



**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY, TRUSTS AND PROBATE LIST
BIRMINGHAM DISTRICT REGISTRY**

**Before: Mrs Justice Andrews
On: 17 March 2020**

PT-2020-BHM-000017

B E T W E E N:

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

Claimants

-and-

(1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON LAND AT SOUTH CUBBINGTON WOOD, SOUTH OF RUGBY ROAD, CUBBINGTON, LEAMINGTON SPA SHOWN COLOURED GREEN, BLUE AND PINK AND EDGED IN RED ON PLAN A ANNEXED TO THE PARTICULARS OF CLAIM

(2) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANTS ON LAND AT CRACKLEY WOOD, BIRCHES WOOD AND BROADWELLS WOOD, KENILWORTH, WARWICKSHIRE SHOWN COLOURED GREEN, BLUE AND PINK AND EDGED IN RED ON PLAN B ANNEXED TO THE PARTICULARS OF CLAIM

(3) MATTHEW BISHOP

[Henceforth being removed as a Defendant pursuant to paragraph 13 of this Order]

(4) JOE RUKIN

[Henceforth being removed as a Defendant pursuant to paragraph 13 of this Order]

Defendants

ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED DEFENDANTS OR ANY OF YOU DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR 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 the Claimants' claim by Claim Form dated 19 February 2020 ("the **Claim**"), and the Claimants' accompanying application by Application Notice dated 19 February 2020 ("the **Application**")

AND UPON READING the Claim Form, Particulars of Claim, First Witness Statements of Alan Robert Payne, Jeremy Tadeusz Corvin-Czarnodolski and Shona Jenkins, the evidence of service in the Second Witness Statement of Shona Jenkins, the First Witness Statement of Raymond Finch, the Witness Statement of Mark Seymour and the accompanying certificates of service, and the witness statements of the Third Defendant and the Fourth Defendant.

AND UPON hearing Tom Roscoe, Counsel for the Claimants, Adam Wagner, Counsel for the Third Defendant, and Paul Powlesland, Counsel for the Fourth Defendant.

AND UPON the Third Defendant, Matthew Bishop and the Fourth Defendant, Joe Rukin being present upon the making of this order

AND UPON the Court accepting the Claimants' undertaking that the Claimants will comply with any order for compensation which the Court might make in the event that the Court later finds that this Order has caused loss to a Defendant and the court finds that the Defendant ought to be compensated for that loss.

AND UPON the Court indicating that it would expect the Claimants to inform the Court in writing (marked for the attention of a High Court Judge) if the HS2 project is postponed, suspended or cancelled, or there was such other change in circumstances which may affect the appropriateness of interim injunctive relief, so that the Court may give such further directions as appropriate.

AND UPON the Third and Fourth Defendants indicating to the Court via their witness statements and counsel that they: (i) intend to leave the land subject to these proceedings upon the making of the following orders for possession; and (ii) have no intention of returning to any part of that land save as is required to dismantle the protest camps within the time limits set out in this Order, such that there is no need for the Court to impose an injunction upon them or require any formal undertaking from them.

IT IS ORDERED THAT:

Service by Alternative Method

1. Pursuant to CPR r. 6.15 and r.6.27, the steps that the Claimants have taken to serve the Claim, the Application and the evidence in support on the Defendants shall amount to good and proper service of the proceedings on the Defendants and each of them. The proceedings shall be deemed served on 4 March 2020.

Possession Order

2. The First and Third Defendants shall forthwith give the Claimants vacant possession of all of the land at South Cubbington Wood, South of Rugby Road, Cubbington, Leamington Spa as shown coloured green, blue and pink and edged in red on Plan A annexed to the Particulars of Claim and reproduced as an annexe to this Order ("**Plan A**") ("the **Cubbington Land**").
3. The Second and Fourth Defendants shall forthwith give the Claimants vacant possession of all of the land at Crackley Wood, Birches Wood and Broadwells Wood, Kenilworth, Warwickshire, as shown coloured green, blue and pink and edged in red on Plan B annexed to the Particulars of Claim and reproduced as an annexe to this Order ("**Plan B**") ("the **Crackley Land**")

(together referred to as "**the Land**").

Injunction

4. From 4pm on 24 March 2020, and save for the matters set out in paragraph 5 of this Order:
 - 4.1 The First Defendant and each of them are forbidden from entering or remaining upon the Cubbington Land; and
 - 4.2 The Second Defendant and each of them are forbidden from entering or remaining upon the Crackley Land.
5. Nothing in paragraph 4 of this Order:
 - 5.1 Shall prevent any person from exercising their rights over any open public right of way over the Land. Those public rights of way shall, for

the purposes of this Order, include the “unofficial footpath” between two points of the public footpath “PROW 130” in the location indicated on Plan C annexed to the Particulars of claim and reproduced as an annexe to this Order;

- 5.2 Shall affect any private rights of access over the Land held by any neighbouring landowner.
6. The order at paragraph 4 above shall
 - 6.1 remain in effect until trial or further order or, if earlier, a long-stop date of 17 December 2020.

