

On behalf of: Applicants/Claimants
J.A Dilcock
11th statement of witness
Exhibits: JAD13
Date:27 March 2023

Claim No. QB-2022-BHM-000044

**IN THE HIGH COURT OF JUSTICE
KINGS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY**

Between:

- (1) HIGH SPEED TWO (HS2) LIMITED
(2) THE SECRETARY OF STATE FOR TRANSPORT**

Claimants

-and-

- (1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND KNOWN AS LAND AT CASH'S PIT, STAFFORDSHIRE SHOWN COLOURED ORANGE ON PLAN A ANNEXED TO THE ORDER DATED 11 APRIL 2022 ("THE CASH'S PIT LAND")
- (2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON, IN OR UNDER LAND ACQUIRED OR HELD BY THE CLAIMANTS IN CONNECTION WITH THE HIGH SPEED TWO RAILWAY SCHEME SHOWN COLOURED PINK, AND GREEN ON THE HS2 LAND PLANS AT <https://www.gov.uk/government/publications/hs2-route-wide-injunction-proceedings> ("THE HS2 LAND") WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES
- (3) PERSONS UNKNOWN OBSTRUCTING AND/OR INTERFERING WITH ACCESS TO AND/OR EGRESS FROM THE HS2 LAND IN CONNECTION WITH THE HS2 SCHEME WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT, WITH THE EFFECT OF DAMAGING AND/OR DELAYING AND/OR HINDERING THE CLAIMANTS, THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES AND/OR EMPLOYEES WITHOUT THE CONSENT OF THE CLAIMANTS
- (4) PERSONS UNKNOWN CUTTING, DAMAGING, MOVING, CLIMBING ON OR OVER, DIGGING BENEATH OR REMOVING ANY ITEMS AFFIXED TO ANY TEMPORARY OR PERMANENT FENCING OR GATES ON OR AT THE PERIMETER OF THE HS2 LAND, OR DAMAGING, APPLYING ANY SUBSTANCE TO OR INTERFERING WITH ANY LOCK OR ANY GATE AT THE PERIMETER OF THE HS2 LAND WITHOUT THE CONSENT OF THE CLAIMANTS
- (5) MR ROSS MONAGHAN (AKA SQUIRREL / ASH TREE)

AND 58 OTHER NAMED DEFENDANTS AS SET OUT IN THE SCHEDULE TO THE PARTICULARS OF CLAIM

Defendants

ELEVENTH WITNESS STATEMENT OF JULIE AMBER DILCOCK

I, JULIE AMBER DILCOCK, of High Speed Two (HS2) Limited, Two Snow Hill, Snow Hill Queensway, Birmingham, B4 6GA **WILL SAY** as follows:

1. I am a solicitor of the Senior Courts of England and Wales and employed by the First Claimant as Head Counsel - L&P Disputes. My role involves advising the First Claimant and instructing and assisting external legal advisers advising and representing the First Claimant and in that capacity my role includes instructing our external legal advisers, DLA Piper UK LLP, in relation to the conduct of these proceedings. I am authorised to make this, my Eleventh Witness Statement, on behalf of the Claimants.
2. I make this statement in support of the Claimants' application to extend the injunction imposed by the Order of Mr Justice Julian Knowles dated 20.09.2022 (the "**Injunction**").
3. This statement has been prepared with the Claimants' legal representatives.
4. This statement contains matters that are within my own knowledge, whether directly or resulting from matters reported to me – both orally and in writing. Where matters are based upon information received from a third party I identify the third party source and why I believe the truth of the matters stated.
5. There are now shown and produced to me marked **JAD13** true copies of documents to which I shall refer in this statement and which can be found at <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings> (the "**RWI Updated Website**"). Page numbers without qualification refer to that exhibit.
6. In preparing this statement I have read the following witness statements filed previously in these proceedings:
 - (a) Witness Statement of Richard Jordan ("**Jordan 1**")
 - (b) My first to tenth witness statements ("**Dilcock 1**" to "**Dilcock 10**")I have also reviewed the Witness Statement of John Groves ("**Groves 1**") and Witness Statement of James Dobson ("**Dobson 1**") in draft.

