



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: 19 January 2021**

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 the Order made by Marcus Smith J on 17 December 2020 extending the duration of the March 2020 Order to 31 January 2021 (“the **December 2020 Order**”)

AND UPON hearing Mr Michael Fry and Mr Jonathan Welch, counsel for the Claimants

AND UPON reading the Application Notice dated 10 December 2020, the first, second and third witness statements of Mr Robert Shaw (dated 10 December 2020, 17 December 2020 and 12 January 2021 respectively), and the witness statement of Mr Andy Jones dated 12 January 2021)

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 Claimants indicating that they intend in due course to bring a further application to amend their claim and vary and extend the form of the March 2020 Order so that it: (i) extends for a longer period; (ii) is directed against particular named defendants; and possibly: (iii) covers additional land; and (iv) prevents interference with access to the land to which the injunction applies via public rights of way/highways (“the **Substantive Amendment Application**”).

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 (as amended by the December 2020 Order) be deleted, and the injunctions at paragraphs 4 to 6 of the March 2020 Order shall continue until 30 April 2021 or further order.
2. The injunction at paragraphs 4 to 6 of the March 2020 Order (as amended by paragraph 1 above) shall, further, apply to the Fifth Defendants 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 Site**”); 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 Site**”).
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. 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 30 April 2021.

Service

6. Pursuant to CPR r. 6.27, the steps taken by the Claimants to serve this Extension Application on the First, Second and Fifth Defendants (as set out in the second and third witness statements of Mr Robert Shaw dated 17 December 2020 and 12 January 2021 respectively, and the Certificates of Service dated 11 January 2021 and witness statement of Mr Andy Jones dated 12 January 2021 (process server) in Support) shall amount to good and proper service of the Extension Application on those defendants. The deemed date of service is 21 December 2020.
7. 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:
 - 7.1 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 Crackley Land.
 - 7.2 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.
 - 7.3 The Claimants shall email a copy of the Order to the following email addresses:
 - (i) crackleyresidents@hotmail.co.uk
 - (ii) peter.delow@ntlworld.com
 - (iii) wendyhoulston@hotmail.com

7.4 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.

7.5 The Claimants shall also leave sealed copies of this Order at the protestor campsite marked “Camp 2” on the Plans.

8. The taking of such steps set out at paragraph 7 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.
9. The Claimants shall within the first week of each calendar month check that copies of the orders and signs referred to at paragraphs 7.1 and 7.2 and listed in Row 1 of Schedule 1 to this Order remain in place and legible, and, if not, shall replace them as soon as reasonably practicable. The date of confirmation and replacement (if necessary) of any orders and signs shall be recorded by the Claimants in the table at Schedule 1 to this Order.
10. The Court will provide sealed copies of this Order to the Claimants’ solicitors for service (whose details are set out below).

The Substantive Amendment Application / Return Date Hearing

11. The Claimants shall make their Substantive Amendment Application by 4pm on 26 March 2021. If that date is before the Court of Appeal hands down judgment in the Fifth Defendant’s appeal (Appeal No. A3/2020/1909I) the Claimants shall have liberty to apply to amend the Substantive Amendment Application as necessary.
12. A hearing of the Substantive Amendment Application (“the **Return Date**”) is to be listed on 13 April 2021 with a time estimate of three days.

13. The Court shall provide a notice of hearing to the Claimants' solicitors, which the Claimants are to publicise by posting a copy on the websites at paragraph 7.4 above.
14. Any individual who wishes to contest the Substantive Amendment 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 7 April 2021:
 - 14.1 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
 - 14.2 provide a postal address for service or email address at which they are prepared to accept electronic service of documents.
15. The Claimants shall have liberty to file evidence in reply, and will post links to electronic copies of that evidence online at the websites listed at paragraph 7.4 above.

Further directions

16. 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).
17. 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.
18. The Claimants have liberty to apply to extend or vary this Order or for further directions.
19. Save as provided for above, the Claim be stayed generally with liberty to restore.
20. 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

21. 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.

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

DLA Piper UK LLP of:

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

Ref: RXS/380900/346

Dated: 19 January 2021