

1.	Claimants
2.	Rohan Perinpanayagam
3.	First
4.	RP1
5.	Date: 9 June 2020

Claim No: PT-2018-000098

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
PROPERTY, TRUSTS AND PROBATE LIST (ChD)**

**B E T W E E N:**

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

Claimants/Applicants

-and-

(1) PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT THE CONSENT OF THE CLAIMANT(S) ON LAND AT HARVIL ROAD, HAREFIELD IN THE LONDON BOROUGH OF HILLINGDON SHOWN COLOURED GREEN, BLUE AND PINK AND EDGED IN RED ON THE PLANS ANNEXED TO THE AMENDED CLAIM FORM

(2) PERSONS UNKNOWN SUBSTANTIALLY INTERFERING WITH THE PASSAGE BY THE CLAIMANTS AND THEIR AGENTS, SERVANTS, CONTRACTORS, SUB-CONTRACTORS, GROUP COMPANIES, LICENSEES, INVITEES OR EMPLOYEES WITH OR WITHOUT VEHICLES, MATERIALS AND EQUIPMENT BETWEEN THE PUBLIC HIGHWAY AT HARVIL ROAD, HAREFIELD IN THE LONDON BOROUGH OF HILLINGDON SHOWN COLOURED ORANGE AND THE LAND AT HARVIL ROAD SHOWN COLOURED GREEN, BLUE AND PINK AND EDGED IN RED ON THE PLANS ANNEXED TO THE AMENDED CLAIM FORM

(3) to (33) THE NAMED DEFENDANTS LISTED IN THE SCHEDULE TO THE ORDER OF THE HON MR JUSTICE FAN COURT DATED 21 MAY 2020

Defendants / Respondents

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**FIRST WITNESS STATEMENT OF ROHAN PERINPANAYAGAM**

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I, Rohan Perinpanayagam, of High Speed Two (HS2) Ltd, 2 Snowhill, Queensway, Birmingham, B4 6GA WILL SAY as follows:

1. I am the Second Claimant's Project Client Align IPT (Project Director) of Phase One of the High Speed 2 railway scheme ("the **Scheme**"). I am known as Rohan Perin. I am authorised to make this Witness Statement on behalf of the Claimants in this claim.
2. I make this statement, in support of the Claimants' application dated 18 May 2020 ("the Extension Application"). The purpose of this Statement is to:

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- (i) provide a short reply to some of the matters which have arisen in the evidence in response to the Extension Application which has been filed by some of the named Defendants to the Extension Application in accordance with the directions given by Mr Justice Fancourt at the first hearing of the Extension Application on 21 May 2020; and
  - (ii) provide a brief update on incidents which have taken place on the Land since the First Witness Statement of Shona Ruth Jenkins filed in support of the Extension Application (“Jenkins 1”).
3. The contents of this statement are from matters that are within my own knowledge, knowledge gained from my review of the Claimants’ documents in relation to this matter and various other sources of information which are stated. Where I state matters within my own knowledge, they are true to the best of my knowledge and belief. Where I state matters from other sources, I believe them to be true. There is now shown to me a paginated clip of documents which I exhibit hereto as PR1. Page numbers without qualification refer to that exhibit.
  4. This statement has been prepared with the assistance of the Claimants’ solicitors, Eversheds Sutherland (International) LLP following telephone and email correspondence with lawyers at the firm. Defined terms in this statement have the meaning given to them in Jenkins 1.

**Overview of engagement by named respondents since the 21 May 2020 hearing**

5. It had not been the Claimants’ intention to name Caroline Thomson-Smith (currently D33) as a defendant to the proceedings, even when bringing the proposed Substantive Application, as she was identified as being involved in only one previous incident, which was considered to be a one-off.. However, Ms Thomson-Smith attended remotely the first hearing of the Extension Application on 21 May 2020 and sought herself to be added as a respondent to that application and as a defendant to the proceedings. It has since, however, been agreed between the Claimants and Ms Thomson-Smith that she may be removed as defendant to the proceedings on the basis that she has confirmed that she has no intention to trespass on, or obstruct access to, the Harvil Road Site. I attach correspondence between Ms Thomson-Smith and the Claimants’ solicitors at **pp. 1 -8** which records that. This is, of course, subject to the Court’s approval – and the court is asked to record her removal.
6. At the time of drafting this Statement, in opposition to the Extension Application, evidence has been received from Ms Green (D3), Mr Keir (D4), Mr Mordechaj (D7) and Mr Oliver (D9). I

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understand that Ms Pitwell (D28) has been in contact to suggest that she would be filing evidence in response but, to date, no evidence has been received.

