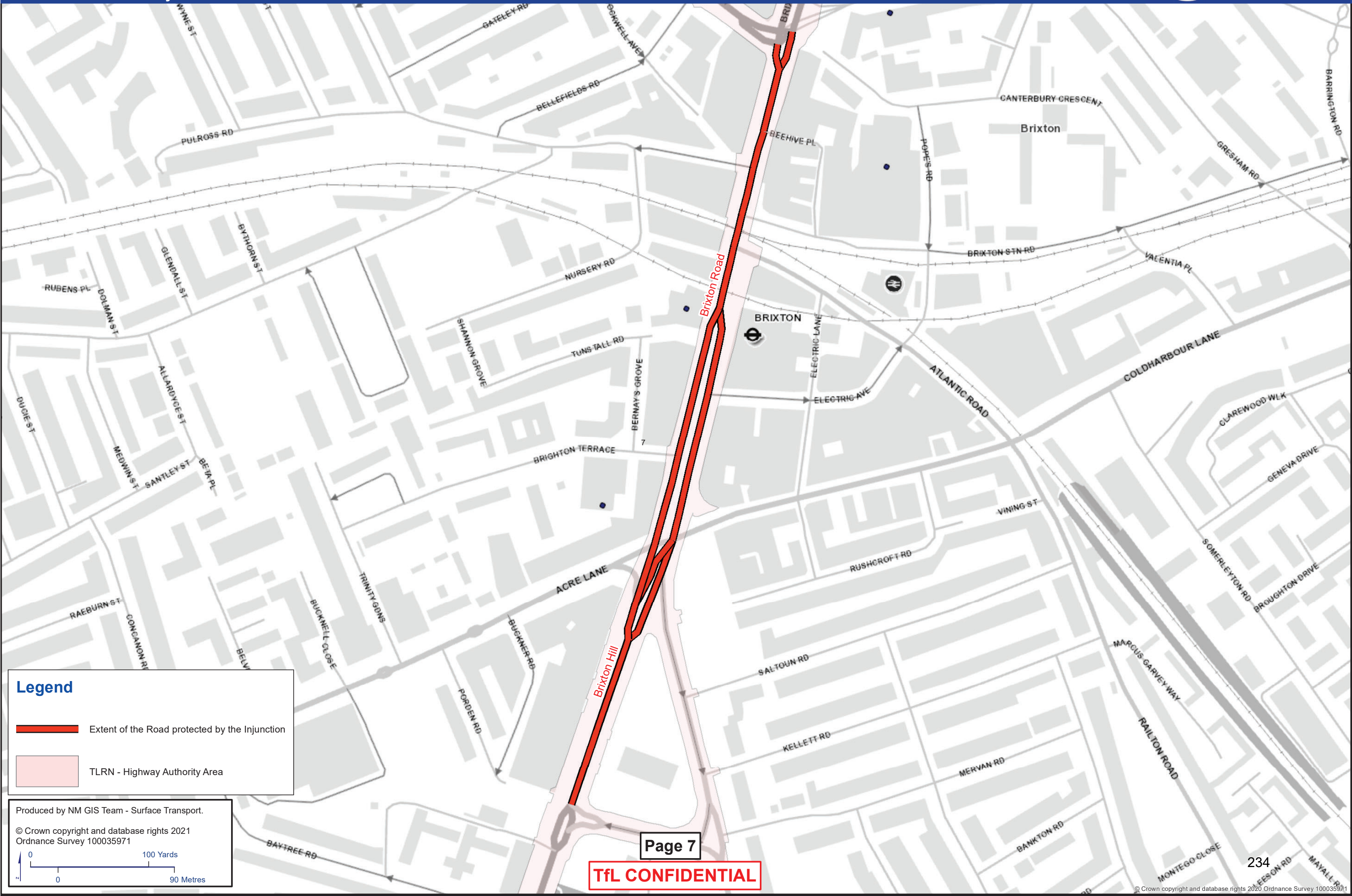
Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Gants Hill



Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Brixton



Legend

 Extent of the Road protected by the Injunction

 TLRN - Highway Authority Area

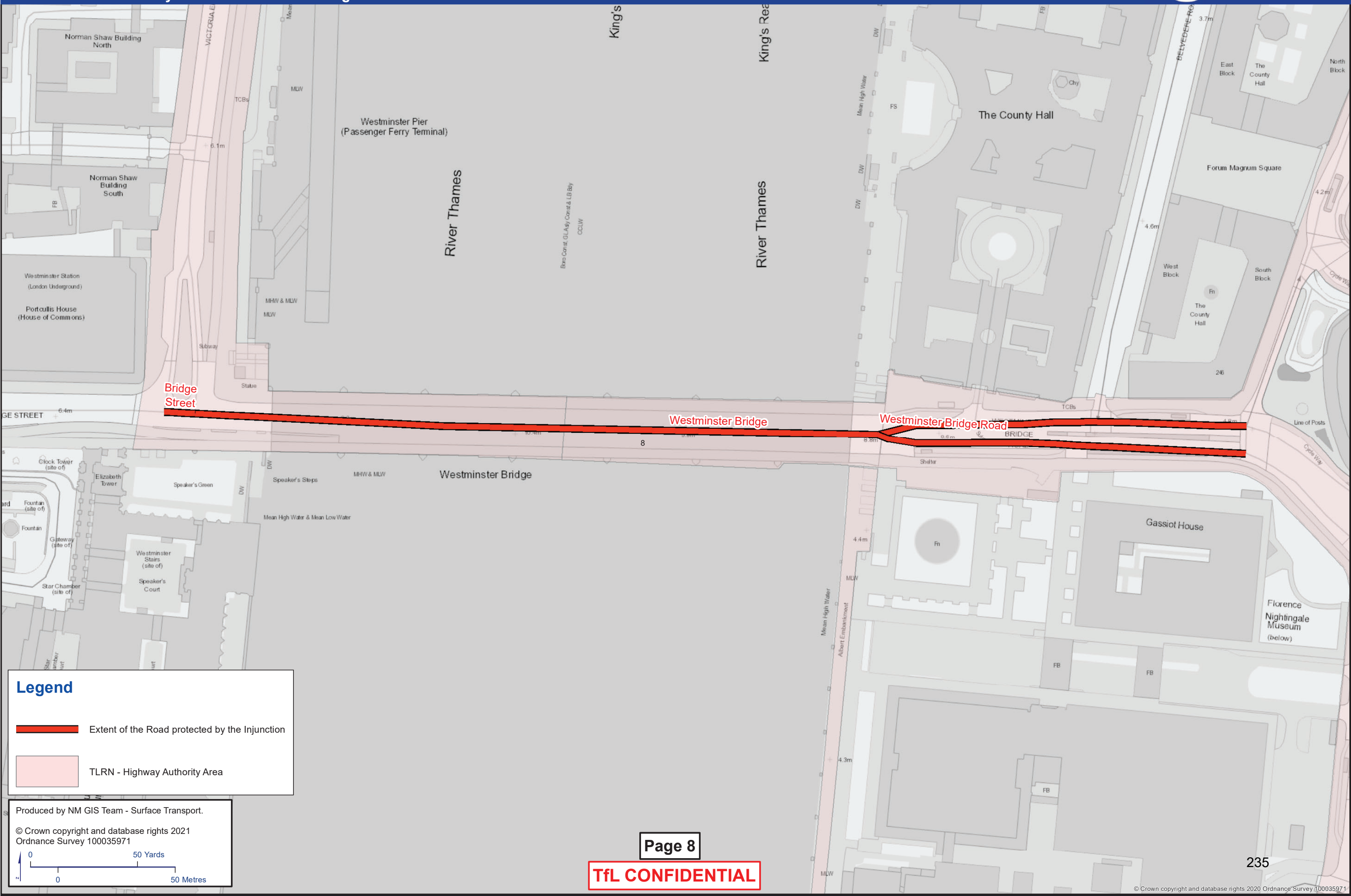
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Climate Protest Injunction - Key Areas