Declarations

7. The Court makes declarations in the following terms:
 - 7.1 The Claimants are entitled to possession of the Cubbington Land and the Defendants have no right to dispossess them and where the Defendants or any of them enter the said land the Claimants shall be entitled to possession of the same.
 - 7.2 The Claimants are entitled to possession of the Crackley Land and the Defendants have no right to dispossess them and where the Defendants or any of them enter the said land the Claimants shall be entitled to possession of the same.

Service of the Order

8. Pursuant to CPR r. 6.27 and r. 81.8, service of this Order on the First and Second Defendants shall be dealt with as follows:
 - 8.1 The Claimants shall affix sealed copies of this Order in transparent envelopes to posts, gates, fences and hedges at conspicuous locations around the Cubbington Land and the Crackley Land.

- 8.2 The Claimants shall position signs, no smaller than A3 in size, advertising the existence of this order and providing the Claimants' solicitors contact details in case of requests for a copy of the order or further information in relation to it.
- 8.3 The Claimants shall email a copy of the Order to the email address "helpstophs2@gmail.com"
- 8.4 The Claimants shall further advertise the existence of this order in a prominent location on the websites: (i) <https://hs2inwarwicks.commonplace.is/>; and (ii) <https://www.gov.uk/government/organisations/high-speed-two-limited>, together with a link to download an electronic copy of this Order.
9. The taking of the steps set out at paragraph 8 shall be good and sufficient service of this Order on the First and Second Defendants and each of them. This Order shall be deemed served on those Defendants the date that the last of the above steps is taken, and shall be verified by a certificate of service.
10. The Claimants shall from-time-to-time (and no less frequently than every 28 days) confirm that copies of the orders and signs referred to at paragraphs 7.1 and 7.2 remain in place and legible, and, if not, shall replace them as soon as reasonably practicable.
11. Pursuant to CPR r. 6.27 and r. 81.8, service of this Order on the Third and Fourth Defendants shall be dealt with as follows:
- 11.1 The Claimants shall post a copy of the Order to the Third Defendant at his normal place of residence being: 51 St Nicholas Road, Radford Semele, Leamington Spa CV31 1UN;
- 11.2 The Claimants shall post a copy of the Order to the Fourth Defendant at his address for service, being: 2 Ceasar Road, Kenliworth, CV8 1DL.
12. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below).

Further directions

13. The Third and Fourth Defendants be removed as defendants to these proceedings.
14. No Defendant shall be required to file an acknowledgment of service.
15. 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 Claimants' solicitors immediately (and in any event not less than 48 hours before the hearing of any such application).
16. Any person applying to vary or discharge this order must provide their full name and address, an address for service, and must also apply to be joined as a named defendant to the proceedings at the same time.
17. The Claimants have liberty to apply to extend or vary this Order or for further directions.
18. Save as provided for above, the Claim be stayed generally with liberty to restore.

Costs

19. The Claimants shall pay the costs of attendance at the hearing by Counsel for the Third and Fourth Defendants on the standard basis to be subject to summary assessment on the papers if not agreed by 12.00pm on 20 March 2020. If no such agreement is reached, brief written submissions are to be provided to the Judge's clerk by midday on 20 March 2020.
20. Save as aforesaid, there shall be no order as to the costs of the Claim or the Application as between the Claimants and the Third and Fourth Defendants.
21. The Claimants' entitlement to recover costs against any further named defendants in the future shall be reserved to any further hearing.

AND UPON the Claimants' oral application for permission to appeal from the order at paragraph 19 above.

22. Permission to appeal refused on the basis that the decision as to costs was within the scope of the Court's discretion.

Communications with the Court

23. All communications to the Court about this Order (which should quote the case number) should be sent to:

Court Manager
Birmingham Civil and Family Justice Centre
High Court of Justice
Chancery Division
Priory Courts
33 Bull Street
Birmingham
B4 6DS

The telephone number is 0121 681 4441. The offices are open weekdays 10.00am to 4.00pm.

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

Eversheds Sutherland (International) LLP of:

1 Callaghan Square
Cardiff
CF10 5BT

DX: 33016 Cardiff

Tel: 020 7497 9797

Ref: JENKINSW/335547-000130

Dated: 17 March 2020