7. I do not propose to comment in detail or comment on every point raised by the defendants. That is because, whilst I appreciate that they have strong and sincere views on the points that they raise, I do not understand the majority of the points (which go to the merits or otherwise of the HS2 project) to be relevant to the issues which are before the Court in considering the Extension Application. Therefore, to confirm, where I have not commented on any specific points raised by the defendants, that should not be taken to indicate that the Claimants agree to what is being asserted.
8. Instead, I seek to provide the Court with some background in relation to some points which have been raised by the defendants in the event that the Court finds this helpful.

### **Environmental Concerns**

9. Each of the statements filed by those named defendants raise a number of environmental concerns. The Claimants are aware and accept that a number of the individuals who protest against HS2's activities at the Harvil Road Site hold genuine and sincere environmental beliefs. It is recognised also by the Claimants that it is not possible to construct a Scheme like the HS2 project without there being an environmental impact. The environmental impacts of the Scheme have been considered extensively by Parliament and the Claimants are required to mitigate against this.
10. It has been explained previously in evidence (paragraph 4 of McCrae 1) that the High Speed Rail (London-West Midlands) Act 2017 was the culmination of nearly five years of work, including an Environmental Impact Assessment, the results of which were reported in an Environmental Statement submitted alongside the Bill. The First Claimant also published Environmental Minimum Requirements, which set out the environmental and sustainability commitments that will be observed in the construction of the Scheme. As is set out in McCrae 1, these documents are publicly available online.
11. All works that are carried out at the Harvil Road Site are works for which the Second Claimant and / or its contractors have consent. By way of example, as I am aware that alleged water pollution remains of concern to the protesters, a copy of the Environment Agency's consent for the test piling and associated works is at **pp 9 -18**. In the course of obtaining that consent, environmental and mitigation factors were, of course, considered.

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12. There are occasions during the course of the works' programme where works have been temporarily delayed and / or paused because the Claimants did not at the time have the relevant consent to proceed to the next stage. The Second Claimant and its contractors regularly liaise with the relevant authorities, for example, the Environment Agency and Natural England and submit revised proposals until the necessary consents are provided. Until we have consent for particular works, the works do not proceed.
13. The Second Claimant and its contractors are committed to an open and transparent policy. It is not denied that sometimes problems do arise in relation to environmental matters. In those instances, there is a policy of 'self-referral' where contractors refer the incident to the relevant authority. An investigation takes place and lessons are learnt from that process.

### **Dews Lane**

14. I note that the defendants who have filed evidence appear to challenge the closure of Dews Lane. I also do not understand why this issue is relevant for the purposes of the Extension Application because the scope of the 2019 Injunction (as continued in May 2020) does not cover Dews Lane. It will be an issue that may well require further consideration on the Substantive Application but, for completeness, I explain what steps have been taken in respect of Dews Lane.
15. Dews Lane is a private lane, the freehold title of which is owned by the Mayor and Burgesses of the London Borough of Hillingdon ("the **Council**"). It is identified on the current injunction plan. The register of title records that the lane is subject to certain private rights of way. An official copy of the Council's freehold title to land of which Dews Lane forms part together with the title plan is at **pp. 19 – 29**.
16. The Second Claimant has taken temporary possession of Dews Lane pursuant to section 15 and Schedule 16 of the Act, which gives it an immediate right of possession to the same. Schedule 16 also provides (by paragraph 2) that private rights of way over land shall be extinguished when temporary possession is taken (paragraph 7) unless the Secretary of State otherwise directs (paragraph 3). I can confirm that no direction to the contrary has been given in respect of the private rights of way over Dews Lane.
17. A small section (at the Dews Lane East end) of Dews Lane is within the land covered by the current injunction with the remainder forming part of the Additional Land. There was an express carve out in the 2019 Injunction (which has remained as continued by the current injunction) which expressly confirms that the injunction does not apply to and is not intended to prevent passage over Dews Lane. At the point of making the 2019 Injunction, it was not necessary for