Information as of 27 May 2022 - Westminster Bridge



Legend

-  Extent of the Road protected by the Injunction
-  TLRN - Highway Authority Area

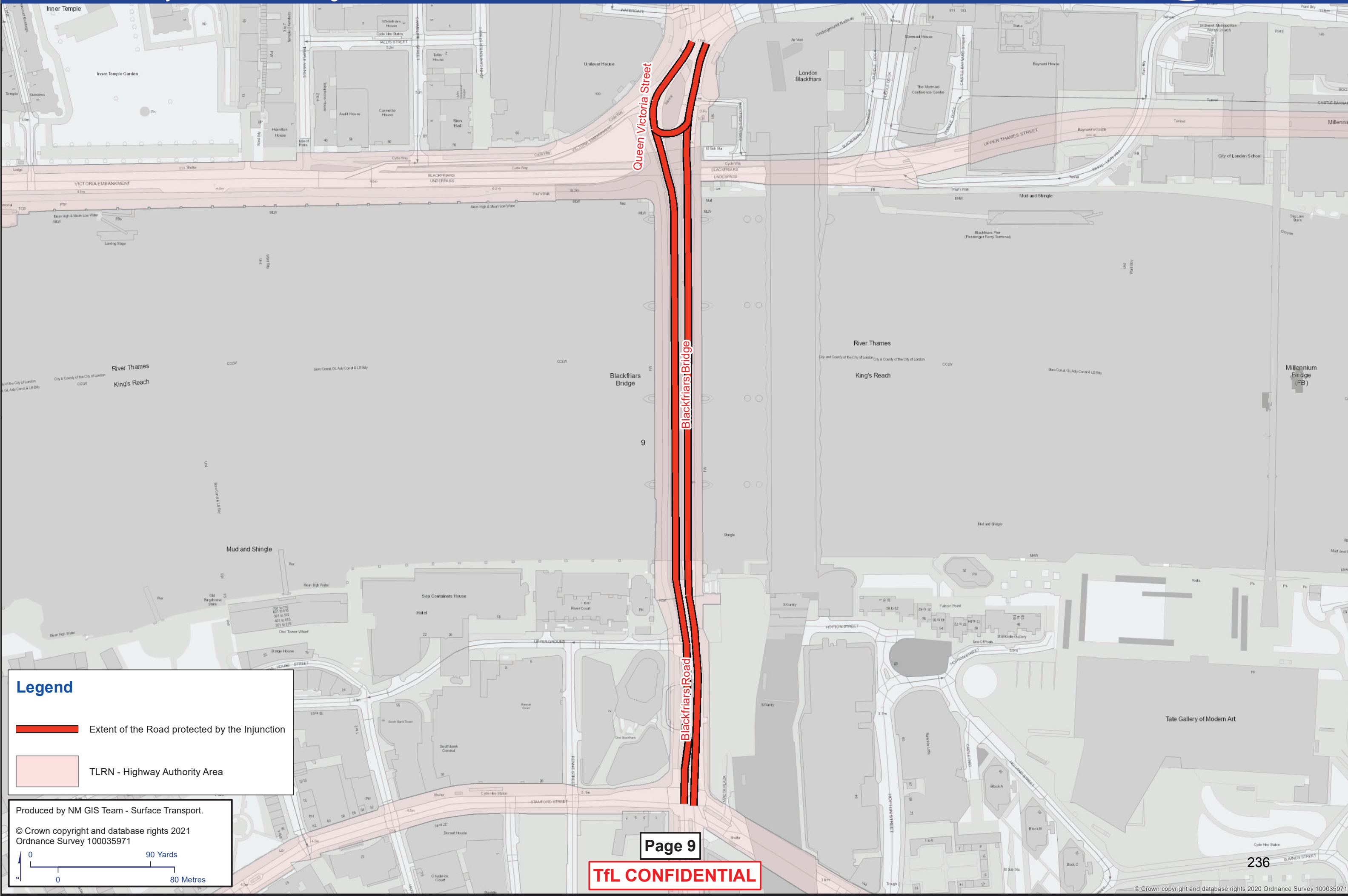
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Climate Protest Injunction - Key Areas

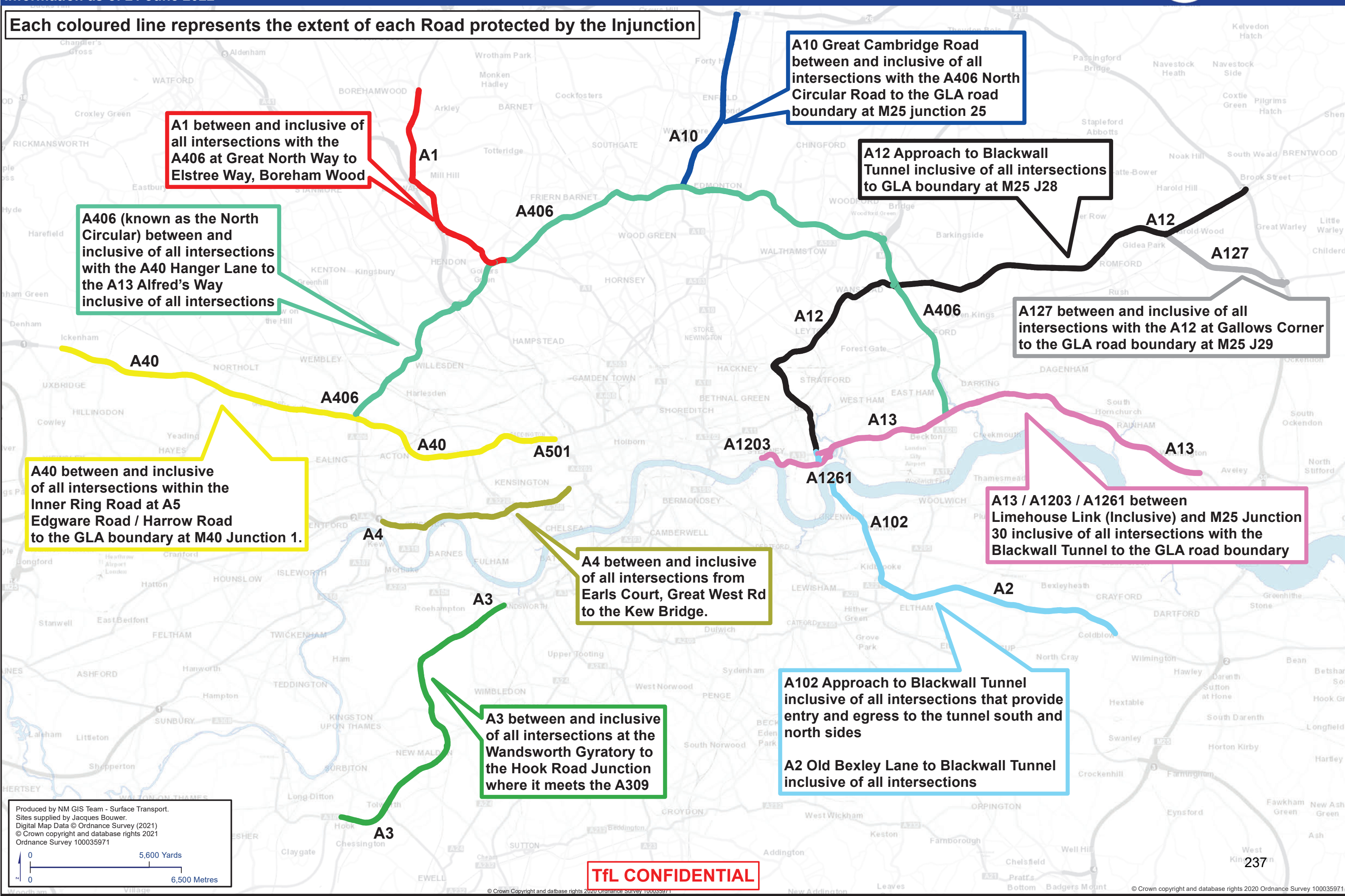
Information as of 27 May 2022 - Blackfriars Bridge