Defined terms used in this statement are the same as those defined in the Particulars of Claim and the above listed statements, unless separately defined in this statement.

Purpose and scope of this statement

7. In this statement I will:
 - 7.1. Explain the history of these proceedings and compliance with the directions order made by the court on 15.03.2023.
 - 7.2. Give an overview of the Claimants' position on the addition and removal of Defendants.
 - 7.3. Explain the purpose and scope of the Claimants' application to vary and extend the Injunction.
 - 7.4. Explain the land defined in the Phase One Act and the Phase 2a Act as land within the limits of land to be acquired and used for the HS2 Scheme ("LLAU") and the Claimants' rights in relation to the land within the LLAU.
 - 7.5. Update the position regarding the land of which the Claimants are entitled to possession and introduce the updated plans showing that land (the "**March 2023 HS2 Land Plans**").
 - 7.6. Give an overview of other powers (beyond acquisition and temporary possession) in relation to the use of land afforded to the First Claimant for the construction of the HS2 Scheme.
 - 7.7. Give an overview of the phases of construction of the HS2 Scheme.

History of these proceedings

8. These proceedings were initiated on 28.03.2022 by the Claimants under CPR Part 55 as a claim for possession of the Cash's Pit Land and an application within those proceedings for an injunction across the HS2 Land. There was an initial hearing on 05.04.2022 at which the matter was adjourned. There was a further hearing on 11.04.2023 at which the Cotter Order was made, ordering that possession of the Cash's Pit Land be given to the Claimants and imposing an injunction over the Cash's Pit Land restraining trespass, obstruction of access and other matters. The Claimants' application for an injunction over the wider HS2 Land was listed for a directions hearing.

9. A directions hearing took place on 28.04.2022 at which Mr Justice Julian Knowles set directions to take the matter to hearing. The substantive hearing then took place on 26.05.2022 and 27.05.2022, following which judgment was reserved. Judgment was then handed down and the Injunction made on 20.09.2023. D6 applied to the Court of Appeal for permission to appeal and that application was refused on 09.12.2022.
10. The Injunction was expressed to be in force until 23:59 on 31.05.2023 with express provision for a hearing to take place between 15.05.2023 and 31.05.2023 to determine whether there is a continued threat which justifies the continuation of the Injunction. The Injunction also gave the Claimants liberty to apply to extend or vary the Injunction or for further directions.
11. On 13.01.2023 the court issued Notice of Hearing for the hearing to review the Injunction (the “**Review Hearing**”) and on 10.03.2023 the Claimants applied for directions for the conduct of the proceedings up to the Review Hearing. On 15.03.2023 the court issued a directions order giving directions for the conduct of the proceedings up to the Review Hearing.
12. Between the hearing on 26.05.2022 to 27.05.2022 and the making of the Injunction on 20.09.2022, the Claimants issued applications for committal for contempt against 7 Defendants for breaching the injunction imposed over the Cash’s Pit Land by the Cotter Order (the “**Cash’s Pit Contempt**”). The hearing of those applications took place on 25.07.2022 to 28.07.2022, with 2 Defendants giving undertakings to the court and 4 given immediate or suspended custodial sentences. The remaining Defendant’s (D33) case was adjourned to a further hearing on 22.09.2022 to 23.09.2022 at which an immediate custodial sentence was imposed on him. Copies of the relevant undertakings and committal orders are at **pages 1 to 26**.
13. The Claimants’ original application had sought an injunction for a period of 12 months, subject to review. The timescales by which the proceedings progressed to the making of the Injunction mean that by the time of the Review Hearing, the Injunction will have been in place for just 8 months.