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Dews Lane to be closed because the works which were to take place in the shorter term did not necessitate that. The Claimants also did not wish to unduly and unnecessarily interfere with the passage over Dews Lane given that this is a vehicular access to the nearby Hillingdon Outdoor Activities Centre (“HOAC”). The Claimants were also aware at the time that protestors at the ‘Roadside Camp’ (referred to at paragraph 22 of Jenkins 1) would utilise Dews Lane to obtain water from a sympathetic land-owner, and the Claimants were content to continue to accommodate this at the time. In light of this, it was always the Second Claimant’s intention to take possession of Dews Lane as late as possible and was not considered necessary or desirable to prevent persons (including the protestors in the vicinity) from using Dews Lane as a means of access to HOAC and neighbouring land.

18. The position in respect of Dews Lane has, however, now changed such that, because of works taking place in the vicinity and for those to be carried out safely, it has been necessary for the Second Claimant to take possession of and close Dews Lane. More specifically:

- (i) The Second Claimant’s contractors are undertaking tree and vegetation clearance in the vicinity and therefore it was necessary for a safety and security perspective to close Dews Lane so that this work can be undertaken without risk to those who would otherwise be travelling along the Lane.
- (ii) This was even more so because, more recently, protestors in the area, took to regularly sitting on Dews Lane as a means of protest. It would therefore not have been possible to undertake the works required without there being a risk to health and safety to users of the lane, the protestors and that of the Second Claimants’ contractors. It would also be difficult to undertake these works from a practical perspective if the works were constantly disrupted by the presence of protestors.
- (iii) Works are due to commence in July 2020 on the construction of a new road adjacent to Dews Lane and therefore, in preparation for those works which cannot take place whilst Dews Lane is open to the general public, Dews Lane will need to remain closed.

19. Therefore, on 22 May 2020 Dews Lane was closed albeit the Second Claimant has agreed access licences with adjoining owners and / or occupiers where access is required.

#### **Closure of Dews Lane**

20. The Second Claimant took possession of Dews Lane on 22 May 2020 and it was closed on the same day. Given the level of protest activity in the vicinity, the operation to possess and close

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Dews Lane was planned well in advance with the operation plan being shared with the police who were kept informed throughout; in the event that police assistance was required. Access agreements were arranged in advance with those individuals owners of private land in the area who require access for the purposes of access to their land. Given the level of and nature of the protest activities which take place on the Harvil Road Site, it was not practical or feasible to inform the protesters in advance that Dews Lane was to be closed. Had the protesters been aware of the closure, this would have led to an increased risk of a presence of protesters on the lane impacting the Second Claimants' ability to take possession and to close it in a peaceful and orderly manner.

21. In the event, the closure took place in the early hours of the morning to reduce the risk of interference and obstruction by protesters. Heras fencing was installed which secured the Lane and created a sterile working area including fencing at Dews Lane East and Dews Lane West..
22. There was an initial increase in protestor activity with protesters asking the contractors on the ground what was taking place at c.9:30. At c.10:00, a number of protestors attempted to breach the Lane at both the Dews Lane West and Dews Lane East access points. This included one of the newly named Defendants, D22, Dr Ian 'Larch' Maxey known as 'Larch' attempting to rally support of other protesters at the Dews Lane West access. Mr Maxey then ran at the enforcement team in an attempt to breach the security fencing. The enforcement team successfully stopped him from breaching the fencing and Mr Maxey subsequently claimed to have been injured. Whilst an ambulance was called to attend to him, it is understood that he did not require any further medical treatment.
23. Protestors who were positioned at the Dews Lane West access attempted to drive a number of cars into Dews Lane but were stopped by the enforcement which resulted on the blockage of Harvil Road for a short period of time A number of protestors then started to climb on vehicles leaving the site and one protestor climbed onto the roof of a contractor's vehicle causing damage. This was reported to the police.
24. This behaviour continued for approximately one hour until police assistance arrived. For most of the afternoon however, the protesters continued to 'test' site security with repeated attempts to breach the Heras fencing. Attempts to breach the security fencing take place on a daily basis and, as such, it is necessary for the site security to remain on the ground to prevent further trespass.