Climate Protest Injunction - Key Areas

Information as of 21 June 2022

Each coloured line represents the extent of each Road protected by the Injunction





Neutral Citation Number: [2023] EWHC 1038 (KB)

Case Nos: QB-2021-003841
and QB-2021-004122

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 3 May 2023

Before :

THE HONOURABLE MR JUSTICE MORRIS

Between:

TRANSPORT FOR LONDON
- and -
(1) PERSONS UNKNOWN
(2) MR ALEXANDER RODGER AND 137
OTHERS

Claimant

Defendants

Andrew Fraser-Urquhart KC and Charles Forrest (instructed by TfL) for the Claimant
Barry Mitchell and David Rinaldi (Named Defendants 9 and 135) attended.
No attendance by or representation for the other Defendants

Hearing dates: 29 and 30 March 2023

Approved Judgment

Mr Justice Morris :

Introduction

1. By this action Transport for London (“the Claimant”) seeks a final injunction against 129 of the 138 named defendants (“the Named Defendants”) and certain defined persons unknown (“Persons Unknown”). The Defendants, including the Persons Unknown, are supporters of, and activists connected with, “Insulate Britain” (“IB”). This is the final trial of the action.
2. The claims arise from disruptive protests on the highway since September 2021 under the auspices of IB and other affiliated groups. A very large proportion of those protests have involved protesters deliberately blocking roads by sitting down in the road, and often gluing themselves to its surface and/or “locking” themselves to each other to make their removal more time-consuming. The 129 Named Defendants are all alleged to have taken part in one or more IB protests.
3. By the final injunction, the Claimant seeks an order that prevents the blocking, for the purpose of protests, of roads and surrounding areas at 34 identified locations, referred to as the “IB Roads”. The IB Roads are a very important part of the TfL Strategic Road Network (the “GLA Roads”). GLA Roads are, broadly speaking, the most important roads in Greater London, carrying a third of London’s traffic, despite comprising only 5% of its road network length. The locations fall into two categories: first, bridges or junctions of great importance and their surrounding access roads; and secondly, certain longer protected stretches of road, such as the A4 and the North Circular Road.
4. This case is the latest in a number of similar “protest” cases which have come before this Court and the Court of Appeal. In particular, some of those cases concern protests under the auspices of a related group “Just Stop Oil” (“JSO”). In a number of those cases, written judgments have been handed down, covering issues, both legal and factual, similar to those in this case. In particular I have in mind the judgments of Bennathan J and the Court of Appeal in the case which I refer to as *NHL v IB*, reported at [2022] EWHC 1105 (QB) and [2023] EWCA Civ 182 respectively, and the judgments of Freedman J and Cavanagh J in the case which I refer to as *TfL v JSO*, reported at [2022] EWHC 3102 (KB) and [2023] EWHC 402 (KB) respectively. I also refer to the judgment of Lavender J in another NHL case dated 17 November 2021 [2021] EWHC 3081 (QB). In this judgment, I do not repeat all of the relevant factual and legal background; rather, where uncontroversial or where I agree, I cross-refer to, and adopt, certain passages in those judgments.

Summary conclusion

5. For the reasons set out in this judgment, I am satisfied that the Claimant has established its case and that it is appropriate to grant a final injunction against 129 of the Named Defendants and against Persons Unknown in the terms set out in the orders which I make today.

Brief procedural history

6. The Claimant has brought two actions, commenced, respectively, on 12 October 2021 and 8 November 2021. Interim injunctions in the two actions had already been granted

on an urgent and without notice basis, respectively, by May J on 8 October 2021 and by Jay J on 4 November 2021. At subsequent on notice hearings, these interim injunctions were extended, in some cases in varied form. On 11 October 2022 the interim injunctions which are currently in force were made by Cotter J. On the same occasion the judge ordered an expedited trial. Initially the Claimant intended to apply for summary judgment. However following the judgment of Bennathan J in *NHL v IB*, it decided to proceed instead to a final trial. That decision was made and the direction given before the Court of Appeal, more recently in February this year, granted full summary judgment in *NHL v IB*. In the course of the hearing before me, I indicated that the interim injunctions would remain in place until this judgment is handed down.

7. The final prohibitory injunction is sought against 129 Named Defendants and against Persons Unknown when acting for the purposes of protesting in the name of IB (as defined more specifically in the title to the claim). (The activities of the Named Defendants which are enjoined are not limited to them acting in the name of IB). The final order, as originally sought, was in terms very similar to the interim injunctions currently in force, and included provision both for alternative service and for third party disclosure from the Metropolitan Police. As matters developed at the hearing, the Claimant no longer seeks any order for third party disclosure: see further paragraph 62 below.
8. The Claimant's evidence for this trial comprises witness statements of Mr Abbey Ameen, the Claimant's principal in-house solicitor and Mr Glynn Barton, formerly the Claimant's Director of Network Management and now its Chief Operating Officer, both dated 27 February 2023. Each gave evidence in court verifying the contents of his statement. The former sets out at some considerable length, with extensive exhibits, detailed information about the various protest groups and the array of different proceedings brought by different parties (as set out below). He gave detailed evidence of the IB (and the JSO) protests that have taken place and of their effect, both in the London area and elsewhere, particularly around the M25. He also gave evidence of the service of documents and other steps taken to bring the proceedings to the attention of the Defendants and IB. Mr Barton's statement sets out the justification for the roads selected by the Claimant to be protected by the final injunction sought. He provides evidence as to why the IB Roads are so strategically important and why they should be protected. His evidence is that their strategic importance means that they are more likely to be targeted by IB protesters, whose intention is to cause maximum disruption and thus maximum damage is caused to other users of the highway and the wider public interest.

