

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 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 FANCOURT DATED 21 MAY 2020

Defendants / Respondents

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**THIRD WITNESS STATEMENT OF SHONA RUTH JENKINS**

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I, **SHONA RUTH JENKINS**, of Eversheds Sutherland (International) LLP, 1 Callaghan Square, Cardiff, CF10 5BT, WILL SAY as follows:-

1. I am a solicitor of the Senior Courts of England and Wales and a Senior Associate at Eversheds Sutherland (International) LLP with day to day conduct of this matter under the supervision of my partners. I am authorised to make this Third 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**") and the application dated 15 June 2020 ("the **Substantive Amendment**")

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

**Application**”) together referred to as “the **Applications**” in order to further update the Court on the steps taken by the Claimants to:

- 2.1 serve the Order dated 21 May 2020 (“the **2020 Injunction**”) and the Extension Application;
  - 2.2 provide copies of the Notice of Hearing and the Claimants’ witness evidence in reply pursuant to paragraphs 17 and 20 of the 2020 Injunction;
  - 2.3 serve the Substantive Amendment Application; and
  - 2.4 also to update the Court very briefly on additional matters that have arisen since 31 May 2020
3. The matters I set out in this statement are within my own knowledge, unless stated otherwise, in which case I set out the source of my belief. Where I refer to “the Schedule” in this statement, that is a reference to the ‘overview’ schedule enclosed with and referred to at paragraph 8 of the Claimants’ skeleton argument. The contents of this statement and the Schedule are true to the best of my knowledge and belief.

**Named Defendants and overview of service**

4. In addition to the requirement to serve papers on Persons Unknown, there is a significant number of Named Defendants to these proceedings which has made service of the various papers complex and time consuming. Whilst the home addresses or last known addresses have been identified for a number of the Named Defendants, the lifestyle of some of them is that they have no fixed abode or they move between camps in protest of HS2 or other causes.
5. The Claimants have taken steps to try to locate an address associated with each of the Named Defendants (save for D3 and D4 whose addresses are known and save for D33 who is to be removed as a defendant and who has provided an email address for service) by:
  - 5.1 The instruction of an enquiry agent in relation to some of the Named Defendants who were known at the time of that instruction (this related to D9-D16). Unfortunately, the attempts at tracing any current addresses were unsuccessful.
  - 5.2 Making enquiries of the police as to current and / or last known addresses as the Claimants are aware that a number of the Named Defendants have had some interaction with the police as a result of them being in the vicinity of the Harvil Road Site and/ or other HS2 protest camps. From the information provided by the police, I confirm:

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

- (i) D7, D9, D10, Ds12-16 have in 2020 (save D14 who gave it as an address in December 2019) given their address as a camp at Harvil Road, being the “roadside” camp referred to in the papers for the Substantive Amendment Application. In relation to those Named Defendants (and the majority of the others) papers have been delivered to the ‘roadside’ camp;
- (ii) D25, 26, 27 have in 2020 given their address as a camp at another HS2 protest site at or near Crackley Woods in Kennilworth, Warwickshire, sometimes known as the “Save the Crackley Woods” camp (“the **Crackley Protest Camp**”). Papers have been delivered to the Crackley Protest Camp for these individuals in addition to D10, D14, D17, D18, Ds25-D27 who are known by the Claimants to also regularly be present at this site; and
- (iii) last known addresses were given for D11, D15, D16, D19, D20, D22 and D31. I confirm that copies of all papers have been served to these Named Defendants at these addresses in addition to papers being delivered to the ‘roadside’ camp on Harvil Road or by some other means as identified in the Schedule.

5.3 Seeking to obtain e-mail addresses of some of the Named Defendants from Mr Keir, D4. I had corresponded by email with both D3 and D4 in relation to previous proceedings. The reason for my specific approach to Mr Keir in this context was because, following discussions and correspondence with the Council’s solicitor (on a common interest privilege basis, which privilege is not waived) in relation to their injunctive proceedings which are ongoing in the Queen’s Bench Division of the High Court (and which have named defendants in common with these proceedings), I was provided with materials (on a common interest privilege basis) which included a list of e-mail addresses for those individuals who wanted to be joined as respondents to the Council’s proceedings. Those e-mail addresses were provided by Mr Keir to the Council’s solicitor for the purpose of service of the Council’s proceedings on those particular individuals. Those individuals had not agreed, however, that those e-mail addresses could be used for any other purposes. As such, given this firm’s data protection obligations, we felt that it was inappropriate to seek to use those email addresses for the purposes of serving or otherwise seeking to draw these proceedings to those individuals’ attentions without their consent to use their data for that purpose. In the circumstances, I contacted Mr Keir by way of an email on 30 May 2020 to request whether he was able to provide me with email addresses for the purposes of service on any of the Named Defendants (confirming that the individuals were content for him to

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

do so) or alternatively whether he could forward my email to those Named Defendants so that they could reply to me direct. I did not receive a reply to that correspondence.