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25. I mention for completeness that access to areas within the Harvil Road Site will be required by adjoining landowners and occupiers from time to time. Individual access arrangements have been and will continue to be made as necessary with those parties.
26. Whilst again, it is not something which is relevant for the purposes of the Extension Application, but something that *may* need to be considered further in terms of the proposed Substantive Application, I also add for completeness that at the time of the 2019 Injunction, it was explained that two public rights cross the Land and that there are powers available to the Claimants in terms of stopping up those rights of way. They include a power under Section 3 and Part 2 of Schedule 4 to the Act to stop-up highways specified in that schedule for the purposes of or in connection with the construction of the works authorised by the Act.
27. One of those is known as Footpath U34, since these proceedings were before the court in 2019, Sections of U34 have been temporarily closed and diverted pursuant to section 3 and Schedule 4, Part 2 of the Act. I understand that the closure of part of U34 had been opposed during the 2019 Possession Proceedings referred to at paragraphs 15-20 of Jenkins 1. The Judge (Mr David Holland QC) however held that the temporary stopping up had been lawfully exercised and that the Second Claimant was entitled to possession of those parts.

#### **Specific responses to points raised by the Defendants**

28. I have not made any specific comment to matters raised by D4, Mr Keir or Mr Oliver (D9) because I do not understand the general complaints he makes about the HS2 project to be relevant to the matters before the Court. However, as mentioned at paragraph 5 above, the assertions made by Mr Keir and the remaining defendants who have filed evidence are not accepted as true.

#### ***D3 – Sarah Green***

29. Ms Green denies a number of factual assertions made in the Claimants evidence as set out in Jenkins 1. I am able to offer the following comments in response to some of the points she has made in the Schedule at Exhibit 5 (“the Schedule”) to her statement. The paragraph numbers referred to below relate to the paragraphs which Ms Green has identified in her Schedule (being paragraphs of Jenkins 1):

- (i) Paragraph 16: I understand that Ms Green accepted at the hearing of the 2019 Possession Proceedings that she did on various occasions enter onto the closed footpath which was part of the land subject to the 2019 Possession Order (albeit at that time she did not accept that it had been closed). Paragraph 146 of Mr Holland

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QC's Judgment at **pp. 60 – 96** of SRJ1 records that she wished to stand on the footpath for the purpose of monitoring works.

- (ii) Paragraph 20: it is not being suggested that Ms Green was on the 2019 Possession Order Land when the eviction of that land was carried out. This assertion relates to the Defendants at the time the Extension Application was issued, being persons unknown.
- (iii) Paragraphs 27-28 and 33-38: Ms Green indicates that she has no desire to be a party to these proceedings. However, she continues to attend hearings and respond to applications in the proceedings or to proceedings relating to the Harvil Road Site. Most recently, she sought to join herself as a respondent at the recent hearing of the Extension Application and before that at the initial hearing of the 2019 Possession Proceedings. On neither of these occasions was she named as a defendant or respondent to the proceedings. In any event, as was noted by Mr Holland QC at the hearing of the 2019 Injunction (paragraph 144 of the Judgment at **pp. 30 – 59** of SRJ1), in respect of both Ms Green and Mr Keir (D4), “...*they are still both vehemently opposed to the HS2 project in general and to the works being carried out on the Site in particular. Both are still intimately involved in the protests at the site.*” Ms Green's actions (and indeed Mr Keir's) in the time since the 2019 Injunction was made have done nothing to change the Claimants' view that this position has changed.
- (iv) Paragraph 57.2: Ms Green accepts she was “*on the Harvil Road at the time...*” but denies she committed an unlawful act. I attach at **p. 30** a photograph taken of Ms Bennett (D14) with Ms Green in the background. This photograph is taken on plot S232\_083 and not on Harvil Road. Here, along with a number of other individuals, Ms Green was identified as trespassing on land subject to the 2019 Injunction.
- (v) Paragraph 58.9: I note that whilst Ms Green disputes the assertion that she was behaving in a disruptive manner that she accepts being in “the area outside Gate 3”. This trespass at the gate is a breach of the 2019 Injunction (albeit the Claimants accept it is of a minor nature).
- (vi) Paragraph 59.2: the trespass alone is unlawful and a breach of the 2019 Injunction.