The Parties

The Claimant

9. The Claimant is a statutory corporation created by the Greater London Authority Act 1999. It is both the highway authority and the traffic authority for the GLA Roads. More detail of the Claimant's statutory functions, powers and duties in relation to the GLA Roads and the provisions under which it brings these proceedings are set out in Freedman J's judgment in *TfL v JSO* at §§8 and 9.
10. The Claimant makes this claim pursuant to its duties under section 130 Highways Act 1980 (power to take legal proceedings as part of performing the duty to assert and

protect the rights of the public to use and enjoy the highway) and on the basis that the conduct of the Defendants in participating in the IB protests constitutes (i) trespass, (ii) private nuisance and/or (iii) public nuisance.

The Named Defendants

11. The claim forms identify, at Annex 1, the 139 Named Defendants, each individually numbered from 1 to 139. The Named Defendants have all participated at IB protests (M25 or IB roads) or JSO protests.
12. Mr Ameen has explained in detail the steps taken to serve the Named Defendants with all relevant court documents in the course of the proceedings, following the making of earlier orders for alternative service. As regards this trial, the Named Defendants were sent, by first class post, the notice of hearing for this trial on 10 January 2023. It was also emailed to IB on 10 January 2023 and was put up on the TfL and Greater London Authority websites. In a further witness statement dated 2 April 2023, Mr Ameen has explained how all the written materials relevant to this trial were sent to the Named Defendants, including the evidence, draft final orders and skeleton argument, on dates between 28 February 2023 and 16 March 2023.
13. No defendant has acknowledged service or filed a defence. Up until the final trial, no defendant had attended any hearing in these claims since 12 November 2021; and no defendant has served any evidence or skeleton argument for this trial. However, at or leading up to this trial, four Named Defendants have made representations.
14. First, Matthew Tulley, Named Defendant 65, in advance of the hearing, offered an undertaking to the Court. In an email to Mr Ameen, he asserted that he has not breached the existing injunctions and that he has no intention of doing so. Secondly, Mr David Rinaldi, Named Defendant 135 both wrote to the Claimant and appeared on the first morning of the hearing. Thirdly, Mr Barry Mitchell, Named Defendant 9, also attended court on the first morning of the hearing. Each of these three Named Defendants has offered an undertaking in terms similar to the terms of the final injunction which I have decided to grant. Accordingly, whilst each remains a party to the claims, the final injunction is not made as against them and their names are now excluded from Annex 1 to the final injunction.
15. A fourth defendant, James Bradbury (Named Defendant 39), following notification on 10 January 2023, wrote to the Claimant on 16 January 2023, claiming that he had not blocked any TfL infrastructure and asking for clarification of the case against him. Following a rather general reply from the Claimant, he wrote again on 10 February 2023 maintaining his position and asking why his name had been added to the injunction. Following that email, the Claimant served all the trial materials on Mr Bradbury at his home address, which sets out the case against him both generally and the specific evidence against him individually. In this regard, and in response to my inquiry since the date of the hearing, Mr Ameen has provided a further witness statement dated 28 April 2023, explaining that the initial trial materials were sent to Mr Bradbury twice, by first class post on 28 February 2023 and by an email from him personally to Mr Bradbury sent on 8 March 2023 (responding in fact to Mr Bradbury's email of 16 January 2023). Mr Bradbury did not reply to that email. On 15 March 2023 further trial materials were sent by post to Mr Bradbury. He has not responded to

any of those materials sent to him. Absent any such response, I am satisfied that the final injunction is properly made against Mr Bradbury.

16. However, in relation to six Named Defendants, the Claimant seeks permission to discontinue the proceedings pursuant to CPR 38.2(2)(a)(i). In the case of five of those Defendants, the Claimant has not been able to effect service of documents upon them, due to the lack of a correct, or any, address for service. In addition, one further Defendant has, unfortunately, since died. I therefore grant permission to the Claimants to file a Notice of Discontinuance pursuant to CPR 38.3(1)(a) in respect of Named Defendants 8, 34, 91, 102, 108 and 112 and an order under CPR 6.28 dispensing with service of the Notice of Discontinuance on these six Named Defendants. I will order that the discontinuance of the proceedings against them will take effect on the date of the order of the Court; their names are thus excluded from Annex 1 to the final injunction. I will also order that these six Named Defendants will be entitled to their costs (if any).
17. In these circumstances, excluding these six Named Defendants and the two Named Defendants who appeared at the hearing, I was satisfied that it was appropriate to proceed to hear the trial in the absence of the remaining 131 Named Defendants, pursuant to CPR 39.3(1).
18. It further follows that the final injunction order is made against 129 Named Defendants as set out in Annex 1 to the order which I will make.

The Factual Background

Insulate Britain

19. Insulate Britain (IB) is an environmental activist group which takes direct protest action in furtherance of two demands: first, that the UK government immediately promises to fully fund and take responsibility for the insulation of all social housing in Britain by 2025; and secondly that the UK government immediately promises to produce within four months a legally binding national plan to fully fund and take responsibility for the full low-energy and low-carbon whole-house retrofit, with no externalised costs, of all homes in Britain by 2030 as part of a just transition to full decarbonisation of all parts of society and the economy. IB says doing so will provide warmer homes and contribute to reducing the UK's carbon emissions.
20. The Named Defendants are those who have been engaging in deliberately highly disruptive protests under the banner "Insulate Britain". All protests are peaceful. IB has repeatedly made un-retracted statements that its protests will continue until his demands are met.

Other groups: Extinction Rebellion and Just Stop Oil

21. There are two other similar groups: Extinction Rebellion and Just Stop Oil (JSO). Extinction Rebellion describes itself as an international movement that uses non-violent civil disobedience in an attempt to halt mass extinction and minimise the risk of social collapse through, inter alia, reducing greenhouse gas emissions to net zero by 2025. Extinction Rebellion has engaged in deliberately disruptive protests on, inter alia, public highways. However on 31 December 2022 it announced that it would

temporarily cease disruptive protests. IB was founded by six members of Extinction Rebellion.

22. JSO is a group, formed in December 2021, which has been demanding that the government halt all future licensing consents for the exploration, development and production of fossil fuels in the United Kingdom. There is an intersection between the groups Insulate Britain, JSO and Extinction Rebellion. In February 2022 IB joined the JSO coalition, although IB and JSO are not in formal coalition with each other. JSO has also repeatedly said that it will continue its deliberately disruptive protests until its demands are met. More detail about JSO is set out at §§19 to 21, and 23 to 26 of Freedman J's judgment in *TfL v JSO*.
23. Since September 2021, the courts have granted a number of other injunctions, similar in form to the interim injunctions granted in this case, against members and supporters of those organisations. These were obtained at the behest of other bodies, including National Highways Limited ("NHL") and HS2 Ltd. Many of the same named defendants appear in a number of the cases.

IB protests

24. Mr Ameen refers to a substantial number of IB protests. IB protests started in about September 2021. The last protest on the road solely under the IB banner was on 4 November 2021. Individual acts of IB protest took place up until April 2022. The last IB protest on the roads, as part of the JSO coalition, but retaining the IB identity took place on 12 October 2022. Mr Ameen's evidence is that the interim injunctions had been effective in reducing and/or pausing IB protests.
25. Despite this, in early 2023 IB made a public statement that it would continue with its protests, and despite the announcement from Extinction Rebellion. An article in The Guardian dated January 2023 reported as follows:

Insulate Britain and Just Stop Oil have doubled down on their commitment to disruptive climate "civil resistance" after Extinction Rebellion announced new tactics prioritising "relationships over roadblocks".