14. Since the making of the Injunction on 20.09.2022, no-one has applied to vary or discharge it pursuant to the provisions at paragraph 16 of the Injunction and no-one has filed an acknowledgment of service pursuant to paragraph 18 of the Injunction.
15. The Claimants have complied with the requirements set out at paragraphs 2 to 8 of the directions order made by the court on 15.03.2023 (and received by the Claimants on 16.03.2023) as follows:
 - 15.1. In accordance with paragraph 2 a notice was placed on the top of the HS2 Proceedings Website informing users that from 16.03.2023 all documents relating to the HS2 Route-wide Injunction proceedings will be uploaded to the website at: <https://www.gov.uk/government/collections/hs2-route-wide-injunction-proceedings>
 - 15.2. In accordance with paragraph 3 of the order, on 16.03.2023, copies of all documents already uploaded to the HS2 Proceedings Website were made available via the RWI Updated Website.
 - 15.3. As required by paragraph 4 of the order, the HS2 Proceedings Website remains live.
 - 15.4. In accordance with paragraph 5 of the order, a copy of the directions order was uploaded to the HS2 Proceedings Website and the RWI Updated Website on 16.03.2023.
 - 15.5. As required by paragraph 6(b) of the order, an advert was placed in the Times and published on 21.03.2023 and in the Guardian and published on 22.03.2023 advertising the date of the Review and the web address of the RWI Updated Website.
 - 15.6. In accordance with paragraph 6(c) of the order, on 20.03.2023 copies of a notice advertising the date of the Review and the RWI Updated Website and a copy of the directions order were sent to 18 libraries and 11 Parish Councils along the line of the HS2 Scheme route with a request that the documents be displayed in the libraries / on Parish notice boards.
 - 15.7. As required by paragraph 6(d) of the order, on 16.03.2023 a tweet was issued from the HS2 Twitter account and a post made on the HS2 Facebook page advertising the date of the Review and the web address of the RWI Updated Website.

15.8. In accordance with paragraph 8 of the order, the Claimants' solicitors emailed a copy of the directions order to the solicitors for D6 and any other party who had at the date of the directions order provided an email address to the Claimants to the email addresses: HS2Injunction@governmentlegal.gov.uk or HS2Injunction@dlapiper.com.

Defendants

16. I set out the rationale for those individuals whom the Claimants originally named as Defendants to the proceedings in Dilcock 1 (paragraphs 42 to 43). To a certain extent, the Claimants were bound to name a number of individuals who had already moved away from unlawful direct action campaigning against the HS2 Scheme by virtue of the fact that they had been named Defendants to proceedings for other injunctions obtained by the Claimants and which the Claimants were seeking to consolidate as part of the original application. Several individuals were removed as named Defendants in the Injunction by agreement with the Claimants. The numbers originally used for those removed Defendants are now shown as "not used". Those individuals remain bound by the terms of the Injunction that apply to persons unknown.
17. D64 and D65 were added as named Defendants to the proceedings by way of an order made by Mr Justice Ritchie on 14.06.2022 (a copy of which is at **pages 27 to 33**) as part of the Cash's Pit Contempt.
18. The Claimants take seriously their obligation to review whether individuals ought to remain named as Defendants to these proceedings and whether any further individuals ought to be added as named Defendants. In preparation for the Review Hearing, the Claimants have carried out an extensive and careful review of the named Defendants in order to take an informed decision as to whether to remove each one from the proceedings. The results of that exercise are described in Dobson 1. The Defendants whom the Claimants are now proposing to remove as named Defendants to the proceedings appear not to pose a continuing threat of unlawful direct action campaigning against the HS2 Scheme. It is, of course, open to any of those Defendants to oppose the Claimants' proposal to remove them, in which case the Claimants are content that those individuals remain as named Defendants if they wish. The Claimants detailed reasons for retaining the remaining individuals as named Defendants –

essentially because they are each considered to pose a continued threat of unlawful direct action against the HS2 Scheme - are also set out in Dobson 1.

