

On behalf of: Applicants/Claimants  
By: Richard Joseph Jordan  
No: 1  
Exhibit: RJ1  
Date: 26 March 2021

**PT-2020-BHM-000017**

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

BETWEEN:

**(1) THE SECRETARY OF STATE FOR TRANSPORT**

**(2) HIGH SPEED TWO (HS2) LIMITED**

Applicants/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**

**(5) ELLIOTT CUCIUREAN (AND THE NAMED DEFENDANTS LISTED AS D6 –  
D8 ON THE CLAIM FORM)**

Respondents/Defendants

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**WITNESS STATEMENT OF  
RICHARD JOSEPH JORDAN**

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**I, RICHARD JOSEPH JORDAN**, of High Speed Two (HS2) Ltd, 2 Snowhill, Queensway, Birmingham, B4 6GA **WILL SAY** as follows:

1. I am the Second Claimant's Chief Security and Resilience Officer. I am accountable for the delivery of corporate security support to the Second Claimant in line with its Security Strategy, and the provision of advice on all security related matters. This includes incident response, business continuity, cyber security, information assurance, physical security, personal security, personnel security and security of the future railway. I am the senior representative on behalf of the Second Claimant dealing with external security partners, such as the police, the Department for Transport, the Centre for Protection of National Infrastructure and relevant security authorities and agencies.
2. I am authorised to make this statement in support of the Claimants' application to extend the injunction (the **"Injunction"**), in respect of the Cubbington Land and Crackley Land (which together I refer to as **"the Land"**), imposed by the Court on 17 March 2020 by the order of Mrs. Justice Andrews and extended by the orders of Mr. Justice Marcus Smith on 17 December 2020 and 19 January 2021.
3. The Claimants entitlement to possession of the Land was determined by Mrs. Justice Andrews in her judgement dated 20 March 2020.
4. Whilst the Claimants' original intention in respect of this application was to ask the court to extend the Injunction both temporally and geographically (due to incidents of trespass occurring to land within the Claimants' possession but not covered by the Injunction), the Claimants have resolved to seek an extension of the Injunction in time only. They do not seek to widen the Injunction to include additional land.
5. This statement has been prepared with the assistance of the Claimants' solicitors, DLA Piper UK LLP (**"DLA Piper"**) following telephone and email correspondence between me and lawyers at the firm.
6. This statement is made from matters that are within my own knowledge and/or (unless other sources of information are stated) knowledge gained from my review of the Claimants' documents, incident reports logged on the Second Claimant's HORACE system, reports by the Second Claimant's security and legal teams and those of the Second Claimant's contractors and material obtained and reviewed

from open source internet and social media platforms. In each case I believe them to be true.

7. The HORACE system, in particular, is an important source of the information. It is the online incident reporting system used by the Second Claimant to record details of health, safety, security, environmental and reputational incidents which occur as a result of, or in connection with the work of the Second Claimant. However, because it is both an online system and contains information filled in by specialist security professionals, it is not resource which can easily be printed out or otherwise presented in a way that it is easily understandable by a lay person. The accounts of the incidents set out in the Schedule at pages 1 - 4 of RJ1 are therefore derived from that system (and the other sources set out above), but explained in ordinary English.
8. There is now shown to me a paginated clip of documents which I exhibit hereto as RJ1. Page numbers without qualification refer to that exhibit.
9. In preparing this statement have read the three witness statements given by Robert Shaw of DLA Piper filed in support of the Claimants' previous applications to extend the Injunction temporally.
10. The contents of this statement are true to the best of my knowledge and belief.

**Purpose of this statement**

11. In this statement I will:
  - 11.1 explain how the Claimants have served (and checked) the order dated 19 January 2021 (which was made by Mr. Justice Marcus Smith following a hearing on 14 January 2021), a copy of which is at pages 6 - 16 of RJ1;
  - 11.2 describe generally protestor activity on and around the Land since the Injunction was first imposed;
  - 11.3 explain how the Claimants have come to identify the persons who have been added as named defendants to these proceedings;
  - 11.4 set out the details of specific incidents of trespass and obstruction that have occurred since the start of 2021 up to 22 March 2021; and
  - 11.5 explain the continued risk of trespass to the Land.