- 5.4 Contacting the Queen’s Bench Division of the High Court. As mentioned above, the London Borough of Hillingdon has commenced injunctive proceedings against protesters on its adjoining land, the return date of which is to be listed shortly. There are a number of common defendants (including D7, D9, D19, D20 and Ds22-27). In the circumstances and failing any reply from Mr Keir, on 2 June 2020, I emailed the court to seek confirmation as to whether the court file contained e-mail addresses for these individuals and, if so, whether they could supply those to me for the purpose of the Claimants’ seeking to comply with their reasonable endeavours obligation at paragraph 15 of the 2020 Injunction. The court office replied to confirm that it did not have any e-mail addresses on file. I followed this up on 4 June 2020 (after the date for which the defendants in that case were to file any evidence in response to the Council’s application) to see whether the position had changed and asking again if the court held e-mail addresses for D7, D9, D19, D20 and Ds22-27. Again, it was confirmed that the court did not have email addresses for these individuals nor did it have any evidence filed from them.
- 5.5 Continuing to gather information from their security and construction teams on the ground and that of their contractors. The Claimants are aware from their own information gathered that many (if not all) of the Named Defendants are regularly present at the Harvil Road Site or in the vicinity in nearby camps and / or are at the Crackley Protest Camp either currently living there or often present. The Claimants believe therefore that papers delivered to both these sites means that they will come to the attention of the Named Defendants either directly or by word of mouth.
6. The Claimants believe the above demonstrates that reasonable steps have been taken to identify the appropriate place for service of papers in these proceedings on the Named Defendants. By way of an overview, the Schedule provides a ‘snapshot’ of the steps taken by the Claimants to serve or provide copies of various documents to the Named Defendants (in addition to persons unknown).
7. The Claimants have served the Named Defendants with papers relating to the Applications either: (i) personally; (ii) at the Harvil Road Site by way of papers being posted at conspicuous locations around the Site; (iii) at the ‘roadside’ camp on Harvil Road; (iv) at other ad-hoc protest camps in the vicinity; (v) at the Crackley Protest Camp and/or (vi) at individual service addresses, following active efforts to identify such addresses. Since the 2020 Injunction was made, over 200 bundles

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

of papers have been served. The Claimants therefore consider that all practicable steps have been taken to serve the Named Defendants and those persons who may be affected by the 2020 Injunction or any further relief that is granted by the Court.

8. Extensive efforts have also been made to effect service of the papers at or in the vicinity of the Harvil Road Site such that they not only come to the attention of the Named Defendants who frequent the Site but also other interested parties.
9. The Claimants have for some years used the following websites (“the **Websites**”):
  - (i) <https://www.hs2.org.uk/documents/collections/a-high-court-order-regarding-harvil-road/>;
  - (ii) <https://hs2inhillindon.commonplace.is/> and
  - (iii) <https://www.gov.uk/government/organisations/high-speed-two-limited>

as a method of communicating updates and applications in relation to the Harvil Road Site including these proceedings. It is therefore likely well known in the protester community that information can be sought in this way and / or by contacting this firm for further details.

10. Given the nature of protesters who protest against the HS2 project and the fact that the protest camps at different sites appear to be connected or in communication, with persons coming and going between them, the Claimants believe it unlikely that any of the Named Defendants are not aware of the proceedings and that they are now named as a respondent to those.
11. I add that I am aware a number of the Named Defendants to the Council’s Proceedings (who are common to these proceedings) have not sought to file evidence in response to those proceedings despite indicating that they wanted to be joined as defendants and their email addresses being provided to the Council for service for that purpose. It therefore does not follow that because a particular Named Defendant has not responded to the Applications that they have not received notice of them.

### **Service of the 2020 Injunction**

12. On 27 May 2020, the Second Claimant by updating its existing advertisement published a notification of the making of the 2020 Injunction confirming that it remained in place until the further order of the Court in prominent locations on the Websites. The 2020 Injunction and plan was also uploaded (but leaving in place the link to the 2019 Injunction and plan).