19. The Claimants are also under an obligation to add any new Defendants whom they consider have been involved in or pose a significant threat of being involved in the forms of unlawful activity that the Claimants are asking the court to make an order prohibiting. For this reason, the Claimants are adding D66 – Caroline Thomson-Smith (aka Carl Woods) and D67 – Christopher Paul Butcher (aka Rob) as named Defendants to the proceedings. As set out in detail in Dobson 1, D66 and D67 have both breached the Injunction and engaged in unlawful direct action campaigning seeking to delay and disrupt works on the HS2 Scheme which the Claimants are seeking an order prohibiting by way of the present application.
20. Finally, the Claimants are proposing to remove D1 from the proceedings. D1 was a category of persons unknown relating to the Cash's Pit Land and was necessary in relation to the claim for possession of that land. That category has now become obsolete as the land in question is now HS2 Land (as defined in the Injunction). The Claimants are also proposing to add a further category of persons unknown as D68 in connection with the Claimants' application to extend the Injunction to prohibit conspiracy to cause harm to the Claimants by unlawful means.

Claimants' Application to extend the Injunction

21. By the current application, the Claimants are seeking:
 - 21.1. continuation of the Injunction for a further 12 months (the "**Temporal Extension**").
 - 21.2. to amend the definition of HS2 Land to cover the land shown coloured pink and green on the March 2023 HS2 Land Plans, thus extending the protection afforded by the Injunction to land that has come into the Claimants' possession for the purposes of the HS2 Scheme since the original application was made in March 2022 (the "**Geographical Extension**").
 - 21.3. to prohibit the Defendants from obstructing, impeding, hindering or delaying works or activities authorised by the HS2 Acts by unlawful means, in express or implied agreement or combination with another person with the intention

of causing damage to the Claimants (the “**Unlawful Means Conspiracy Extension**”).

I have explained the reasons for each of these and further details about what is sought below. There are also a number of “tidying-up” or consequential amendments sought.

22. With regard to the Temporal Extension, as is explained in detail in Dobson 1 and Groves 1, the Claimants reasonably fear that there remains a real and imminent threat of unlawful direct action campaigning targeting the HS2 Scheme if the Injunction is allowed to lapse and have evidence to support that fear. Accordingly, the Claimants are seeking to continue the protection afforded by the Injunction for a further 12 months, with provision for the court to review the matter again in May 2024.
23. With regard to the Geographical Extension, as I have explained in paragraph 34 below, the Claimants have become entitled to possession of further land since the original application was made. As explained in Dobson 1 and Groves 1, that land is vulnerable to unlawful direct action activity unless protected by extending the Injunction to cover it.
24. As explained in detail in Dobson 1, activists opposed to the HS2 Scheme have been deterred from engaging in the forms of unlawful direct action campaigning prohibited by the Injunction. However, activists remain committed to seeking to delay and disrupt the HS2 Scheme and to causing loss and damage to the Claimants by unlawful means. Activists have deliberately sought to find ways of continuing to cause disruption, loss and damage by methods that are not currently prohibited under the terms of the Injunction – effectively adopting tactics that are intended to thwart the purpose of the relief granted by the court in the Injunction. The Claimants reasonably fear that if the Injunction is not extended to prohibit these nascent forms of direct action against the HS2 Scheme, such action will become more widespread and quickly have a significant impact on the construction of the HS2 Scheme. Accordingly, the Claimants seek the Unlawful Means Conspiracy Extension to prohibit activists from committing the tort of conspiracy to cause harm to the Claimants by unlawful means. The Claimants have carefully considered how to make this extension to the Injunction proportionate to the

threat at hand and are proposing the following limits on the prohibited activity under this extension:

- (a) The prohibition is limited to unlawful means.
- (b) The prohibition is limited to circumstances where the actions are intended to cause damage to the Claimants by preventing, obstructing, delaying, hindering or impeding the works or activities authorised by the HS2 Acts for the provision of the HS2 Scheme. These are works and activities that Parliament has specifically approved the Claimants to undertake after a rigorous process of Parliamentary scrutiny during the passing of the HS2 Acts.
- (c) The prohibition will not apply to the freeholders and leaseholders of land over which the Claimants have taken temporary possession under the terms of the carve out in paragraph 4 of the Injunction, and the HS2 Land in accordance with the recitals to the Injunction.