12. As just indicated, I provide an explanation of protestor activity at the Land up to 22 March 2021. I have had to draw the line at that date, because it has proved very difficult to finalise a statement which tries to be precisely up to date as there continue to be regular incidents and developments at the Land. In respect of other incidents, given the frequency with which incidents occur, I will provide an updating witness statement to the Court before any future hearing in order to provide the Court with information on any important developments which have occurred between 22 March 2021 and that date.

**Service of Order dated 19 January 2021 (“January Order”)**

13. Upon receipt of the January Order, the Claimants took the following steps to serve the January Order:

13.1 In accordance with paragraph 7.1 and 7.2 of the January Order, on 30 January 2021, Mr. Matthew Janes, Site Supervisor for Five Rivers Environmental Contracting at the Crackley Land (a sub-contractor employed by LMJV, the Second Claimant’s principal contractor at the Land), placed copies of the following documents (the **“Documents”**) at conspicuous locations around the Land:

13.1.1 the January Order; and

13.1.2 A3 size signs advertising the existence of the January Order and providing the Claimants’ solicitors contact details (which the Claimants refer to as **“Injunction Warning Notices”**).

13.2 At the time of serving the Documents (as described in paragraph 13.1 above), Mr. Janes recorded the What 3 Words geo code location of each copy of the January Order, Injunction Warning Notice or both on a spreadsheet in the same form as that appended at Schedule 1 to the January Order (**“Spreadsheet”**). A copy of the Spreadsheet is at pages 17 - 43 of RJ1. Mr. Janes also took pictures of each location, showing the relevant documents as served. Copies of some of the pictures taken, to evidence service of the Documents, are at pages 44 - 63 of RJ1.

13.3 DLA Piper subsequently reviewed each What 3 Words geo code location and established that copies of the Documents had not been affixed in conspicuous locations around the entire perimeter of the Crackley Land.

- 13.4 DLA Piper therefore instructed LMJV to affix additional copies of the Documents around the perimeter of the Crackley Land. This exercise was undertaken by Mr. Simon Sutcliffe, Construction Manager for LMJV, on 9 and 11 February 2021. Mr. Janes sent photographs of these additional locations to DLA Piper, who then updated the Spreadsheet.
- 13.5 In accordance with paragraph 7.3 of the January Order, on 28 January 2021, a copy of the January Order was emailed to: (i) crackleyresidents@hotmail.co.uk; (ii) peter.delow@ntlworld.com; and (iii) wendyhoulston@hotmail.com. Copies of the emails sent on 28 January 2021 are at pages 64 - 66 of RJ1. I am informed by Mr. Shaw that as at the date of this witness statement no response has been received in respect of any of those emails.
- 13.6 In accordance with paragraph 7.4 of the January Order, on 28 and 29 January 2021, a copy of the January Order was placed on the following websites:
- 13.6.1 <https://hs2inwarwicks.commonplace.is/proposals/possession-orders-in-warwickshire>
- 13.6.2 <https://www.gov.uk/government/organisations/high-speed-two-limited>
- 13.6.3 <https://www.hs2.org.uk/documents/collections/cublington-and-crackley-high-court-proceedings/>
- Screen shots of these websites, which contain links to download a copy of the January Order (and other documents in these proceedings) are at pages 67 - 84 of RJ1.
- 13.7 In accordance with paragraph 7.5 of the January Order, on 30 January 2021 Mr Nick Jones and Mr Andy Jones from LMJV, placed copies of the January Order on a table in the middle of Camp 2. At page 85 of RJ1 is a video of Mr. Nick Jones placing the January Order on the table. I believe that the person heard in the video shouting is Mr. Terry Sandison (D8).
- 13.8 On 28 January 2021, a copy of the January Order was sent by email to D5's solicitors and counsel at the following email addresses: (i)

[nhall@robertlizar.com](mailto:nhall@robertlizar.com); (ii) [lfrazer@robertlizar.com](mailto:lfrazer@robertlizar.com); and (iii) [a.wagner@doughtystreet.co.uk](mailto:a.wagner@doughtystreet.co.uk).