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

13. The detail of service of the 2020 Injunction on the First, Second and Named Defendants is set out in the witness statement of Raymond Finch dated 1 June 2020 together with certificates of service, all of which have been filed with the Court.
14. In summary, however, on 29 May 2020, process servers instructed by my firm on behalf of the Claimants effected service of the following documents:
- 14.1 Sealed Order dated 21 May 2020;
- 14.2 Injunction Plan (at A3 and in colour); and
- 14.3 Injunction Warning Notice (at A3, laminated and in colour);
- by leaving copies in conspicuous locations around the perimeter of the land, including at the North Compound Entrance, the South Compound Entrance and West Gate 3 as well as various encampments in the vicinity (including the ‘roadside’ protester camp at Harvil Road) so that persons who might be coming on to the land (or considering doing so) can access them.
15. Furthermore, copies of the 2020 Injunction and Warning Notices were left in conspicuous locations around the perimeter of the land, so that persons who might be coming on to the land (or considering doing so) can access them.
16. In respect of the Named Defendants, the ‘snapshot’ provided in the Schedule illustrates that service has been undertaken at more than one place for a number of the Named Defendants.
17. In summary, however, on 29 May 2020 as a minimum:
- 17.1 D3, D4, D8, D9, D10, D13, D17, D18, D21, D30, D31 and D32 were personally served with the 2020 Injunction and Extension Application or where service was refused papers were deposited in their presence;
- 17.2 D7, D11, D12, D14, D15, D16, D17, D18, D19, D20, D22, D23, D24, D25, D26, D27, D28, D29 and D31 were served by leaving copies of the 2020 Injunction and Extension Application with a covering letter addressed to each of those individuals at the ‘roadside’ protest camp at Harvil Road. In the case of D7,, D12, D14-D16, camps at Harvil Road have been given as an address for those individuals previously.
- 17.3 D14, D25, D26, D27 were served by leaving copies of the 2020 Injunction and Extension Application with a covering letter addressed to each of those individuals at the Crackley Protest Camp. In the case of Ds25-27, this was a previous given address and in the case of

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

D14, it was confirmed by other occupants of the camp that she did reside there but was not present at the time of service.

18. On 30 May 2020:
  - 18.1 D31 was personally served with the 2020 Injunction and Extension Application at her home address.
  - 18.2 D11, D15, D16, D19, D20 and D22 were served at their last known addresses by way of letter-box service.
19. D34 and D35 were not contemplated as proposed Named Defendants at this stage, however were later served with the 2020 Injunction and Extension Application when being served with the Substantive Amendment Application on 17 June 2020 (in the manner explained below).
20. I add (for completeness only at it is intended that Ms Thomson-Smith be removed as a defendant to these proceedings) that D33 was served with the 2020 Injunction and Extension Application by email on 27 May 2020.
21. In response to the Extension Application, evidence was received only from D3, D4, D8 and D9. D28 indicated (by way of email dated 2 June 2020) that she intended to file evidence but needed more time. No further correspondence has been received from her since.

**Notice of Hearing – Return Date for the Extension Application and Claimants’ Reply Evidence**

22. Paragraph 17 of the 2020 Injunction required that notice of the Return Date should be given by email to Ms Green (D3), Mr Mehta (D3’s Counsel), Mr Smith (an interested party), Ms Thomson-Smith (D33), Mr Keir (D4) and ‘Connor’ (D21) **and** any Named Defendant that the Claimants were able to serve or subsequently serve. Paragraph 18 requires the same in relation to the Claimants’ reply evidence. The Claimants have taken steps to serve all of the Named Defendants, and, as such, have sought to provide copies of the Notice of Hearing and Reply Evidence to all Named Defendants.
23. The steps taken to publicise the Notice of Hearing /provide copies of the Reply Evidence are, in summary, as follows:
  - 23.1 On 9 June 2020, I sent emails to D3 (and Mr Mehta and D3’s solicitors), Mr Smith, D33, D4, D21, D8, D9 and D28 attaching a copy of the Claimants’ Reply Evidence and indicating that the return date had been listed for 22 June 2020. I informed them that a copy

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

of the Notice of Hearing would follow as soon as I was in receipt of the same. I sent a further email to all these individuals on 10 June 2020 with a copy of the Notice of Hearing.

- 23.2 On 10 June 2020, each of the Websites were updated to confirm the date of the return hearing as 22 June 2020 and explaining that those who wanted further details of the hearing should contact me. A link to the Claimants' Reply Evidence was also created and those documents uploaded.
- 23.3 On 11 June 2020, each of the Websites were further updated to provide a link to the Notice of Hearing and also to explain that anyone who wanted further details of the hearing should contact the court as indicated in the Notice.
- 23.4 On 16 June 2020, copies of the Notice of Hearing were posted at conspicuous locations around the Harvil Road Site including at the 'roadside' protester encampment and Gates 1-4 as well as either end of Dews Lane.
- 23.5 On 16 June 2020, a copy of the Notice of Hearing was delivered with the Substantive Amendment Application (without witness evidence) in the manner set out at paragraph 26 below.
- 23.6 On 17 June 2020, a copy of the Reply Evidence was delivered with the Substantive Amendment Application (being the full suite of papers) in the manner set out at paragraph 27 below.