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- 25. As described in Dobson 1 and Groves 1, the Claimants have experienced unlawful direct action campaigning on land that is outside of the HS2 Land, but which is land that Parliament has designated for use for the HS2 Scheme. That may be land that is to be possessed in the future (either permanently or temporarily) or land that is to be used in some other way in accordance with the powers granted to the Claimants under the HS2 Acts. In view of this, I thought it may be helpful to explain the land that is designated for use for the HS2 Scheme under the HS2 Acts.
- 26. When the Bills that preceded the HS2 Acts were deposited with Parliament, a set of plans accompanied each one, showing the limits of the land to be acquired or used for the project under each Bill. Those plans were amended as the Bills passed through the Committee stages of the Bill, before being finalised as the plans that accompany each of the HS2 Acts.
- 27. The Parliamentary plans and sections show the centreline of the main works, the Limits of Deviation (“**LOD**”) and the Limits of Land to be Acquired or Used (“**LLAU**”). The plans also show the course of proposed permanent diversions of public footpaths and bridleways. The plans have a key at the beginning. The LOD are show as a dashed

line and the LLAU are shown as a dash-dot line. The grey shading on the plans is just there to help distinguish between different land parcels and does not denote what is LOD or LLAU.

28. The LOD are used to show the limits within which the scheduled works, as listed in Schedule 1 of HS2 Acts, may be constructed. These limits show the extent of the proposed works based on the design developed to the stage necessary for the preparation of each Bill. The LOD provides allowances for contingencies, working spaces and similar factors. This is achieved by including powers to deviate from the position of the works shown on the Parliamentary plans by a small amount; this deviation is restricted by the LOD marked on the plans. The scheduled works can be constructed anywhere within their specific LOD. The scheduled works cannot be constructed outside of their specified LOD. Separate LODs show the limits within which the proposed permanent diversions of public footpaths and bridleways may be provided. Those limits are shown in red on the Parliamentary plans to differentiate them from the other limits shown on the Parliamentary plans.
29. The LLAU are used to show additional limits for other works (i.e. ancillary works such as the provision of environmental mitigation) as well as the limits of land required in connection with the construction and future maintenance of the project.
30. The Parliamentary plans describe the horizontal limits, within which the scheduled works may be constructed. They are determined at an early stage and allow for design development following the deposit of the Bill.
31. Accordingly, the Claimants have the right to use any of the land that is designated as land within the LLAU for the purposes of the HS2 Scheme. The plans showing the land that is within the LLAU for Phase One and Phase 2a are publicly available:

Phase One: <https://www.hs2.org.uk/documents/collections/plans-sections-hs2-phase-one-amended-select-committee/>

Phase 2a: <https://www.gov.uk/government/publications/plans-and-sections-for-hs2-phase-2a>

32. The First Claimant has also published information papers to assist the public with understanding the Hybrid Bills that became the HS2 Acts which are available at:

Phase One:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672188/B9_-_Introduction_to_hybrid_Bill_Powers_v1.1.pdf

Phase 2a:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960598/B3_Limits_on_Parliamentary_Plans_v1.2.pdf

and the limits shown on Parliamentary Plans:

Phase One:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672178/B2_-_Limits_on_Parliamentary_Plans_v1.4.pdf

Phase 2a:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960595/B1_Understanding_the_Bill_v1.1.pdf

The HS2 Land

33. In Dilcock 1 and Dilcock 3 I explained the Claimants' powers to take possession of land for the HS2 Scheme and introduced the HS2 Land Plans and Revised HS2 Land Plans and the different categories of land shown on them. The Revised HS2 Land Plans were then incorporated into the Injunction to show the land defined as "HS2 Land".