30. 32. More generally:



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- (i) Ms Green is keen to emphasise that she has not breached the 2019 Injunction. As set out above, that is not – the Claimants’ contend – in all cases true. More significantly however, her position would seem to indicate that she has not been carrying on certain acts of protest *because* of the injunction and her desire not to breach it. Her desire not to breach the injunction is a factor in her favour, but it would seem to indicate that she is more likely to carry out unlawful acts if the injunction were not in place.
- (ii) Ms Green says that she has been self-isolating at home since the Covid-19 outbreak. Assuming that to be true, the current trend of the Government guidance seems to be one of loosening of lockdown requirements, such that this is unlikely to prevent or deter Ms Green from protest activities at the site for much longer (if at all).
- (iii) Ms Green also sets out matters opposing any extension over the area of HS2’s injunctive relief. I understand, however, that those are matters to be considered in relation to the Substantive Application – and not this Extension Application, which simply is extending the existing geographical protection in time.

#### **D8 – Vadja Robert Mordechaj**

31. Firstly, I note from the evidence filed by D8 that the spelling of his name is as ‘Mordechaj’ rather than ‘Mardechaj’.
32. Mr Mordechaj appears (at the second paragraph 2) to suggest that the Claimants are in breach of ‘verbal agreements’ made in the presence of Mr Justice Barling prior to the making of the Original Injunction in 2018 in relation to ‘watersupply line, toilet route...’ etc. This is denied by the Claimants.
33. Mr Mordechaj also seems to suggest that the current injunction is now defunct. The Claimants do not agree that this is the case. Whilst it has not been *wholly* successful in preventing all incidences of trespass, the focus of more recent activity has been on land not covered by the current injunction. Protest camps continue to be set up on the Claimants’ land which is not covered by the current injunction. This supports the Claimants’ position that the current injunction continues to have an effect. There is therefore a significant risk posed in the event that the current injunction is not further continued.
34. The Claimants are giving consideration as to whether it is appropriate to bring committal proceedings for previous breaches of the 2019 Injunction (and no privilege is waived in relation to that). It is appropriate, however, to indicate that the Claimants will look to bring such

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proceedings against any identified person who breaches injunctions at the Harvil Road Site henceforth.

### **Update on incidents of trespass on the Land since Jenkins 1**

35. More recently, there has been an increase in activity on the Claimants' land which is not subject to the current injunction and which is land that the Claimants' intend to include in the Substantive Application very shortly. In respect of the Land covered by the current injunction, since Jenkins 1, there have been the following incidents which have been reported to the Claimants by the High Court Enforcement team:
36. **On 20 May 2020**
- (i) At 10:30 high court enforcement officers (“**HCEO**”) reported that one male and one female mounted an HGV entering the Fusion Dews Lane Compound HQ on the junction of Dews Lane and Harvil Road at plot S232\_036. Police were called due to the highway being blocked but both were persuaded to remove themselves from the vehicle.
  - (ii) At 10.48, a protester identified by the HCEO's as Pam Grogging and an unknown female protester climbed onto an HGV entering the Fusion Dews Lane Compound HQ. However, they removed themselves when it was explained to them by the HCEO that the vehicle was carrying hazardous materials.
  - (iii) At 19.46 the HCEO team reported that three male protesters breached the fence adjacent to the HOAC lakeside area at plot number S232\_051. When spoken to by the HCEO, two walked off the land and the third had to be escorted off by HCEOs.
37. **On 21 May 2020**
- (i) At 19.46 the HCEO team reported that three male protesters ran at the entrance to the HOAC lakeside area, adjacent to the HOAC gates on the western end of Dews Lane, at plot number S232\_051: when challenged by the HCEO they stopped and sat on the concrete blocks verbally abusing the HCEO team for approximately 45 minutes. All three males were reportedly drunk and thought to be under the influence of drugs, singing and shouting. The HCEO persuaded them to return to their nearby camp, from which very loud music was heard until about 04.00.

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I believe that the facts stated in this witness statement 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:

Rohan Perinpanayagam

Dated: 9 June 2020