### **Substantive Amendment Application**

24. The Substantive Amendment Application was issued on 16 June 2020. On that day:

24.1 The Websites were updated to reflect the fact that the Claimants had now issued the Substantive Amendment Application and that it was to be heard initially at the same time as the return date hearing of the Extension Application. The Substantive Amendment Application comprising:

- (i) Sealed Application notice;
- (ii) Re-Amended Claim Form;
- (iii) Continuation Sheet to Claim Form;
- (iv) Plan A;

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

- (v) Draft Order;
- (vi) Second Witness Statement of Rohan Perin and exhibit RP2; and
- (vii) Second Witness Statement of Richard Jordan and exhibit RJ9

(the **Full Suite of Papers**)

was also uploaded to the websites such that they are accessible to anyone who wishes to view them.

24.2 I sent emails to D3 (and her solicitors and Mr Mehta), Mr Smith, D33, D4, D21, D8, D9 and D28 between the hours of 12:36 and 15:39 informing that the Substantive Amendment Application had been issued and listed to be heard with the Extension Application and attaching the Full Suite of Papers (which needed to be sent by 3 separate emails per recipient).

25. Because of the number of Named Defendants (and the desire to have at least two bundles per Named Defendant to cover multiple service destinations) and given the extent of the Harvil Road Site and the requirement to serve persons unknown, at least 100 bundles of papers needed to be prepared, which is a significant volume of papers and a time consuming task (made more difficult due to remote working). The papers then needed to be couriered to our agents to be prepared for service. It was therefore not physically possible for this to be undertaken in time for the Full Suite of Papers to be served on 16 June 2020. However, the Claimants were very conscious to at least provide three clear days' notice of the hearing even if it was not possible to provide the Full Suite of Papers and, as such, smaller bundles (being the Full Suite of Papers less the witness evidence and exhibits) were prepared for service on the 16 June 2020 to include the following:

- (i) Covering letter for each of the Defendants which explained that notice of hearing was enclosed in relation to the hearing of the Extension Application. That letter also explained that the Claimants' had now issued their Substantive Amendment Application which had been listed to be heard initially with the hearing of the Extension Application on 22 June 2020. It was recommended that any person who wanted further details of the hearing, should contact the court as provided for in the Notice of Hearing for the Extension Application.
- (ii) Notice of Hearing of the Extension Application
- (iii) Sealed Application notice dated 15 June 2020;

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

- (iv) Re-Amended Claim Form;
  - (v) Continuation Sheet to Claim Form;
  - (vi) Plan A;
  - (vii) Draft Order;
- (“the **Application Papers**”)

26. Therefore, on 16 June 2020, the Application Papers were served by the Claimants’ agents:

- 26.1 by delivering copies to and posting copies at conspicuous locations around the Harvil Road Site and to the ‘roadside’ protester encampment before 4pm;
- 26.2 D8, D10, D22, D23 and D34 were personally served with the Application Papers or where service was refused papers were deposited in their presence as supported by the statements of Steve Collins and David Asker dated 17 June 2020;
- 26.3 D3, D4, D7, D9, Ds11-30 and D32 and D35 were served by leaving copies of the Application Papers at the ‘roadside’ protest camp at Harvil Road.
- 26.4 D14, D17, D18, D25, D26 and D27 were served by leaving copies of the Application Papers at the Crackley Protest Camp.
- 26.5 D3, D4, D11, D15, D16, D19, D20, D22 and 31 were served at their home or last known addresses by way of letter-box service.

27. Service of the Full Suite of Papers followed on 17 June 2020 by the Claimants’ agents by:

- 27.1 Delivering copies to and posting copies at conspicuous locations around the Harvil Road Site including at Gates 1-4 and the East end of Dews Lane. I understand that it was not possible to serve papers at the West end of Dews Lane because there was a lot of protester activity near the Hillingdon Outdoor Activity Centre as a result of High Court Enforcement Officer enforcing statutory warrants to recover possession of land subject to occupation and trespass. As a result, it was not deemed safe for the Claimants’ process servers to serve the Full Suite of Papers at that end of Dews Lane.
- 27.2 Delivering copies the ‘roadside’ protester encampment and other encampments in the vicinity before 4pm.