Insulate Britain said its supporters remained prepared to go to prison. "Insulate Britain supporters remain committed to civil resistance as the only appropriate and effective response to the reality of our situation in 2023," its statement said.

"In the UK right now, nurses, ambulance drivers and railway workers are on strike because they understand that public disruption is vital to demand changes that governments are not willing or are too scared to address."

26. As of 30 March 2022, 174 people had been arrested, 857 times, during IB protests on public highways. Mr Ameen's evidence is that the IB and JSO protests have been very dangerous and disruptive, creating an immediate threat to life, putting at risk the lives of those protesting, those driving on the roads and those policing the protests. At times, the protests have also caused a risk of violence between protesters and ordinary users

of the highways; in some cases force has been used to remove protesters from the highway. He gives examples of particular such incidents.

JSO protests: April 2022 onwards

27. JSO protests started in March or April 2022. These protests have, until recently, largely involved protesters blocking highways with their physical presence, normally either by sitting down or gluing themselves to the road surface. There were protests daily by JSO between 1 October and 31 October 2022. During that period, there were, on a daily basis, large scale protests at key areas of largely the central London road system. On many occasions, JSO have been reported as saying that they will not cease their protests until their demands are met and that they will not be discouraged from doing so by injunctions from the court. The protests on roads in London have continued, even after interim injunctions were made and served. More detail of these JSO protests is set out at §§27 and 28 of Freedman J’s judgment in *TfL v JSO*. Since November 2022 there have been further JSO protests, including a new tactic of “slow marches”, as explained by §13 of Cavanagh J’s judgment.

Other proceedings

The Claimant and GLA Roads: proceedings in relation to JSO

28. In addition to the current proceedings, in October 2022 the Claimant commenced proceedings in respect of JSO protests, *TfL v JSO*, and was granted an urgent without notice interim injunction against certain named defendants and persons unknown in connection with protests which involved JSO protesters sitting down in and blocking GLA Roads. This injunction was continued, on notice, on 31 October 2022 by Freedman J and again by Cavanagh J on 24 February 2023, who at the same time directed an expedited final trial and made an order under CPR 31.22. These are the judgments referred to at paragraph 4 above.
29. There is a large overlap between the defendants named in the *TfL v JSO* injunctions and the Defendants in this case. Of the 138 Named Defendants in this case, 65 are also named defendants in the *TfL v JSO* claim. As regards those 65 individuals the injunctions sought in this case and those granted (and now applied for) in *TfL v JSO* have precisely the same effect, since, in their case, the prohibition is not limited by reference to the banner under which any protest might take place. It follows that the final injunction against the Named Defendants in this case will also cover their participation in any future JSO protests on the IB Roads.

National Highways Limited and the M25 (SRN): IB and JSO

30. NHL has also obtained injunctions in respect of major parts of The Strategic Road Network, namely the M25 and feeder roads on to the M25. NHL initially obtained interim injunctions, and has now obtained a final anticipatory injunction against IB protesters – in part from Bennathan J on 9 May 2022 and then more extensively from the Court of Appeal recently on 14 March 2023. The judgments in this case are referred to in paragraph 4 above. Since autumn of 2022, NHL also has an ongoing claim against

JSO protesters protecting structures on the M25 such as overhead gantries. On 21 November 2022 Soole J granted an interim injunction in respect of such JSO protests.

The Issues

31. I consider the position of the Named Defendants and Persons Unknown in turn. The issues that fall for consideration are as follows
- (1) *The Named Defendants*: whether the Court should grant a final injunction in the terms sought against the remaining Named Defendants. This involves consideration, in particular, of the following:
 - the Claimant's underlying causes of action, in general;
 - the conditions for the grant of a final anticipatory prohibitory final injunction, in general;
 - the position under Articles 10 and 11 European Convention of Human Rights ("ECHR").
 - (2) *Persons Unknown*: whether the Court should grant a final injunction in the terms sought against Persons Unknown. This involves, additionally, consideration of the provision for alternative service and briefly, the now withdrawn application for a third party disclosure order. The three orders (as originally sought) - an injunction against Persons Unknown, an order for alternative service and a third party disclosure order – are closely interrelated. In general and in practice, to date, the Claimant (and others) have sought and obtained injunctions against persons unknown and at the same time obtained a direction for alternative service and third party disclosure orders against the police in order to identify persons hitherto unknown who had taken part in protests. Once the identity of those protesters was then disclosed, the Claimant was then able to serve the protesters with the relevant court documents, through the provision for alternative service.

(1) The grant of a final injunction against the Named Defendants

The relevant legal principles

The causes of action

32. In the present case, the Claimant's case is that its rights are or will be infringed by the Defendants committing one or more of the torts of trespass, public nuisance and private nuisance. The relevant principles applicable to each of these torts, particularly in the context of protests on the highway, are set out by Bennathan J in *NHL v IB* at §§28 to 31. See also *High Speed Two (HS2) Ltd v Persons Unknown* [2022] EWHC 2360 (KB) ("*HS2*") at §§74, 77-79, 84-90.
33. Trespass to land is the commission of an intentional act which results in the immediate and direct entry onto land in the possession of another without justification. If land is subject to a public right of way or similar, a person who unlawfully uses the land for any purpose other than that of exercising the right to which it is subject is a trespasser. However the public have a right of reasonable use of the highway which may include

protest. A protest involving obstructing the highway may be lawful by reason of Articles 10 and 11 ECHR.

34. Private nuisance is any continuous activity or state of affairs causing a substantial and unreasonable interference with a claimant's land or his use or enjoyment of that land. In the case of an easement, such as a right of way, there must be a substantial interference with the enjoyment of it.
35. A public nuisance is one which inflicts damage, injury, or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of its operation (*HS2* at §84). The position in relation to an obstruction of the highway for the purposes of public nuisance is stated in *Halsbury's Laws* Vol 55 (2019) at §354: (a) a nuisance with reference to a highway has been defined as 'any wrongful act or omission upon or near a highway, whereby the public are prevented from freely, safely and conveniently passing along it'; (b) whether an obstruction amounts to a nuisance is a question of fact; (c) an obstruction is caused where the highway is rendered impassable or more difficult to pass along by reason of some physical obstacle; but an obstruction may be so inappreciable or so temporary as not to amount to a nuisance; (d) generally, it is a nuisance to interfere with any part of the highway; and (e) it is not a defence to show that, although the act complained of is a nuisance with regard to the highway, it is in other respects beneficial to the public.

The requirements for a final anticipatory injunction

36. The Claimant seeks a final anticipatory (also referred to as a precautionary or *quia timet*) prohibitory injunction against the Named Defendants. To grant such an order the Court must be satisfied that (1) there is a strong probability that the defendants will imminently act to infringe the claimant's rights and (2) the ensuing harm would be so grave and irreparable that damages would be an inadequate remedy: see *Vastint Leeds BV v Persons Unknown* [2018] EWHC 2456 (Ch) at §31(3)-(4). There is no requirement for the Claimant to prove that its rights have already been infringed; but only that there is a real and imminent risk that they will be infringed: *NHL v IB* (CA) at §§37-39 and 19. The question here therefore is whether there is a real and imminent risk that one or more of the three torts will be committed by the Defendants.