A copy of the email sent on 28 January 2021 is at pages 86 of RJ1. I am informed by Mr. Shaw that as at the date of this witness statement no response has been received.

- 13.9 Certificates of Service, filed with the court by DLA Piper, confirming the steps taken by the Claimants to serve the January Order are at pages 87 - 105 of RJ1.

### **Checking of the January 2021 Order**

14. As directed by paragraph 9 of the January Order the Claimants have taken the following steps to check that Documents remain in place and legible and, if not, replace them:

14.1 As described at paragraphs 13.2 and 13.4 above, at the time of serving the Documents (described in paragraph 13.1 above), Mr. Janes recorded the What 3 Words geo code location of each copy of the January Order, Injunction Warning Notice or both in the Spreadsheet. The additional locations at which Mr. Sutcliffe served copies of the Documents were subsequently added to the Spreadsheet.

14.2 On 9 February 2021 Mr. Sutcliffe checked each location recorded in the Spreadsheet (other than those copies of the Documents that were first affixed on 11 February 2021 around part of the perimeter of the Crackley Land). No documents needed replacing on this occasion.

14.3 By the first week of March 2021, LMJV had handed over control of the Cubbington Land to another contractor Balfour Beatty VINCI (“**BBV**”) (who are carrying out the next stage of works at this site). Mr. Ed Griffiths of BBV checked each location at the Cubbington Land on 3 March 2021 and recorded this exercise in the Spreadsheet. Other than one location which Mr. Griffiths reported that he was unable to find, no documents required replacement.

14.4 In respect of the Crackley Land the Second Claimant originally instructed BBV to undertake the checking exercise under LMJV’s control. However, due to confusion between BBV and LMJV as to who would be

undertaking the checking exercise, ultimately Mr. Sutcliffe carried out the checking exercise on 10 and 17 March 2021. Unfortunately Mr. Sutcliffe did not make a record of which locations required replacement documents. However, he confirmed to DLA Piper that some replacements were required and that this was the result, in his opinion, of the documents being ripped down by protestors.

14.5 The next check is due to take place in the week commencing 5<sup>th</sup> April 2021.

15. In respect of this checking exercise:

15.1 the Claimants have been informed by LMJV that it takes approximately 6.5 hours to walk the perimeter of the Land and check each location recorded in the Spreadsheet.

15.2 The additional costs incurred by the Second Claimant in carrying out the checking exercise are estimated to total approximately £16,500. This includes the costs of the Second Claimant's on site contractors (who have carried out the exercise) and DLA Piper (who have had to brief the contractors on the exercise and review whether it has been carried out correctly on each occasion).

15.3 The Claimants have been able to complete checks each month as requested, however this has not always been in the first week of each calendar month. This is because they are reliant on the Second Claimant's contractors to provide personnel to carry out the exercise who need to be diverted from planned construction activity. Further, LMJV have, since the January Order was made and after the first check in February, handed over operations at the Cubbington Land to a new contractor, BBV. This has necessitated briefing a new contractor's personnel on what the checking exercise requires.

15.4 To assist the court in understanding the location and spacing of the Documents on the perimeter of the Land, DLA Piper asked LMJV to video a section of the perimeter. At page 106 of RJ1 is a video taken by Andy Jones, Deputy Security Manager for LMJV, on 15 March 2021 showing approximately 500m of the perimeter at the Broadwells Wood area of the Crackley Land. This video shows: (i) copies of the January

Order; (ii) copies of the Injunction Warning Notices; and (iii) copies of “No Trespass Notices” (which are not mandated by the January Order, but were erected by the Second Claimant around the Land).