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

- 27.3 D3, D4, Ds7-32, D34 and D35 were served by leaving copies of the Full Suite of Papers at the ‘roadside’ protest camp at Harvil Road. I should add that in the Full Suite of Papers addressed to D34 and D35, a copy of the Extension Application was also enclosed by way of service.
- 27.4 Ds7-10, Ds 12-14, D17, D18, D21, Ds23-30, D32, D34 and D35 were served by leaving copies of the Full Suite of Papers at the Crackley Protest Camp.
- 27.5 D3, D4, D11, D15, D16, D19, D20, D22 and 31 were served at their home or last known addresses by way of letter-box service.
28. The Claimants believe that these are the steps that they can reasonably practicably take to seek to draw both the Extension Application and the Substantive Amendment Application (and any order made in them) to the attention of those affected by the Order. The Claimants believe that documents served by the above means will come to the attention of those affected by them.
29. It appears that those efforts have been successful, because since the 2020 Injunction Order, aside from D3 who was present at the hearing where the 2020 Injunction was made, D4, D8 and D9 have come forward to oppose the Applications. D28 has also acknowledged the Extension Application.
30. For completeness, I should add that the Claimants have further considered whether steps might be taken to draw these proceedings to the attention of affected parties via social media. In my experience of seeking to effect such service in similar cases in the past, however, those steps are regularly unsuccessful – in that the intended recipients will often block messages from unknown or (from their perspective) undesirable contacts, and attaching or uploading electronic documents to such messages is not straightforward. Opening a channel of communication by way of either the Claimants’ or this firm’s social media also has some risk given such accounts are not properly monitored in the same way as communications via post or email.

### **Future Service of the Order and any further documents**

31. The steps the Claimants are taking to bring the Applications to the attention of the Defendants (and interested parties) are similar to those they intend to take to serve the order in the future (as set out at paragraph 13 of the draft order accompanying the Substantive Amendment Application). The rationale for the steps proposed is because the Claimants wish to seek to ensure so far as possible that the Applications and relief sought in them comes to the attention of all those who can reasonably be expected to want to trespass upon or obstruct access to the sites in the future.

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

32. It will be evident from the steps that the Claimant has taken to date in serving the papers relating to the Applications that considerable time and expense is incurred in doing so. The Claimants suggest that it may be more proportionate for them to seek to serve any Order in hard-copy, but in respect of subsequent documents for those to be emailed to Named Defendants at email addresses provided by them. Alternatively they can be made available at the websites indicated in the draft Order. Any person concerned to see further documents relating to the proceedings would then know where to find that easily. Conversely, time and resources would not be wasted delivering hard copies to people who may have no desire to read them.

### **Protester Activity since 31 May 2020**

33. Jordan 2 in support of the Substantive Amendment Application provides great detail as to the number and type of incidents which the Claimants' and their contractors experience at the Harvil Road Site. I do not propose to recount in any detail further incidents which have taken place, however I am informed by those instructing me and from speaking with enforcement agents who are on the ground that protester activity has not decreased since the Applications have been issued. On the contrary, the protesters continue to be very active at the Harvil Road Site and on adjoining land.

34. By way of example, it has been reported to me that on 11 June 2020 at c.9:00, a low loader delivery lorry attempting to bring steel casings onto the Harvil Road Site via West Gate 3 was delayed as four protesters including Mr Oliver (D9) attempted to place themselves beneath the wheels of the tractor unit to prevent the vehicle moving forward. This not only delayed and disrupted equipment being delivered to the Site but temporarily blocked Harvil Road causing a nuisance to other road users. I am informed that the protesters eventually moved when a member of the public who was trying to pass through the road (and who was apparently trying to get to the hospital) threatened to move them himself if they did not voluntarily depart.

35. At the time of drafting this statement, the High Court Enforcement team on behalf of the Claimants are executing statutory warrants pursuant to s13 of the Compulsory Purchase Act 1965 to remove protesters who are or have been unlawfully occupying and trespassing on part of the Additional Land. This operation commenced on 15 June 2020 and remains ongoing largely due to the resistance of the protesters on the ground. Whilst I do not have the specific detail (due to the ongoing nature of the operation and time constraints), I am informed that several protesters have sought to prevent their removal by a number of methods; climbing trees, digging holes and refusing to come out of tunnels.

1.	Claimants
2.	Shona Ruth Jenkins
3.	Third
4.	None
5.	Date: 19 June 2020

36. There also remains a significant presence of trespassers on adjoining land which only serves to increase the risk to the Claimants' land and the Harvil Road Site, including the Additional Land which the Claimants are now asking the court to 'protect' by way of further interim relief pending the Substantive hearing in due course.

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:



**SHONA RUTH JENKINS**

Dated: 19 June 2020