Articles 10 and 11 ECHR

37. A protest which obstructs the highway may be lawful by reason of Articles 10 and 11 ECHR. (Articles 10 and 11 ECHR are set out at §34 of Freedman J's judgment in *TfL v JSO*). If so, this provides a defence to the alleged torts of trespass (and private and public nuisance). The relevant principles are derived from *DPP v Ziegler* [2021] UKSC 23 approving *City of London Corp v Samede* [2012] EWCA Civ 160 at §§38-44. In summary, the issues which arise under Articles 10 and 11 require consideration of the following five questions:

- (1) Is what the defendant did in exercise of one of the rights in Articles 10 or 11?
- (2) If so, is there an interference by a public authority with that right?
- (3) If there is an interference, is it prescribed by law?

- (4) If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of Article 10 or Article 11?
 - (5) If so, is the interference ‘necessary in a democratic society’ so that a fair balance was struck between the legitimate aim and the requirements of freedom of expression and freedom of assembly?
38. Question (5) is the requirement of “proportionality” – a fact-specific inquiry which requires evaluation of the circumstances in the individual case. Question (5) in turn requires consideration of four sub-questions as follows:
- (1) Is the aim sufficiently important to justify interference with a fundamental right?
 - (2) Is there a rational connection between the means chosen and the aim in view?
 - (3) Are there less restrictive/intrusive alternative means available to achieve that aim?
 - (4) Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?

As regards sub-question (4), a non-exhaustive list of relevant factors is set out in *DPP v Ziegler* at §§59, 61, 70-78, 81-86 and 116.

Application to the facts of this case

39. I turn to apply these legal principles to the facts of this case.

The causes of action: the torts

40. On the evidence before me I am satisfied that, subject to the considerations arising under Articles 10 and 11 ECHR, the conduct, both in the past and threatened in the future, of the Defendants in protesting on the IB Roads by deliberately blocking and obstructing those roads, *prima facie* constitutes the torts of trespass, private nuisance and public nuisance. As to trespass, the protesters directly enter on to land in the possession of the Claimant and use the land for a purpose other than exercising a public right of way; whether they are justifiably exercising a right to protest turns upon the application of Articles 10 and 11. Secondly, as to private nuisance the protests causes a substantial and unreasonable interference with the enjoyment and exercise of the rights of way of other road users. Thirdly, as to public nuisance, as a result of the protests, the public are prevented from freely, safely and conveniently passing along the IB Roads (the highway); the protests deliberately cause a physical obstacle on the IB Roads rendering them impassable or more difficult to pass along. I consider in paragraphs 44 and 45 below, whether, nevertheless, the protests are lawful under Articles 10 and 11.

Requirements for grant of final anticipatory injunction

41. First, I am satisfied that, on the facts here, that there is a real and imminent risk of further protests (on the part of the Defendants) and that, subject to the Article 10 and 11 issues, those protests will infringe the Claimant’s rights. The evidence of Mr Ameen demonstrates that the Named Defendants have repeatedly, deliberately and over a long

period carried out those protests in order to cause the maximum disruption to the Claimants and the public. IB has repeatedly stated that they will continue to protest and that they will not be discouraged by injunctions. Further the fact that, apart from those Defendants referred to in paragraphs 14 and 15 above, none of the Named Defendants has sought to engage with the proceedings suggests that there is no arguable defence to the Claimant's claim including its claim for a final anticipatory injunction; see *NHL v IB* (CA) at §§40 and 41. The final injunction sought *in relation to the Named Defendants* is not limited to protesting under the IB banner; it applies to them individually protesting under whatever banner they choose.

42. I have considered whether the fact that the last protest solely under the IB banner took place in November 2021 (and last joint protest in October 2022) affects my assessment of whether there is a real and imminent risk of further future IB protests on the IB Roads, such that an anticipatory injunction is not justified. I have concluded that nevertheless there is such a real and imminent risk. First, IB itself (and expressly in contrast to the position of Extinction Rebellion) continues to state that it will continue its protests and has so stated recently (see paragraph 25 above). Secondly, I accept that the level of IB protests since November 2021 is likely to have been affected by a combination of the effect of the interim injunctions granted in this case and colder weather in the winter months. It follows that in the summer months the prospect of protest activity is likely to increase. Moreover if no final injunction were to be granted, then the chilling effect of the court injunctions to date would be removed, increasing the risk of the resumption of protests. Thirdly, if no final injunction were to be granted in respect of protests under the IB banner, then, it might well be that the recent switch from protests under the IB banner to protests under the JSO banner would be reversed, not least because of the more recent imposition of interim injunctions in the *TfL v JSO* case. (I note that in *NHL v IB* both Bennathan J and CA granted injunctions “against IB”, despite the fact that, by that time, the transition from IB to JSO had occurred). Finally, in the case of the Named Defendants, since the final injunction will apply to them, regardless of the banner under which they protest, I take account of the fact that JSO protests have been continuing and of JSO's recent statements of intent. This is particularly relevant in the case of the 65 Named Defendants who are also defendants in the *TfL v JSO* case.
43. Secondly, I am satisfied and find that the ensuing harm from further protests at IB Roads will be grave and irreparable. As demonstrated by the evidence relating to past protests, the deliberate blocking of roads so that vehicles of all types cannot pass would cause serious disruption to many people, risk to life and of violence, economic harm, nuisance and the diversion of public resources. Damages would be an inadequate remedy for such harm, in the light of the matters to which I have referred; first, because much of it will be unquantifiable; secondly because the Claimant could not recover for losses sustained by others; and thirdly, the Defendants would be unlikely to be able to pay such damages as might be quantifiable.

Articles 10 and 11 ECHR

44. In the present case the answers to the first four questions set out in paragraph 37 above are as follows:
 - (1) By participating in IB protests on the public highway, the Defendants have been, and will be, exercising their rights to freedom of expression and freedom of

assembly in Articles 10 and 11 ECHR respectively: see Lavender J at §31(1) and Freedman J in *TfL v JSO* at §39.

- (2) The grant of a final injunction would be an interference with those Article 10 and 11 rights.
 - (3) Any such interference is prescribed by law i.e. by the power contained in section 37 Senior Courts Act 1981, the case law which govern the exercise of that power and the Claimant's duties as a highway and traffic authority under section 130 Highways Act 1980: see Lavender J at §31(3) and *HS2* at §200.
 - (4) The interference is in pursuit of a legitimate aim, namely the protection of the rights and freedoms of others, such as other lawful highway users (under Article 11(2)) and in the interests of public safety and the prevention of disorder on the IB roads (under Articles 10(2) and 11(2)).
45. Turning then to question (5) - whether the interference is "necessary in a democratic society" - and each of the four sub-questions in paragraph 38 above, I find as follows:
- (1) The aims of preventing the obstruction of the public using the important IB roads and preventing the violence and danger which occur when this is jeopardised are sufficiently important to justify the interference with the Defendants' rights. The evidence is that the IB protests have caused considerable disruption and a risk to safety (see paragraph 26 above).
 - (2) There is a rational connection between the means chosen (final injunctive relief) and the aim in view. The aim is to allow road users to exercise their right to use the road system and final injunctive relief would prohibit the deliberate obstruction of the IB Roads by protesters which prevents or hinders the exercise of that right. The grant of interim injunctions in this case and in other cases has been successful to date in reducing such deliberately obstructive protests on the highways: see paragraph 24 above.
 - (3) There are no less restrictive or alternative means to achieve these aims than a final injunction in the form sought. Damages would not prevent any further protests, for the reasons given in paragraph 43 above. Prosecutions for offences involved in protests can only be brought after the event and in any case are not a sufficient deterrent because IB (and JSO) protesters have said they protest in full knowledge of and regardless of this risk and many have returned to the roads multiple times having been arrested, bailed, prosecuted, and convicted. Other traditional security methods such as guarding or fencing of IB Roads are wholly impractical for resource and logistical reasons. Recent changes to the law in the form of the Policing, Crime, Sentencing and Courts Act 2022, which came into force in May and June 2022, have not changed the approach of protesters.
 - (4) Finally, as to sub-question (4) I find that making a final injunction strikes "a fair balance between the rights of the individual and the general interest of the community, including the rights of others". Applying the factors enumerated in *Ziegler*, the factors favouring the grant of the final injunction include the ten points referred to by Freedman J in *NHL v JSO* at §§43 to 51. Whilst in that case his findings were directed towards JSO protests, I am satisfied that they apply