**Protestor activity since the Injunction was imposed**

16. As Mr. Shaw describes at paragraphs 14-16 of his first witness statement (a copy of which is at pages 107 - 182 of RJ1), the Claimants were able to recover possession of the Land following the order made by Mrs. Justice Andrews of 17 March 2020 with the assistance of a High Court Writ of Possession which was enforced by Mr. Gary Bovan (a High Court Enforcement Officer).
17. However, protestor activity in opposition to the Claimants' works at the Land has continued and the focus of this activity remains “Camp 2” (as identified on the plan at page 183 of RJ1), which is a protest camp situated on third-party land adjacent to the Crackley Land.
18. Camp 2 remains directly adjacent to the perimeter fence of the Crackley Land and it remains generally peaceful, but the Claimants experience is that it is still used by protestors as a base from which to launch incursions on to the Land and carry out other protests in the vicinity of the Land (as the Schedule at pages 1 - 4 of RJ1 demonstrates).
19. I am informed by Mr. Shaw that:
  - 19.1 in a recent telephone conversation with Mr. Paul Sandison and Mr. Terry Sandison on 19 March 2021 (being two individuals the Claimants seek to add as named defendants to these proceedings as D7 and D8 – which I explain further below at paragraphs 33.8 - 35), he was informed that Camp 2 is being dismantled.
  - 19.2 he made immediate enquiries, following this telephone conversation, with Mr. Nick Jones who is the security manager at the Land for LMJV. Mr. Jones confirmed that there are now fewer tents at the camp, but that it is nowhere near being cleared.
20. The Claimants will continue to monitor whether the camp is dismantled and protestors disperse. However, the Claimants cannot at this time say whether there will be a such a reduction in protestor activity around the Land, if the camp was dismantled, that an injunction to restrain unauthorised access will no longer be



required. One could take the view that the imposition of the Injunction has had such a deterrent effect that this has persuaded the protestors to abandon their constant presence adjacent to the Crackley Land, however, as the Schedule records, there continue to be incidents on and around the Land even if the camp is being wound down.

21. Further, DLA Piper have monitored posts on social media regarding activity at Camp 2 and at page 184 of RJ1 is a post from Facebook by a Mr. Maurice Miller on 21 February 2021 which refers to: (i) cleaning up the camp (although it does not in my view suggest the camp will be dismantled); and (ii) mass events at the camp being prohibited due to COVID-19 legislation. As the COVID-19 lockdown restrictions are eased the Claimants anticipate that it will become easier for more protestors to join the camp and/or there will be a greater risk of direct protest action by individuals trespassing on to the Land.
22. Since 24 March 2020 and during the period of time over which the Injunction has been in force the numbers of persons occupying Camp 2 has remained fluid. The position on the ground has often changed on a day to day basis such that persons unknown have come and gone from Camp 2 regularly and the total number of persons and their identity has appeared to change on a daily / weekly basis. As at 24 March 2021 Mr. Nick Jones has reported to me that 5-6 people are present in the camp.
23. Since the start of 2021, the Claimants have experienced continuing incidents of trespass on to the Land, and other unlawful conduct:
  - 23.1 Whilst there have been numerous minor and major incidents of trespass, for the purposes of this application, the Claimants rely on the 9 incidents specified in the Schedule. Such acts reinforce the Claimants belief that there continues to be an ongoing risk of unlawful conduct. Whilst (as these incidents show) the Injunction has not been wholly successful in stopping trespass, the Claimants believe that the amount of trespass would have been far greater but for the Injunction; and
  - 23.2 it is not realistic to attempt to give an account of each and every incident that has been recorded at the Land. This statement therefore sets out a number of the more significant incidents, and a range of examples of the sort of protest activity that the Claimants continue to be subject to.

24. I would respectfully ask the court to bear in mind the comments of Mr. Shaw at paragraphs 27 and 28 of his first witness statement, which I endorse here.

### **Contempt of Court**

25. The Claimants have brought two separate applications in these proceedings for contempt of court against (i) Mr. Cuciurean (D5); and (ii) Dr. Maxey (D6) in respect of incidents of trespass which occurred in April 2020.