34. The Revised HS2 Land Plans showed the land to which the Claimants were entitled to possession as at March 2022 when the application for the Injunction was first made. Since that date, the Claimants have become entitled to possession of further land for the purposes of the HS2 Scheme. This additional land, broadly speaking, falls into three categories:

34.1. Land in Phase One that has vested since the date of the original application. The Second Claimant's powers of compulsory acquisition granted by the Phase One Act expired in February 2022. Prior to expiry, the Claimants reviewed the

position with regard to the land required for Phase One of the HS2 Scheme and a large number of GVDs were made in the run up to the end of powers (some notices to treat were also served). Compulsory powers of acquisition are exercised at the point that a GVD is made or notice to treat served, but the ownership of the land that is the subject of the GVD does not vest in the Second Claimant until the expiry of a notice period (which is a minimum of 3 months). At the time that the original application was made, there were areas of land in Phase One in respect of which GVDs had been made, but where the notice periods were running and therefore the land had not yet vested. All of that land has since vested and the Second Claimant is entitled to possession of it.

34.2. Further land that has been acquired in Phase 2a. At the time that the original application was made, the programme of acquisition of land on Phase 2a of the HS2 Scheme was in its infancy. Acquisition has continued on Phase 2a since the original application was made and accordingly, the Second Claimant is entitled to possession of additional land on Phase 2a.

34.3. Further land on Phase One and Phase 2a over which the First Claimant has exercised powers of temporary possession. The First Claimant's powers to take temporary possession of land on Phase One and Phase 2a of the HS2 Scheme remain in force and are exercised as and when required for the purposes of the HS2 Scheme.

35. The Claimants wish to add the further land to the Injunction and to facilitate this, new plans have been produced showing the land of which the Claimants are entitled to possession as at March 2023 (the "**March 2023 HS2 Land Plans**"). The plans span 275 sheets (including index maps to assist with orientation). Producing the plans in hard copy and multiple times would generate a very large amount of paper and navigation of the plans is also easier electronically. Accordingly, the plans (along with copies of all other documents relating to this case) have been placed online on the RWI Updated Website. The Claimants wish to update the definition of "HS2 Land" to reference the March 2023 HS2 Land Plans.

36. The Claimants have also produced spreadsheets setting out the basis of the Claimants' right to possession of the newly defined HS2 Land. These also run into hundreds of pages and accordingly have also been placed on the RWI Updated Website.
37. The format and colouring used for the March 2023 HS2 Land Plans are the same as those used for the Revised HS2 Land Plans. For completeness, I have set out again here what the plans show.
38. The First or the Second Claimant are the owner of the land coloured pink on the March 2023 HS2 Land Plans, with either freehold or leasehold title (the "**Pink Land**"). The Claimants' ownership of much of the Pink Land is registered at HM Land Registry, but the registration of some acquisitions has yet to be completed. The basis of the Claimants' title is explained in the spreadsheets named "**March 2023 Table 1**" and "**March 2023 Table 3**". March 2023 Table 1 reflects land that has been acquired by the GVD process and March 2023 Table 3 reflects land that has been acquired by other means. A further table ("**March 2023 Table 2**") has been included to assist with cross referencing GVD numbers with title numbers. Where the Claimants' acquisition has not yet been registered with the Land Registry, the most common basis of the Claimants' title is by way of executed GVDs under Section 4 of the HS2 Acts, with the vesting date having passed.
39. The Claimants have excluded the Let Estate from the Pink Land.
40. The Claimants' interest in the Pink Land excludes any rights of the public that remain over public highways and other public rights of way and the proposed draft order deals with this point (in the same way as it was dealt with in the Injunction order). The Claimant's interest in the Pink Land also excludes the rights of statutory undertakers over the land and the proposed draft order also deals with this point (in the same way as it was dealt with in the Injunction).
41. The First Claimant has served the requisite notices under the HS2 Acts and is entitled to temporary possession of the land coloured green on the March 2023 HS2 Land Plans (the "**Green Land**") pursuant to section 15 and Schedule 16 of the Phase One Act and section 13 and Schedule 15 of the Phase 2a Act. A spreadsheet setting out the details

of the notices served and the dates on which the First Claimant was entitled to take possession pursuant to those notices is at **March 2023 Table 4**.