with equal force to past and future IB protests. As regards the fourth point made by Freedman J (intention to block the highway), in the present cases, the locations of the IB protests have varied widely across London and have been chosen with a view to causing maximum disruption. Further a final injunction relating to the IB Roads does not prevent the Defendants from continuing to express their views at another location or near to the IB Roads provided they do not breach the terms of the injunction. In addition a failure to make a final injunction would encourage the continuation of IB's protests on the IB Roads which are liable to be targeted because of their strategic importance and the damage and disruption which would necessarily entail. IB has repeatedly and recently stated that it will continue to protest until its demands are met. On the other side of the balance, I have taken into account, to the appropriate degree, the sincerity of the protesters' views on what is an important matter of public interest, the nature of their message and objectives and the potential availability of alternative routes or modes of transport around the protest. As to the protesters' views, I refer to the observations of Lord Neuberger MR in *Samede* at §41. It is not appropriate for the Court to express agreement or disagreement with those views. Overall, and having myself considered all matters relevant to the balance under sub-question (4), in reaching this conclusion on the "fair balance", I have taken into account and endorse the final balance of points made by Freedman J at §61

46. In these circumstances I am satisfied that it is just and convenient for a final injunction to be made against the Named Defendants.

(2) The position of Persons Unknown, Alternative Service and Third Party Disclosure

47. I turn to consider whether the final injunction should also be granted against "persons unknown". On the present case, the "persons unknown" are identified specifically through an express link to Insulate Britain. The final injunction applies only to a "person unknown" who is protesting "on behalf of, in association with, under the instruction or direction of, or using the name of, Insulate Britain". (The position of Named Defendants is different in this regard: see paragraph 41 above). As explained in paragraph 31(2) above, this issue and the issues of alternative service (and third party disclosure) are interrelated to some extent.

An order against Persons Unknown in principle

The relevant legal principles

Barking and Dagenham LBC v Persons Unknown

48. In principle, "persons unknown" include both anonymous defendants who are identifiable at the time the proceedings commence, but whose names are unknown and also what have been referred to as "newcomers", that is to say people who at the relevant time of the issue of proceedings and at the time of the grant of the injunction are unknown and unidentified, but who in the future will join the protest and as a result with then fall within the description of the "persons unknown".
49. As regards the making of a final injunctive order against "newcomer" persons unknown, the relevant principles are contained in the decision of the Court of Appeal in *Barking and Dagenham London Borough Council v Persons Unknown* [2022]

EWCA Civ 13 [2022] 2 WLR 946 (“*Barking and Dagenham*”) at §§75,77, 79-89, 91, 107-108, 117. The principles can be summarised as follows:

- (1) The court has power to grant a final injunction that binds individuals who are not parties to the proceedings at that time, including against persons who at the time of the grant of the injunction are unidentified and unknown (i.e. “newcomers”).
- (2) A person unknown (newcomer) who subsequently *knowingly* acts in breach of the terms of the injunction thereby makes himself a party to the proceedings and is bound by the injunction. It is the act of infringing the order (with knowledge of the order) that makes the infringer a party. There is no need to serve formally that person with the proceedings in order for him or her to become a party to the proceedings and be bound by the injunction.
- (3) Even after a final injunction is granted the court retains the right to supervise and enforce it; the proceedings are not at an end until the injunction is discharged.
- (4) Where a newcomer breaches the injunction and thereby makes himself a new party to the proceedings, he can apply to set aside the injunction.
- (5) Persons unknown must be described with sufficiently clarity to enable persons unknown to be served with proceedings.
- (6) These principles apply to the tortious actions of protesters (as well as to persons unknown in other types of case, such as those setting up unauthorised encampments).
- (7) All persons unknown injunctions, including final injunctions ought normally to have a fixed end point for review and it is good practice to provide for a periodic review.

An appeal to the Supreme Court in *Barking and Dagenham* was heard in February this year and judgment is now awaited. Nevertheless the foregoing represents the current state of the law: see *NHL v IB* (CA) at §42.

The Canada Goose guidelines

50. In the earlier case of *Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303 at §82, the Court of Appeal set out seven guidelines for the grant of *interim* injunctions against persons unknown. These are set out at §84 of Freedman J’s judgment in *TfL v JSO* and were applied to the facts in that case at §§85 to 91. Subject to necessary modifications and in so far as applicable, it appears that these guidelines apply also to the grant of a *final* injunction against persons unknown: see *Barking and Dagenham* at §89. I am satisfied that each of the seven guidelines are met in this case. Whilst he was considering *interim* relief in respect of *JSO* protests, in my judgment the analysis and reasoning of Freedman J at §§85 to 91 applies with equal force to persons unknown protesting under the IB banner. Taking each in turn:

- (1) At the beginning of and during the course of these proceedings, identified defendants have been joined as Named Defendants and have been served with the Claim and subsequent documentation. As regards the future, the provisions for

the alternative service (see section on this below) ensure fairness for any newcomers who will, under the final injunction, have liberty to apply to the Court to vary or discharge the final injunction against him/her specifically or everyone.

- (2) The identification of “Persons Unknown” is clear, precise and targets their conduct, and derives further clarity from the fact that the conduct in question has been ongoing for many months and is threatened to continue. The identification of Persons Unknown through the express link with IB provides further clarity and precision and limits the scope of Persons Unknown.
- (3) In so far as this applies also to *final* anticipatory relief, there is a sufficiently real and imminent risk of a tort being committed: see paragraphs 41 and 42 above.
- (4) The final injunction identifies the Named Defendants individually and, as regards persons unknown, the final injunction contains provisions for alternative service, which will enable them to be served with the order.
- (5) The concern that the prohibited acts must correspond to the threatened tort is not acute in the present case; in both trespass and nuisance, defining the unlawful conduct is straightforward. It involves the deliberate interference with the free passage of the public along the highway by land for the purposes of protesting.
- (6) The prohibited conduct and the description of persons unknown uses non-technical language without reference to any cause of action and is clear in its scope and application and capable of being understood by a defendant. Its reliance on personal intention (i.e. “deliberate” actions for “the purpose of protesting”) can be proven without undue complexity and it is necessary to prevent capturing what may otherwise be lawful ordinary highway use, by Named Defendants or anyone else.
- (7) The final injunction has a clear geographical limit, being restricted to the IB Roads which are select in number, of high strategic importance, and which are therefore also liable to be targeted by IB. The temporal limit is less acute in relation to final injunctions, but here it is satisfied by the time limit, review and liberty to apply provisions referred to in paragraph 52 below.