26. By two judgments (one in respect of liability and the other in respect of sanction) given on 13 and 16 October 2020 respectively, the Court found Mr. Cuciurean (D5) to be in contempt of the Injunction on 12 separate occasions and imposed a sanction of 6 months imprisonment (suspended for 12 months). A copy of the order of the Court in this regard can be found at pages 185 - 191 of RJ1. Mr. Cuciurean subsequently appealed the Court's judgment.

27. The Court of Appeal heard Mr. Cuciurean's appeal on 16 and 17 January 2021 and handed down judgment on 16 March 2021, wherein it upheld the liability judgment of the Court and reduced Mr. Cuciurean's suspended sentence from six months to three months (but retained the same conditions as originally ordered).

28. The application regarding Dr. Maxey (D6) is currently being amended by the Claimants in light of the judgments of this Court and now the Court of Appeal. It currently does not have a hearing date scheduled.

29. For the purposes of this statement, I mention these separate applications as evidence that the Claimants will seek to enforce the Injunction should the Defendants act in defiance of the Order.

### **Named Defendants**

30. It is not always possible on site to identify (at least with any degree of confidence) the individuals involved in particular incidents, or to provide a comprehensive list of all persons who the Claimants realistically anticipate will engage in unlawful protest activities on the Land in the future. That is for a number of reasons, which include:

- 30.1 some individuals cover their faces to protect their identities (and/or, more recently, to protect against the spread of coronavirus);
  - 30.2 many incidents are reported by non-security contractors on site who cannot reasonably be expected to engage with trespassers in order to seek to identify them, and may not recognise them from other incidents or security reports;
  - 30.3 some protests appear to have attracted non-local or non-regular protestors who have not been seen before (and may not be seen again) by the person reporting the incident; and
  - 30.4 there have been incidents involving such a large group of protesters at any one time that seeking to record their identities is not only impractical but also impossible where personnel are focussing their efforts on seeking to resist such trespass and protect the site from further intrusion.
31. Where persons are known or it has been possible to identify persons, some of them are described in this statement. Whilst the Claimants therefore seek to add a number of individuals as named defendants, the Claimants have not sought to add all individuals who have been identified. This is because, whilst the question of which named persons should properly be added as named defendants is kept under review, where identified individuals have trespassed on only one or very few occasions or they are not regularly seen as present in Camp 2, the Claimants do not consider there to be a sufficiently acute continued threat of trespass from those individuals to justify seeking relief against them at this juncture.
32. It may be disproportionate to seek to add every person it has been possible to identify. This is sometimes a difficult judgment call on the basis of the information available to the Claimants. For example, the Claimants are aware that some individuals have been involved in one incident at the Land, but because of the one-off nature of this incident, the Claimants have not considered it appropriate to name them as a defendant to these proceedings at this time.
33. The proposed named defendants, and an outline of their involvement, are as follows:
- Dr Ian "Larch" Maxey (D6),**
- 33.1 D6 is known to the Claimants as an anti-HS2 activist.

- 33.2 D6 has been involved in at least six incidents of trespass onto the Land and is currently subject to a separate application brought by the Claimants for contempt of court in respect of those incidents.
- 33.3 D6 has also regularly been involved in incidents of trespass at the Claimants' Harvil Road Site as well as other sites along the route (Euston – Birmingham), including the recent high-profile clandestine construction and occupation of tunnels under Euston Square Gardens in London. At pages 192 - 194 of RJ1 is a copy of a news report from BBC News on 22 February 2021 detailing D6's occupation of the tunnels.
- 33.4 Whilst D6 has not been seen at the Land recently, the Claimants consider that he is a consistent opponent of the HS2 Scheme, who has shown the lengths he will go to in order to make his views known (including acting in defiance of court orders).
- 33.5 On 17 March 2021 DLA Piper wrote to the to the solicitors (“ITN”) instructed by D6 in respect of the contempt of court application to explain that it was the Claimants' intention to apply to add D6 as a named defendant in these proceedings. DLA Piper also asked that they confirm by noon on 22 March 2021 that they remain instructed by D6. DLA Piper have not received a response from ITN. A copy of DLA Piper's letter of 17 March 2021 is at pages 195 - 196 of RJ1.
- 33.6 DLA Piper subsequently wrote to Edwin Coe solicitors, who the Claimants are aware acted for D6 in respect of legal proceedings concerning the occupation of Euston Square Gardens. DLA Piper asked that Edwin Coe confirm they remain instructed by D6 by 10am on 25 March 2021. DLA Piper have not received a response from Edwin Coe. A copy of DLA Piper's letter of 22 March 2021 is at pages 197 – 198 of RJ1.
- 33.7 DLA Piper then wrote directly to D6 at an address in London on 25 March 2021. The Second Claimant has been informed this is an address at which D6 is residing as a result of bail conditions which require D6 to live and sleep at the address and observe a curfew between 23:00 and 7:00 daily. A copy of DLA Piper's letter of 25 March 2021 is at pages 199 - 210 of RJ1.

