



Claim No: PT-2020-BHM-000017

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

PT-2020-BHM-000017

**Before: Mr Justice Marcus Smith
On: 17 December 2020**

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 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 CLAIMANT(S) 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
- (5) ELLIOTT CUCIUREAN

Defendants / Respondents

ORDER

**EXTENDING THE DURATION OF THE INJUNCTION MADE BY ANDREWS J.
ON 17 MARCH 2020**

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.

FURTHER TO the Order made in these proceedings by Andrews J. on 17 March 2020 (“the **March 2020 Order**”).

AND UPON the Claimants’ application by Application Notice dated 10 December 2020, pursuant to the liberty to apply provisions at paragraph 17 of the March 2020 Order, to extend the duration of the injunction contained at paragraphs 4 to 6 of the March 2020 Order (“the **Extension Application**”).

AND UPON reading the Application Notice dated 10 December 2020 and the witness statement of Robert Shaw dated 10 December 2020.

AND UPON the Claimants indicating that they are content to provide to any named Defendants or persons unknown copies of further evidence or other documents filed in these proceedings from time-to-time at an email address provided to the Claimants, and place all such documents online to be publicly accessible.

AND UPON the Court accepting the Claimants’ renewed 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.

IT IS ORDERED THAT:

Continuation of March 2020 Order

1. The long-stop date of 17 December 2020 at paragraph 6.1 of the March 2020 Order be deleted, and the injunctions at paragraphs 4 to 6 of the March 2020 Order shall continue until 31 January 2021 or further order.
2. The injunctions at paragraphs 4 to 6 of the March 2020 Order (as amended by paragraph 1 above) shall, further, apply to the Fifth Defendant as well as the First and Second Defendants. Accordingly, the injunction which continues as against the First, Second and Fifth Defendants is – for the avoidance of doubt - henceforth as set out in paragraphs 3 to 5 of this order.

Injunction in force

3. With immediate effect, and save for the matters set out in paragraph 4 of this Order:
 - 3.1 The First Defendant and Fifth Defendant and each of them are forbidden from entering or remaining upon the Cubbington Land, being the land shaded green, blue and pink and outlined red on Plan A (“the **Cubbington Land**”); and
 - 3.2 The Second Defendant and Fifth Defendant and each of them are forbidden from entering or remaining upon the Crackley Land, being the land shaded green, blue and pink and outlined red on Plan B (“the **Crackley Land**”).
4. Nothing in paragraph 3 of this Order:
 - 4.1 Shall prevent any person from exercising their rights over any open public right of way over the Land (being, for the avoidance of doubt, the Cubbington Land and the Crackley Land together). 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;
 - 4.2 Shall affect any private rights of access over the Land held by any neighbouring landowner.
5. The order at paragraph 3 above shall remain in effect until trial or further order or, if earlier, a long-stop date of 31 January 2021.

Service

6. Pursuant to CPR r. 6.27 and r. 81.4(c) and (d) service of this Order on the First and Second Defendants shall be dealt with as follows:
 - 6.1 The Claimants shall affix sealed copies of this Order and the Extension Application in transparent envelopes to posts, gates, fences and hedges at conspicuous locations around the Cubbington Land and Crackley Land.

6.2 The Claimants shall position signs, no smaller than A3 in size, advertising the existence of this Order and providing the Claimant's solicitors contact details in case of requests for a copy of the Order or further information in relation to it.

6.3 The Claimants shall email a copy of this Order to the following email addresses:

- (i) helpstophs2@gmail.com
- (ii) crackleyresidents@hotmail.co.uk
- (iii) peter.delow@ntlworld.com
- (iv) wendyhoulston@hotmail.com¹

6.4 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.

6.5 The Claimants shall also leave sealed copies of this Order at the protestor campsite marked "Camp 2" on the Plans attached to the witness statement of Robert Shaw.

7. Pursuant to CPR r. 6.27 and r. 81.4(c) and (d) service of this Order and the Extension Application on the Fifth Defendant shall be dealt with by sending a copy of this Order to the Fifth Defendant's solicitors, Robert Lizar Solicitors and counsel, by email to: nhall@robertlizar.com, lfrazer@robertlizar.com and a.wagner@doughtystreet.co.uk.

¹ These additional email addresses are taken from the Local Action Groups list on the Contacts page of <http://www.stophs2.org/contacts> and are in addition to the email address "helpstophs2@gmail.com" which was prescribed by the March 2020 Order for service.

8. The taking of such steps set out at paragraphs 6 and 7 shall be good and sufficient service of this Order on the First, Second and Fifth Defendants and each of them. This Order shall be deemed served on those Defendants on the date that the last of the above steps is taken, and shall be verified by a certificate of service.
9. 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 6.1 and 6.2 remain in place and legible, and, if not, shall replace them as soon as reasonably practicable.
10. The Court will provide sealed copies of this Order to the Claimants' solicitors for service (whose details are set out below).

The Extension Application

11. The hearing of the Extension Application be listed to be heard remotely at 10:30 am on Thursday 14 January 2021, with a time estimate of one day (to including reading and judgment).
Note: This date has been selected without reference to the convenience of the parties, but is a date on which the court can hear the Extension Application. The matter is reserved to Mr Justice Marcus Smith, and the Judge will entertain applications by letter to vary this date.
12. The Court shall provide a notice of hearing to the Claimants' solicitors, which the Claimants are to publicise the date of the hearing by posting a copy on the websites at paragraph 6.4 above.
13. Any individual who wishes to contest the Extension Application or otherwise who wishes to become a party to these proceedings so as to be able to make representations to the Court on the Claimants' claim shall by 4pm on Thursday 7 January 2021:
 - 13.1 file and serve a witness statement on the Claimant's solicitors outlining their interest in this matter and the nature of grounds for that contest or arguments they may wish to raise; and
 - 13.2 provide a postal address for service or email address at which they are prepared to accept electronic service of documents.

14. The Claimants shall file any evidence in response by 4pm on Tuesday 12 January 2021, and post links to electronic copies of that evidence online at the websites listed at paragraph 6.4 above.

Further directions

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.
19. Costs reserved. If the Claimant intends to seek a costs order against any person in respect of any future applications in these proceedings or any future hearing, then they shall seek to give reasonable advance notice of that fact to that person.

Communications with the Court

20. 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.

21. The Claimants' solicitors and their contact details are:

DLA Piper UK LLP of:

1 St Paul's Place
Sheffield S1 2JX
United Kingdom

Tel: +44 114 283 3312

Email: rob.shaw@dlapiper.com and aryaan.bassi@dlapiper.com

Ref: RXS/380900/346

Dated: 17 December 2020