51. For these reasons I am satisfied that it is just and convenient to grant the final injunction against the Persons Unknown.

Time limit and review

52. In order to protect the public and the Claimant’s rights, and given the extent and nature of the Defendants’ disruptive protests and IB repeated statements that they will not stop protesting until their demands are met, the final injunction will last for a period of 5 years. In addition provision is made for a yearly review by the Court for supervisory purposes. A review provision was included in the final injunctions made by Bennathan J and the Court of Appeal in *NHL v IB*. This will also enable the Court to consider the implications, if any, of the Supreme Court judgment in the *Barking and Dagenham* case. In any event, the final injunction will provide for liberty for any Defendant (Named or Person Unknown) to apply to vary or discharge the injunction at any time.

Alternative service (and third party disclosure)

53. The Claimant seeks an order for alternative service, similar to that contained in the existing interim injunctions (and in many other NHL and TfL cases). It also sought an order for third party disclosure, again similar to that contained in the interim injunctions. In the course of the hearing, it withdrew that application for reasons I explain below.
54. The alternative service to be permitted is service of all documents by email to IB itself coupled with individual posting through the letterbox, or affixing to the front door, a package, with a notice in prominent writing. In principle, the underlying purpose of the provision for alternative service is to provide a method of ensuring that those who might breach its terms are made aware of the order's existence: see *NHL v IB* (Bennathan J) at §50 and *TfL v JSO* (Cavanagh J) at §32. I am satisfied that, for the reasons set out in Mr Ameen's witness statement and by Cavanagh J at §32, it is appropriate to permit alternative service in the terms proposed in the draft final injunction.
55. In my judgment, there might appear to be a tension between the rationale for the provision for alternative service and the analysis in *Barking and Dagenham* in relation to persons unknown. On the one hand, it is said that alternative service is required so as to make a person aware of the proceedings and the injunction; on the other hand, *Barking and Dagenham* establishes that merely knowingly acting in breach of the injunction is sufficient to render a person party to the proceedings and automatically in breach and that formal service itself is not necessary.
56. I note that in the orders made in *NHL v IB* by both Bennathan J and the Court of Appeal there was express provision that persons who had not been served would not be bound by the terms of the injunction (and the fact that the order had been sent to the relevant organisation's website or otherwise publicised did not constitute service). Bennathan J explained at §52 that the effect of that provision was that anyone arrested at a protest could be served and risked imprisonment if they *thereafter* breached the terms of the injunction. The making of such a provision however seems to me to be inconsistent with the decision in *Barking and Dagenham* that merely *knowingly* acting in breach of the injunction is sufficient to render a person party to the proceedings and that service is not required to make such a person bound or in breach. This was picked up by Cavanagh J in *TfL v JSO* at §52 where he pointed out that (1) given the wide media coverage and publicity, it was "vanishingly unlikely" that anyone minded to take part in a protest was unaware that injunctions had been granted by the courts; (2) as a result it was not necessary to include an order in the terms made by Bennathan J; and (3) he noted TfL's stated intention of not commencing committal proceedings against a person unknown unless that person had previously been arrested and then served with the order.
57. In the present case Mr Fraser-Urquhart KC has indicated that the Claimant will continue to adopt this "two strike" practice: it would not seek to commit a person unknown who attends a prohibited protest (even with knowledge of the injunction) first time round, but would only do so if that person is then served with the injunction and attends a second prohibited protest. By that time, such a person would no longer be a Person Unknown.

58. In the light of this indication, I then questioned the purpose of the inclusion of Persons Unknown in the final injunction. Mr Fraser-Urquhart accepted that the Claimant's intended practice could be seen to dilute the deterrent effect of the Persons Unknown element of the final injunction. He nevertheless submitted that its inclusion would increase the preventative effectiveness of the final injunction by way of wider publicity; and further that an injunction limited only to Named Defendants would substantially weaken that wider deterrent effect. I accept these contentions. There is a distinction between, on the one hand, the making a final injunction against a newcomer and, on the other, the consequences of such a final injunction – i.e. whether a person unknown becomes a party and is subject to, and in breach of, the injunction, which depends on knowingly acting contrary to the terms of the final injunction. *Barking and Dagenham* is not authority for the proposition that the court can only grant a final injunction against a newcomer person unknown where the Court can be sure that the person unknown acting in breach of its terms in the future will know that he is acting in breach.
59. As a result, I do not consider that the Claimant's intended practice undermines the appropriateness of including Persons Unknown in the final injunction nor of making orders for alternative service.
60. One final point in this regard: since mere knowledge of the injunction on the part of a person unknown is sufficient to render him potentially bound by its terms, and in order to increase the preventative purpose of the injunction, I took the view that the Claimant should bolster the steps it takes to publicise more widely the making of the final injunction. As a result the Claimant has now included at paragraph 7b of the draft final injunction additional provisions: to email a copy of the order not only to IB, but also to JSO, and other environmental protest groups; to post on the Claimant's twitter feed; to notify the Press Association and to place a notice in the London Gazette. In this way the likelihood of someone minded to take part in protests being unaware of the Court's order will be further diminished.

Third party disclosure order

61. To date, in many cases, claimants have sought and obtained an order for third party disclosure under CPR 31.17 directing the police to disclose to the claimant details of those who have been arrested at protests. Such orders were made in the interim injunctions in the present case, providing, first, for disclosure of the name and address of any person arrested at an IB protest on the IB Roads and, secondly, for all arrest notes and footage relating to any breach or potential breach of the injunction or any predecessor injunctions. (The former provision concerned persons unknown and the latter was directed to support possible contempt proceedings against Named Defendants). Moreover, and significantly, those injunctions provided for those disclosure duties to be "continuing" duties, for as long as the injunction remained in force. Similar orders have been made in the *NHL v IB* and *TfL v JSO* cases.
62. In the present case, the Claimant sought the inclusion in the final injunction of a third party disclosure order in the same terms. In advance of the hearing, I raised with the Claimant questions in relation to this issue, and in particular as to the Court's jurisdiction to make an order in the terms sought (under CPR 31.17, s.34 Senior Court Act 1981 or otherwise), including whether there is power to order disclosure of documents/information which are/is not yet in existence, but which may only come into existence in the future (and if so, whether it should) – in other words, in relation to

protests which have not yet happened. Subsequently, in the course of argument, Mr Fraser-Urquhart informed the Court that the Claimant did not pursue the application for third party disclosure order. It did not require any information about protests which had already taken place. He indicated that the Claimant might come back to the Court and seek a disclosure order in the event that a further protest had occurred. I say no more about this issue, save to say that in my judgment, if it arises for consideration again, the Court would greatly be assisted by detailed submissions for and against the making of such an order.

Conclusion

63. In the light of my conclusions at paragraphs 46, 51 and 54 above, there will be judgment for the Claimant for a final injunction in the terms of the draft order submitted.