**Paul Sandison and Terry Sandison (D7 and D8)**

- 33.8 D7 and D8 are known to the Claimants as anti-HS2 activists.
- 33.9 Both defendants were part of Camp 1 before the protestors were evicted from the Land and the camp dismantled on 26 March 2020. Since that time, both defendants have regularly been seen residing at Camp 2 and have been involved with incidents of trespass on to the Land.
- 33.10 Both D7 and D8 have often been verbally abusive to the Claimants' staff and contractors and D8 has been recorded throwing unknown liquids on to the Claimants' staff and contractors.
- 33.11 It was D8 who spoke with Mr. Barnard and Mr. Smith on 22 November 2020 (as described by Mr. Shaw at paragraph 29 of his first witness statement) and said that the protestors intend to use Camp 2 as "*their wintertime camp*" and that they are "*looking at the possibility of expanding the camp to house a larger number of protestors*". The report from Mr. Barnard and Mr. Smith is at page 211 of RJ1 in this regard.
- 33.12 I exhibit at page 212 of RJ1, video footage taken by Mr. Bovan and his team on 5 April 2020, which I comment on below:
- 5 April 2020 Video*
- 33.13 at 30 seconds D8 can be seen (wearing a baseball cap and holding a smart phone) looking over the blue hoarding fence at on the perimeter of the Crackley Land and videoing Mr. Bovan's team as they attempt to reinstate metal Heras fence panels that have been removed from the end of the hoarding fence by persons unknown.
- 33.14 at 1 minute 58 seconds D7 can be seen (dressed in a short sleeve black t-shirt and camouflage trousers) entering on to a raised area of ground at the end of the blue hoarding fence where metal heras fence panels have been removed by persons unknown. The individual stood next to D7 wearing a black hoodie and camouflage trousers is D5 (Elliott Cuciurean). A clear image of D7 can be seen at around 2 minutes 40 seconds.
- 33.15 at 3 minutes 42 seconds D8 can be seen interfering with attempts by Mr. Bovan's team to replace the metal Heras fence panels.

- 33.16 at 5 minutes onwards D7 (and others) can be seen moving further into the Crackley Land and at 5 minutes 42 seconds D7 can be seen assisting to remove metal Heras fence panels from the Crackley Land.
- 33.17 at 7 minutes 45 seconds D8 pretends to sneeze on Mr Bovan's team and at 15 minutes 25 seconds D8 can be seen throwing liquid from a bottle on to Mr. Bovan's team.
- 33.18 Between approximately 12 and 15 minutes D7 can be seen stood once again on the Crackley Land.
34. In respect of D8 I refer to incident 4 in the Schedule (at page 2 of RJ1). It has been confirmed to DLA Piper by Mr. Nick Jones that the individual who was brandishing the shovel and had to be escorted from the Land was D8.
35. On 19 March 2021 Mr. Nick Jones delivered letters from DLA Piper, explaining the Claimants' intention to add D7 and D8 as named defendants to these proceedings, to D7 and D8, who were both at that time resident at Camp 2. Video footage of Mr. Jones delivering the letters is at page 213 of RJ1. Following the delivery of these letters I understand D8 called Mr. Shaw and left a voicemail. Mr. Shaw then called D8 back (as referred to in paragraph 19.1 above) and explained the purpose of the letters to both D8 and D7.