42. This update to the definition of HS2 Land is necessary to ensure that all of the land of which the Claimants are entitled to possession is afforded the protection of the Injunction.

Overview of other powers to use land for the HS2 Scheme

43. The construction of the HS2 Scheme between London and Manchester has been split into 3 phases:

43.1. Phase One – London to West Midlands

43.2. Phase 2a – West Midlands to Crewe

43.3. Phase 2b (Western Leg) – Crewe to Manchester

44. The construction of Phase One and Phase 2a have already been authorised by Parliament as set out in Dilcock 1. The High Speed Rail (Crewe – Manchester) Bill seeking to secure powers for the construction of Phase 2b (Western Leg) was introduced into Parliament in January 2022 and secured its second reading in June 2022 and the petitioning period ended in August 2022. The Select Committee is currently hearing petitioners.

45. In Dilcock 1 I set out in detail the process by which Phase One and Phase 2a of the HS2 Scheme received Parliamentary approval.

46. In Dilcock 1 I also explained the provisions of the Phase One Act and the Phase 2a Act (the “**HS2 Acts**”) relating to the acquisition and taking of temporary possession of land required for the HS2 Scheme and the operation of Statutory Blight, the HS2 Discretionary Schemes and acquisitions by consent (whether of freehold or leasehold interests). I expanded on this in Dilcock 3, in which I gave further detail about the operation of the temporary possession regime under the HS2 Acts.

47. The explanations that I gave in Dilcock 1 and Dilcock 3 remain correct and relevant to the application that the Claimants are now making.

48. The Claimants have also been granted other powers in the HS2 Acts in relation to the use of land for the HS2 Scheme. In the paragraphs that follow, I have set out an overview of some of those powers relevant to the Claimants' application. As matters stand under the Injunction, there is no protection afforded to HS2 in the exercise of these other powers. As set out in Dobson 1, activists opposed to the HS2 Scheme have shifted to focus their unlawful direct action on disrupting the carrying out of works for the construction of the HS2 Scheme under those other powers in a bid to continue to disrupt work on the project without breaching the terms of the Injunction. As part of this application, the Claimants are seeking the assistance of the Court to prohibit disruption to the HS2 Scheme by this unlawful activity.
49. Under Part 1 of Schedule 2 of the Phase One Act and the Phase 2a Act respectively, the First Claimant is given various powers to enter onto land to:
- 49.1. carry out various types of intrusive and non-intrusive surveys (paragraph 1)
 - 49.2. survey and carry out works to support buildings that are or may be affected by the HS2 Scheme (paragraph 2 to paragraph 6)
 - 49.3. deal with overhanging trees (paragraph 7)
 - 49.4. deal with the discharge of water (paragraph 8)
 - 49.5. temporarily interfere with waterways (paragraph 9)
- Part 2 of Schedule 2 sets out the powers of entry afforded to the First Claimant in relation to these activities and the enforcement methods available to the First Claimant in the event that the relevant landowner refuses to allow the First Claimant to exercise its powers.
50. Part 1 of Schedule 4 of the Phase One Act and the Phase 2a Act respectively grant the First Claimant powers to form and lay out means of access and to improve existing means of access at any place within the LLAU.
51. Part 2 of Schedule 4 of the Phase One Act and the Phase 2a Act respectively grant the First Claimant powers to stop up highways (which includes bridleways and footpaths) permanently and temporarily:
- 51.1. the right to permanently stop up highways (paragraph 2)

- 51.2. the right to temporarily stop up highways (paragraph 8)
- 51.3. the right to use any highway or part of a highway stopped up using these powers as a working site if it is within Act limits (paragraph 11)

the effect of stopping up a highway is (whether permanently or temporarily) to remove the rights of the public to pass and repass across that land.