#### **Incidents of Trespass since January 2021**

36. I exhibit to this statement a Schedule (which can be found at pages 1 - 4 of RJ1), which records a number of the more significant incidents and a range of examples of the sort of protest activity that the Claimants continue to be subject to, that have occurred since the start of 2021.
37. The location of the incidents were recorded using the What3Words geocode system and co-ordinates of each are shown on the Schedule.
38. In order to further assist the Court in understanding the location of the incidents:
- 38.1 DLA Piper have added to the Schedule the location of each incident using the descriptions given to different areas of the Crackley Land by Mr. Justice Marcus Smith at paragraphs 83-90 of his judgment of 13 October 2020 (which is the liability judgment I mention at paragraph 26 above in respect of the Claimants' application for the committal of D5); and

- 38.2 at page 5 of RJ1 is a plan showing (in red numbering) the approximate location of each incident using the What3Words geo code location. The red numbering has been added by DLA Piper. It is not absolutely accurate, but is intended to provide the Court with an idea of where each incident occurred.
39. The incident on 3 January 2021 has previously been briefly detailed in paragraph 13 of the third witness statement of Robert Shaw, which was filed with the court ahead of the hearing on 14 January 2021.
40. As can be seen, the Claimants remain subject to a continuing campaign by protestors (some known and some unknown to the Claimants) to enter and remain on the Land and/or to hinder and delay works on the Land. Whilst the incidents set out above are those more significant incidents which have been reported in detail to the Second Claimant at the time of preparing this witness statement, incidents continue at or in the vicinity of the Land regularly, such that the risk of unlawful conduct at the Land remains significant (particularly due to the significant and continued protestor presence at Camp 2 even if this is apparently in the process of being dismantled).
41. While the Injunction has not been wholly successful in stopping trespass, the Claimants are prepared to take steps to bring contempt of court proceedings against persons who choose to ignore orders of the court.
42. In this regard I would comment that since D5 was found in contempt the Claimants have not experienced any further instances of trespass on his part at any of their sites which are subject to an injunction. However, D5 has trespassed at other sites, the most recent example being between 16 – 18 March 2020 on land in the possession of the Claimants at the corner of Shaw Lane and Tuppenhurst Lane in Staffordshire. On this occasion D5 was found in another clandestinely constructed tunnel that anti-HS2 protestors had built into an embankment. D5 remained in the tunnel for 3 days before he was safely extracted by the Second Claimant's security teams.

### **HS2 Programme Delays and Costs**

43. I am informed by Paul Allen (Senior Planner for the Second Claimant) that the Claimants current programme of works at the Land, in summary, involves the following:

December 2020 to February 2021	Initial Haul Roads and Seasonal Vegetation Clearance
March 2021 to June 2021	Setting Up of Compounds, Batching Plants and Fencing to Secure Sites
July 2021 to September 2021	Site Wide Top Soil Strip, Site Wide Construction of Main Haul Roads, Pre Earthworks Drainage
September 2021 to December 2021	Commence Permanent Works to HS2 Assets including Contestable Utility Diversions

44. Mr. Allen informs me that:

- 44.1 after December 2021 HS2 will be commencing permanent works to HS2 infrastructure along the whole new rail route.
- 44.2 This will encompass but not be limited to earthworks (such as the movement of material to form embankments and cuttings), substructure works (such as piling, concrete bases and piers to serve as foundations for new structures, together with utility diversions) and construction of new overbridges, underbridges, viaducts, culverts, retaining walls, highways and tunnels. These works will extend until July 2025 which is HS2's current Planned Interface Date and Handover to Rail Systems for this section of the route.
- 44.3 From this Planned Interface Date HS2 will be constructing the new rail infrastructure (e.g. rails, track slab and overhead electric power systems and cabling, including all testing and commissioning works) with a forecast Delivery Into Service (ie. when Trains will start running) by November 2029.
- 44.4 If any of the above works are restricted or not possible as a result of interference by protest action, it could have the potential to delay the Claimants "Key Dates to Rail Systems" in 2025 and ultimately the date the HS2 scheme is delivered into service.



45. It remains imperative that the Claimants and their contractors have uninterrupted use of the Land without obstruction in order that they can work in accordance with and maintain their programme and ultimately the HS2 Scheme timetable.
46. In respect of the costs of protestor action, LMJV have confirmed to me that their costs of dealing with protestor activity at the Land (as at 10 March 2021) total £5,153,879.73. These are costs which, ultimately, are met by the tax payer.
47. If the Injunction is not extended, the Claimants anticipate that the costs of protestor activity at the Land will significantly increase after 30 April 2021.

### **Ongoing Risk of Unlawful Conduct**

48. There continues to be opposition to the HS2 Scheme and the works on the Land. There are protestors present in the vicinity of the Land (and at other HS2 sites) who continue to make their views on the HS2 Scheme known on a daily basis.
49. As well as the impact to the programme of works I outline above, the constant presence of protestors continues to make for an unpleasant and far from ideal working environment for the Claimants and their contractors. This has continued now for over 15 months. The Claimants' contractors face verbal abuse, threats and taunts on almost a daily basis and the presence of the protestors detracts them from their day to day activities. In addition, the Claimants' contractors face increasing physical abuse including prevention of their coming and going from the Land, spitting and having unknown or suspect liquids thrown on them (I again refer to the report from Mr. Barnard and Mr. Smith at pages 211 of RJ1 in this regard).
50. Whilst the Claimants consider there to have been a number of breaches of the Injunction (which the Claimants are considering further with their legal team – though privilege is not waived), the Injunction has still been – for the most part – effective. There has been a noticeable reduction in trespass incidents to the Land since March 2020 (or at least those incidents where protestors seek to establish a permanent presence on the Land). I therefore consider that this shows that, should the Injunction not be continued as set out in the draft order, the protestors will trespass on to the land more frequently and in great numbers after 30 April 2021. This risks further delays and increased costs to the HS2 Scheme.

## Notification of Hearing

51. In accordance with paragraph 13 of the January Order, a Notice of Hearing was provided by the court on 10 March 2021 and was placed on the following websites on 12 March 2021 (the screen shots at pages 67 – 84 of RJ1 confirm this):

51.1 <https://hs2inwarwicks.commonplace.is/proposals/possession-orders-in-warwickshire>

51.2 <https://www.gov.uk/government/organisations/high-speed-two/limited>

51.3 <https://www.hs2.org.uk/documents/collections/cublington-and-crackley-high-court-proceedings/>

## Conclusion

52. It remains the case that the Defendants do not have the consent or permission of the Claimants to enter onto the Land and their presence continues to significantly impact the Scheme works causing disproportionate delay and expense which is ultimately born by the public purse.

53. The Claimants reasonably fear that the Land remains at risk of trespass should the Injunction be allowed to lapse without extension, given the number of incidents that continue to be experienced by the Claimants on or in the vicinity of the Land and the commitment of the Defendants to continue with protest activity at or in the vicinity of the Land.

## Statement of Truth

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.

Dated 26 March 2021



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**RICHARD JOSEPH JORDAN**

On behalf of: Applicants/Claimants  
By: Richard Joseph Jordan  
No: 1  
Exhibit: RJ1  
Date: 26 March 2021

**PT-2020-BHM-000017**

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

BETWEEN:

**(1) THE SECRETARY OF STATE FOR TRANSPORT**

**(2) HIGH SPEED TWO (HS2) LIMITED**

Applicants/Claimants

- and -

**(5) 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**

**(6) PERSONS UNKNOWN ENTERING OR**

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Ref: RXS/RXS/380900/346/UKM/108918574.1  
Solicitors for the

**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**

**(5) ELLIOTT CUCIUREAN (AND THE NAMED  
DEFENDANTS LISTED AS D6 – D8 ON THE CLAIM  
FORM)**

Respondents/Defendants

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**WITNESS STATEMENT OF  
RICHARD JOSEPH JORDAN**

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