- 52. Subject to compliance with the particular requirements for the exercise of these powers set out within the HS2 Acts (such as the service of notices under Schedule 2 and the submission of Schedule 4 proposals to the relevant Highway Authority for review), the Claimants are entitled to exercise these additional powers across the land designated as land within the LLAU on the Parliamentary plans. In some circumstances, the highway powers extend outside even of the land within the LLAU.
- 53. Parliament considered it necessary to grant the Claimants these additional powers for the purposes of the provision of the HS2 Scheme. Interference by activists with activities being carried out under the exercise of these powers has caused delay and disruption to the HS2 Scheme and loss to the Claimants (which is expense to taxpayer as the HS2 Scheme is publicly funded).

Overview of construction of the HS2 Scheme

- 54. Construction of each Phase of the HS2 Scheme consists of the following stages:
 - 54.1. Early enabling works – including ecological surveys, ground investigation works. These are often carried out under the powers afforded to the First Claimant under Schedule 2 of the HS2 Acts or by agreement with landowners without the need to exercise powers.
 - 54.2. Enabling works - including ecological and archaeological surveying and mitigation, de-vegetation, ecological translocation and utilities diversions. These activities are often carried out following the taking of temporary or permanent possession but are also sometimes carried out under Schedule 2 and sometimes under Schedule 4. Sometimes powers under Schedule 4 are used to support works being carried out on land held by the Claimants following acquisition or under powers of temporary possession, where it is not possible to carry out all of the works without, for example, utilising the verge or


carriageway of a road or because the works cannot be carried out safely whilst an adjacent verge and road remain open to the public.

- 54.3. Main works – including construction and civil engineering of haul roads, demolition of structures, excavation of cuttings, building of bridges, boring of tunnels. These works are carried out on land that has been permanently acquired and also utilising land that has been temporarily possessed. Again, powers under Schedule 4 are often exercised as part of these works where roads and verges are required to be utilised temporarily as a working site or to be closed to the public for safety during works.
- 54.4. Railway systems – including installation of the railway infrastructure and systems. These works will be carried out on land that has been permanently acquired, but also utilising land that has been temporarily possessed to carry out the works and powers under Schedule 4 in support.
55. Phase One of the HS2 Scheme is currently in the main works stage with tunnels being bored and viaducts, bridges and cuttings under construction in hundreds of locations along the route. This is the most intense stage of construction.
56. Phase 2a is currently at the early enabling works stage. The Claimants' contractors are engaged in conducting ground and ecological surveys and limited mitigation works. Land is also being acquired under section 4 and temporarily possessed under Schedule 15 of the Phase 2a Act.
57. In his witness statement in support of this application, John Groves explains the pattern of unlawful direct action that the project has experienced in the past relative to the different stages of construction and the Claimants' fears for action against the project going forward if the Injunction is not extended as requested by the Claimants.
58. Finally, I want to address the well-publicised recent announcement by the Government of delays to the HS2 Scheme. Whilst I do not consider it to be relevant to the present application, I anticipate that those opposed to the HS2 Scheme and who may wish to oppose the present application, may well raise it. A copy of the statement made to Parliament by the Second Claimant is at **pages 34 to 35**. By way of explanation, the Government and the media have used the shorthand of a 2 year delay to the HS2

Scheme to refer to what is in reality something more complex. The HS2 Scheme is subject to inflationary pressures in the same way as any other construction project. The current level of inflation is impacting all aspects of the costs of the project and is being felt keenly in the cost of materials, for example. The Government has decided to take steps to try to mitigate exposure to current inflationary pressures and those steps will have the effect of prolonging the construction programme. In reality, what is happening is that the Government is limiting the funding that it is providing to the HS2 Scheme over the next two years to a level that is below that which would be required to continue constructing the project at full pace and as a result, works in some areas are being prioritised over others. This means that works will still continue across the HS2 Scheme and, for example, acquisition of land will still continue (there is a finite time in which to complete that before powers of compulsory acquisition granted by the Phase 2a Act expire). The “delay” does not therefore diminish the risk that the HS2 Scheme will be subject to unlawful direct action and may well heighten that risk as outlined in Groves 1.

Statement of Truth

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

Signed


Name: JULIE AMBER DILCOCK

Dated: 27 March 2023